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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 13.10.2026

Date of Decision: 29.10.2026

Uploaded on: 29.10.2026

CNR No. DLHC010521432006

+ **CRL.A. 652/2006**

RAJKUMAR

....Appellant

Through: Mr. Yudhishtar Kahol and Mr. Kunal
Kahol, Advs.

versus

**STATE (ANTI CORRUPTION BRANCH) THROUGH C.B.I.,
DELHI**

.....Respondent

Through: Mr. Kamal Kant Goel, Spl. PP, Ms.
Jyoti Goel, Advocate

CORAM:

HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present appeal has been preferred under Section 374 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'CrPC'), seeking setting aside of the judgment of conviction dated 27.07.2006 and the order on sentence dated 28.07.2006 passed by the learned Special Judge, CBI, New Delhi, in **CC No. 37/03**, arising out of **RC No. DAI-2003-A-0008**, whereby the appellant was convicted for the offences punishable under Section 7 and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter referred to as the 'PC Act').

FACTUAL BACKGROUND

Prosecution's Case

2. The case of the prosecution is that the appellant, Rajkumar, was working as a Section Supervisor/Head Clerk in the Sub-Accounts Office of the Employees' Provident Fund Organisation at Nehru Place, New Delhi. The

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complainant, Pankaj Kumar Vishnoi alias Bishnoi, had submitted an application on 18.11.2002 for withdrawal of his provident fund and pension amounts after leaving his previous employment. Although his provident fund claim of ₹60,279/- and pension claim of ₹17,624/- had been sanctioned on 02.01.2003 and 03.01.2003, respectively, the payment had not been received. The complainant allegedly visited the office on several occasions and met the appellant, who allegedly sought some “*seva pani*” for getting his work done. It was alleged that, on 29.01.2003, the appellant specifically demanded ₹500/- and stated that he would collect the amount from the complainant’s office. Consequently, the complainant submitted a written complaint to the Anti-Corruption Branch of the Central Bureau of Investigation (hereinafter referred to as ‘CBI’) on 30.01.2003, on the basis of which **RC No. DAI-2003-A-0008** was registered.

3. Upon registration of the aforesaid RC, Inspector Alok Kumar constituted a trap team. Two independent witnesses, namely, Suresh Chand Garg and Madhav Thakur, both officials of the Delhi Development Authority (hereinafter referred to as ‘DDA’), were associated with the trap proceedings. The complainant produced five currency notes of ₹100/- each, which were treated with phenolphthalein powder after their numbers were recorded. He was directed by the concerned officers to hand over the amount only upon demand. Suresh Chand Garg was deputed as the shadow witness to observe the transaction and overhear the conversation, while a digital recorder was provided to the complainant to record his conversation with the appellant.

4. The trap team proceeded to Nehru Place on the same day. On being informed by R.K. Chandila, the Personnel Manager, that the appellant was present in the office of the complainant’s previous employer, the complainant and the shadow witness went there. According to the prosecution, the



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appellant demanded and accepted ₹500/- from the complainant and kept the amount in the left pocket of his shirt. Upon receiving the predetermined signal from the shadow witness, the trap team apprehended the appellant. Madhav Thakur allegedly recovered the treated currency notes from the appellant's shirt pocket, and their numbers tallied with those recorded in the handing-over memo. The washes of both hands and the left shirt pocket of the appellant were taken separately in sodium carbonate solution, which allegedly turned pink.

5. During investigation, the washes were sealed and sent for forensic examination. The conversation recorded on the digital recorder was transferred to an audiocassette, and the appellant's specimen voice was obtained for comparison. The relevant records concerning the complainant's provident fund claim were also seized. Upon completion of the investigation and obtaining sanction for prosecution from the concerned official, a charge-sheet was filed against the appellant.

Framing of Charges

6. Upon consideration of the material on record, the learned Trial Court framed charges against the appellant under Section 7 and Section 13(2) read with Section 13(1)(d) of the PC Act. It was alleged that the appellant demanded and agreed to accept ₹500/- from the complainant on 27.01.2003 and 29.01.2003 as gratification other than legal remuneration in connection with the complainant's provident-fund claim and that, on 30.01.2003, he demanded and obtained the said amount by corrupt or illegal means or by abusing his position as a public servant. The appellant pleaded not guilty to the charges so framed and claimed trial.

Prosecution Evidence (PE)



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7. In support of its case, the prosecution examined eleven (11) witnesses. The complainant, Pankaj Kumar Vishnoi alias Bishnoi (PW-1), deposed regarding the alleged demand and acceptance of the bribe and the trap proceedings. Suresh Chand Garg (PW-2), the shadow witness, deposed regarding the conversation and transaction between the complainant and the appellant. Madhav Thakur (PW-4), the other independent witness, deposed regarding the recovery of the treated currency notes from the appellant's shirt pocket and the proceedings conducted thereafter. R.K. Chandila (PW-7), who was present when the transaction allegedly took place, also deposed regarding the incident.

8. C.L. Bansal (PW-3), the scientific expert who examined the washes, proved his report indicating the presence of phenolphthalein and sodium carbonate. Dr. Rajender Singh (PW-9) proved his opinion regarding the comparison of the questioned voice with the appellant's specimen voice. Sarita Jain (PW-5), the concerned Assistant Commissioner in the EPFO, and A.K. Tirkey (PW-8), the dealing clerk, deposed regarding the processing of the complainant's claim and the respective duties of the officials concerned. L.K.S. Dehiya (PW-6), whose deposition records that he was working as Regional Provident Fund Commissioner-I on 25.08.2003 and was competent to remove the appellant from service, proved the sanction granted for the appellant's prosecution. Inspector Alok Kumar (PW-10), the Trap Laying Officer, deposed regarding the pre-trap and post-trap proceedings, while Inspector Mridula Shukla (PW-11) deposed regarding the subsequent investigation and filing of the charge-sheet.

Defence Evidence (DE)

9. After the conclusion of the prosecution evidence, the incriminating circumstances appearing against the appellant were put to him in his statement



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recorded under Section 313 CrPC. The appellant denied having demanded or accepted any bribe and claimed false implication. He stated that the complainant had thrust the money into his shirt pocket. He denied that the washes of his hands had turned pink, though he stated that the wash of his shirt pocket had turned slightly pink. He further stated that he had already processed the complainant's claim and that the subsequent delay was attributable to the absence of the officials concerned. According to him, no further action remained to be taken by him after the preparation of the payment scroll by the dealing clerk.

10. The appellant examined Ram Kumar (DW-1), an official of the Provident Fund Office, in his defence. DW-1 deposed that, in December 2002, he had witnessed an unidentified person quarrelling with the appellant and threatening to teach him a lesson. According to DW-1, the appellant had informed that person that his case had already been cleared at the appellant's level and that the appellant was unaware of its subsequent progress. DW-1 stated that he had advised the person to approach the concerned official if no work remained pending with the appellant. In his cross-examination, DW-1 expressly stated that he did not know the complainant, Pankaj Kumar.

Impugned judgment

11. Upon appreciation of the evidence on record, the learned Trial Court held that the demand and acceptance of ₹500/- by the appellant stood proved. It relied upon the testimony of the complainant regarding the demand preceding the trap and the evidence concerning the transaction on 30.01.2003, including the testimony of the shadow witness, the recorded conversation, the recovery of the treated currency notes and the forensic reports. The discrepancy regarding the hand in which the appellant had initially received the money was held to be insignificant in view of the shadow witness's



account and the positive results of the washes of both hands and the shirt pocket.

12. The learned Trial Court rejected the contention that the appellant had no further role in processing the complainant's claim. It observed that the claim remained pending in the section under his supervision and that, despite preparation of the payment scroll on 29.01.2003, the file had not been forwarded to the Cash Section. The explanation that the delay was attributable to the absence of the dealing clerk and the Assistant Commissioner was not accepted. The learned Trial Court also rejected the challenge to the recorded conversation, observing that the omission of certain words from the transcript did not establish that the recording had been doctored. The objections regarding the preparation of the complaint and the timing of registration of the RC were likewise rejected upon considering the testimonies of the complainant and the Trap Laying Officer.

13. The appellant's explanation that the money had been thrust into his pocket was disbelieved. The learned Trial Court held that the testimony of R.K. Chandila (PW-7) did not substantiate that explanation and that the recorded conversation supported the prosecution's account of the transaction. The testimony of DW-1 was also found insufficient to establish the defence of false implication. The sanction for prosecution was held to have been validly granted by the competent authority. Accordingly, *vide* judgment dated 27.07.2006, the appellant was convicted for the offences punishable under Section 7 and Section 13(2) read with Section 13(1)(d) of the PC Act.

Order on Sentence

14. Thereafter, arguments on the quantum of sentence were heard. The appellant sought leniency on the ground that he had aged parents, a wife and three school-going children dependent upon him. The learned Trial Court,



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however, having regard to the nature of the offences and the misuse of his official position, declined to take a lenient view. *Vide* order dated 28.07.2006, the appellant was sentenced to rigorous imprisonment for two years with a fine of ₹10,000/- for the offence under Section 7 of the PC Act and, in default of payment of such fine, to further rigorous imprisonment for a period of three months. For the offence punishable under Section 13(2) read with Section 13(1)(d) of the PC Act, he was sentenced to rigorous imprisonment for a period of three years with a fine of ₹15,000/- and, in default of payment thereof, to further rigorous imprisonment for a period of four months. Both substantive sentences were directed to run concurrently, and the benefit of Section 428 CrPC was extended to him.

Present Proceedings

15. Aggrieved by the aforesaid judgment of conviction and order on sentence, the appellant preferred the present appeal. *Vide* order dated 18.08.2006, a Coordinate Bench of this Court admitted the appeal and suspended the appellant's sentence during its pendency, subject to his furnishing a bail bond to the sum of ₹25,000/- with a surety of the like amount to the satisfaction of the learned Trial Court. The order records that the fine had already been deposited and that the appellant had remained on bail throughout the trial.

SUBMISSIONS ADVANCED

On behalf of the appellant

16. Learned counsel for the appellant submitted that the impugned judgment proceeds upon an erroneous appreciation of the evidence and that the prosecution has failed to prove the foundational ingredients of demand and voluntary acceptance of illegal gratification beyond reasonable doubt. It was submitted that the written complaint contains an apparent alteration or



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interpolation concerning the date of the alleged prior demand. Learned counsel submitted that the prosecution evidence is not consistent regarding the dates on which the complainant allegedly met the appellant. The assertion regarding a visit on 26.01.2003 was stated to be inherently doubtful, the said date being a national holiday. According to the prosecution's version, the expression "*seva pani*" was allegedly used on or about 27.01.2003, whereas the specific demand of ₹500/- was allegedly made on 29.01.2003. These discrepancies concerning the dates and nature of the alleged demands were stated by the learned counsel to materially affect the reliability of the prosecution's case.

17. The learned counsel further submitted that no official work relating to the complainant remained pending with the appellant. That the appellant had completed the action required at his level in respect of the provident-fund claim by 02.01.2003, while the provident-fund claim and the pension claim were sanctioned on 02.01.2003 and 03.01.2003, respectively. It was submitted that the remaining steps were required to be undertaken by the dealing assistant and the Cash Section. That PW-8 stated that he had left the office on 04.01.2003 for about ten days, whereas PW-5 remained on leave from 09.01.2003 to 26.01.2003 and therefore, the subsequent delay in preparing the payment scroll and forwarding the claim to the Cash Section was attributable to the absence of the concerned officials and not to any work remaining pending at the appellant's level.

18. It was contended that the appellant had visited the office of PW-7, R.K. Chandila, as he was acquainted with him, and that he had not gone there to collect any money from the complainant and that the complainant was called to the premises after information was received that the appellant happened to be present there. That the appellant's presence was thus fortuitous and did not



corroborate the allegation that he had undertaken to visit the complainant's office for collecting the alleged bribe.

19. The learned counsel submitted that the record disclosed circumstances indicating pre-existing hostility. It was submitted that, PW-8 stated that, the complainant had become annoyed when asked to approach the concerned section through the PRO after obtaining a visitor's pass and that heated words had been exchanged and that DW-1 also, separately deposed that, in December 2002, he had witnessed an unidentified person quarrelling with the appellant and threatening to teach him a lesson. DW-1, however, expressly stated that he did not know the complainant. Learned counsel submitted that these circumstances, when considered along with the other deficiencies in the prosecution evidence, support the possibility of false implication.

20. It was further submitted that the chronology relating to the registration of the FIR is doubtful. That PW-1 admitted that, after returning from the trap, he signed several documents in the CBI's office, including the formal FIR, and that PW-2 also stated that the formal FIR had not been shown to the trap witnesses before they left the CBI's office. The pre-trap proceedings were stated by the learned counsel to have been completed within an unusually short period after the complainant's arrival. These circumstances, according to the learned counsel, support the defence's plea that the complaint and formal FIR were prepared or completed after the trap.

21. The learned counsel further assailed the electronic evidence on the ground that the witnesses gave inconsistent descriptions of the recording device. That while PW-10 referred to a Samsung digital voice recorder, the independent witnesses referred to a pencil-type tape recorder and an audio cassette. That the conversation allegedly recorded on the digital recorder was subsequently transferred to a cassette, however, the original digital recorder



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was neither produced before the Court nor forwarded to the CFSL and that only the cassette containing the transferred recording was examined.

22. It was submitted that the prosecution witnesses gave materially inconsistent accounts regarding the preparation of the transcript on 10.03.2003. That PW-1 stated that the cassette was not played in his presence when he signed the transcript, and that PW-4 similarly stated that it was not played before him. PW-2, however, stated that the recorded conversation was replayed on 10.03.2003 in his presence as well as in the presence of PW-4. Several portions of the recording were stated by the learned counsel to be inaudible. It was submitted that the witnesses were unable to identify some of the speakers and that certain words attributed to the appellant in their oral testimony did not find mention in the transcript. It was further submitted that, in particular, the alleged demand at the spot, whether made by spoken words or by a gesture of the eyes, was not discernible from the transcript. It was, therefore, submitted that the evidence concerning the preparation and verification of the transcript was internally inconsistent.

23. The learned counsel further submitted that no certificate under Section 65-B of the Indian Evidence Act, 1872 (hereinafter referred to as the 'Evidence Act') accompanied the copied recording. Reliance was placed upon *Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473*, and *Meghraj Singh v. CBI, 2025 SCC OnLine Del 1683*, to contend that, in the absence of the original recording device or the requisite certificate, the copied cassette and the transcript prepared therefrom could not have been relied upon.

24. It was also submitted that the prosecution was permitted to put leading questions to PW-1, PW-4 and PW-7 after they omitted material portions of the prosecution's case from their examination-in-chief. That material particulars concerning the recovery, the washes and the recording of the



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specimen voice were elicited only thereafter. Learned counsel submitted that the answers elicited pursuant to such leading questions constituted subsequent improvements and could not cure the deficiencies in the witnesses' original depositions.

25. Learned counsel submitted that voluntary acceptance was not established. That PW-7 did not remember whether the appellant had accepted the money in his hand and thereafter kept it in his shirt pocket or whether the complainant had himself put the money into the appellant's pocket and that therefore, it supported the explanation furnished by the appellant under Section 313 CrPC that the money had been thrust into his pocket. It was submitted that mere recovery of the treated currency notes and the positive washes, in the absence of proof of demand and conscious acceptance, could not sustain the conviction.

26. It was accordingly prayed that the impugned judgment of conviction dated 27.07.2006 and the order on sentence dated 28.07.2006 be set aside and the appellant be acquitted of the offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the PC Act.

On behalf of CBI

27. *Per contra*, the learned Special Public Prosecutor (SPP) for the CBI opposed the appeal and submitted that the learned Trial Court has considered each of the objections raised by the appellant, and has returned well-reasoned findings upon a proper appreciation of the oral, documentary and scientific evidence.

28. It was submitted that the initial demand stood proved from the written complaint and the testimony of PW-1. That according to the prosecution, the appellant sought "*seva pani*" on or about 27.01.2003 and specifically



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demanded ₹500/- on 29.01.2003, stating that he would collect the amount from the complainant's office on the following day.

29. It was further submitted that, during the trap on 30.01.2003, the appellant again demanded the money and consciously accepted the treated currency notes. That PW-2, the shadow witness, stated that the demand was made by a gesture of the appellant's eyes and that the appellant accepted the notes in his left hand, transferred them to his right hand and kept them in the left pocket of his shirt and that PW-4 thereafter recovered the same treated notes from that pocket.

30. It was submitted that the omission of certain facts from the examination-in-chief of a witness does not efface the portions of the testimony supporting the prosecution. That the witnesses explained that some particulars had been omitted due to the passage of time and that, minor discrepancies regarding the description of the recording instrument or the precise manner in which the transaction occurred were natural and did not affect the core prosecution case.

31. Learned SPP rejected the contention that the FIR was registered after the trap. It was submitted that PW-10 categorically deposed that the FIR had been registered by the Superintendent of Police and was thereafter handed over to him for investigation, and this part of his testimony was not challenged in cross-examination. Learned SPP further submitted that PW-1's reference to signing the formal FIR after returning from the trap related to acknowledgment of receipt of its copy. That the learned Trial Court had specifically considered and rejected the objection concerning the time of registration.

32. Insofar as the electronic evidence is concerned, learned SPP submitted that the questioned conversation was recorded on the Samsung digital voice



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recorder and was thereafter transferred at the spot onto a new blank TDK D-60 cassette. That the said cassette was sealed and taken into possession and was subsequently forwarded to the CFSL along with the cassette containing the appellant's specimen voice. It was submitted that the CFSL expert compared the questioned and specimen recordings and rendered a positive opinion. Learned SPP further submitted that, although the digital voice recorder was not forwarded to the CFSL, the contemporaneous transfer, sealing and production of the cassette sufficiently established the integrity of the questioned recording. It was accordingly contended that the objection concerning the absence of a certificate under Section 65-B of the Evidence Act did not warrant exclusion of the recorded conversation.

33. It was further submitted that the expressions "*digital recorder*", "*tape recorder*" and "*pencil-type recorder*" were used by the lay witnesses while describing the recording instrument and that the difference in nomenclature did not, by itself, establish tampering. Learned SPP submitted that the cassette was the seized and sealed exhibit containing the conversation transferred from the digital voice recorder, whereas the transcript was prepared merely as an aid for understanding the recorded conversation. It was submitted that the omission of a few words from the transcript did not establish that anything had been added to or altered in the recording, which was also played before the learned Trial Court.

34. Learned SPP also submitted that the appellant cannot avoid responsibility merely because the file had formally left his desk on 02.01.2003. That the complainant's claim remained pending in the section supervised by the appellant until 29.01.2003, when the payment scroll was ultimately prepared. It was submitted that PW-8 had left the office on 04.01.2003 for about ten days and would have resumed duties by



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approximately 16.01.2003 and that nevertheless the file remained pending for a further period without explanation. That as a Section Supervisor, the appellant was in charge of the branch and was in a position to take advantage of the continued pendency of the claim.

35. It was submitted that PW-8 was a colleague of the appellant and his attempt to attribute the entire delay to his own absence was rightly disbelieved by the learned Trial Court. That the alleged quarrel and threat were not put to the complainant during his cross-examination and were sought to be introduced subsequently through PW-8 and DW-1. It was submitted that such evidence was insufficient to establish false implication, particularly when the demand, acceptance and recovery stood independently corroborated.

36. Learned SPP accordingly submitted that the prosecution proved the charges against the appellant beyond reasonable doubt and that no ground was made out for interference with the impugned judgment of conviction or the order on sentence and that the present appeal is, therefore, liable to be dismissed.

ANALYSIS AND FINDINGS

37. This Court has heard the learned counsel for the appellant and the learned SPP appearing on behalf of the CBI and has also perused the evidence placed on record.

38. The principal question that arises for determination by this Court in the present appeal is whether the prosecution has established, beyond reasonable doubt, that the appellant demanded and consciously accepted ₹500/- from the complainant as illegal gratification, so as to attract the offences punishable under Section 7 and Section 13(2) read with Section 13(1)(d) of the PC Act. This also requires consideration of the appellant's plea that no official work remained pending with him, his allegation of false implication, and the



objections concerning the chronology of the complaint and registration of the RC, the admissibility and reliability of the recorded conversation, and the use of leading questions during the examination of prosecution witnesses.

39. The governing principles stand settled by the Constitution Bench of the Supreme Court in *Neeraj Dutta v. State (NCT of Delhi)*, (2023) 4 SCC 731 which held that for the unamended offences under Sections 7 and 13(1)(d)(i) and (ii) of the PC Act, the relevant offer or demand and the resulting acceptance or obtainment must be proved as facts in issue. That such proof may rest on direct oral or documentary evidence or on a complete and reliable chain of circumstantial evidence. It was further held, that upon proof of the foundational facts for the offence under Section 7, Section 20 mandates the presumption that the gratification was accepted as a motive or reward, subject to rebuttal by the accused. It was also held that the legal presumption under Section 20 does not apply to the offences under Section 13(1)(d)(i) and (ii) of the PC Act.

Proof of Demand

40. PW-1, the complainant, gave a clear and categorical account of the demand made by the appellant prior to the trap. He deposed that, despite repeated visits, his provident-fund claim remained unpaid, whereafter he was directed to the appellant, who was then working as the Section Supervisor. According to PW-1, when he met the appellant towards the end of January 2003, the appellant told him that some “*seva pani*” would have to be done. PW-1 further stated that the amount was settled by the appellant at ₹500/- and that he further informed him that he would visit PW-1’s office on 30.01.2003 to collect the same. Now the testimony of PW-1 is neither vague nor founded upon inferences. It clearly identifies the appellant as the person who made the



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demand and specifies the amount demanded, the purpose for which it was demanded and the place and time fixed for its collection.

41. The written complaint, **Ex.PW-1/B**, provides a contemporaneous corroboration to the aforesaid testimony. It records, that the appellant initially asked for “*seva pani*” on 27.01.2003 and that, when PW-1 met him again on 29.01.2003, the appellant demanded ₹500/- for getting the provident-fund work done and stated that he would visit PW-1’s office the following day to collect the amount. Significantly, the complaint was lodged before the trap was laid and the tainted amount was recovered. Its contents therefore, were not influenced by the outcome of the trap. They also materially corroborate the testimony of PW-1 regarding the genesis, quantum and purpose of the demand.

42. The reference made by PW-1 in his testimony to a meeting on “*either 26th or 27th January*” does not render the demand doubtful merely because 26.01.2003 was a public holiday. PW-1 was recounting several visits made during the same month and expressed uncertainty only as regards two proximate dates. His cross-examination nevertheless preserved the material sequence of events, namely, his repeated visits, his meeting with the appellant shortly before the complaint, the heated exchange two or three days prior thereto and the demand which ultimately led him to approach the CBI on 30.01.2003. More importantly, the written complaint, **Ex.PW-1/B**, specifically records the monetary demand made on 29.01.2003. So the uncertainty regarding the date of an earlier visit does not affect the specific demand made on 29.01.2003.

43. The learned Trial Court considered this contention in the impugned judgment and found that nothing material had emerged during the cross-examination of PW-1 to discredit his testimony regarding the initial demand



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of “seva pani”, followed by the demand of ₹500/-. It also noticed, that the defence itself had suggested to PW-1 that he had visited the office on 27.01.2003. This Court finds no reason to take a different view. The further inference drawn by the learned Trial Court from the preparation of the payment scroll on 29.01.2003, is not necessary for establishing the demand, as the demand preceding the trap stands proved by the direct testimony of PW-1 which is also duly corroborated by his written complaint.

44. The demand made at the time of the trap also stands independently established. PW-1 deposed, that upon entering the reception room where the appellant and PW-7 were seated, he enquired about the refund of his provident fund. The appellant replied, that the work would be done and, upon the appellant’s demand, PW-1 handed over the treated sum of ₹500/-. PW-2, who had been deputed as the shadow witness and had entered the room with PW-1, furnished a more detailed account of this exchange. He stated that PW-1 asked the appellant whether his work had been completed, to which the appellant replied, “*ho jayega yaar*”, and indicated by a gesture of his eyes that the money be handed over. PW-1 thereupon took out the treated currency notes and handed them to the appellant. PW-2 was present throughout this transaction and had the opportunity to both hear the conversation and to observe the exchange. His account remained unshaken even in cross-examination.

45. This aspect also was duly considered by the concerned learned Trial Court in the impugned judgment. In addition to the oral testimony of PW-1 and PW-2, the learned Trial Court also referred to the conversation recorded during the trap proceedings. PW-1 testified to the words used by the appellant and the payment made pursuant to the demand, while PW-2 testified - to the appellant’s response - “*ho jayega yaar*”, the gesture by which the money was



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demand and the delivery of the amount immediately thereafter. The recorded conversation, when considered with the transcript merely as an aid, is consistent with the substance of their testimony. The oral evidence of PW-1 and PW-2 is in itself, sufficient to establish the demand made at the spot, independently of such corroboration.

46. The presence of the appellant in the office of PW-7 also forms a material part of this sequence. PW-7 deposed in his examination in chief, that the appellant visited his office in the afternoon, stated that he had come in connection with official work and called PW-1 through the intercom, whereupon PW-1 came to meet him. Even though PW-7 in his cross had stated that he himself called PW-1 which is contradictory to his own earlier statement made in his examination in chief, it does not have a bearing on the fact, that the occurrence on 30.01.2003 is consistent with the statement attributed to the appellant in **Ex. PW-1/B** that he would visit PW-1's office to collect the money. The suggestion that the appellant had merely happened to visit PW-7 fails to explain why the provident-fund claim was discussed immediately thereafter and why the payment followed that discussion. The learned Trial Court also noticed this circumstance in the impugned judgment. The inference arising from these proved facts is independently supported by the oral evidence and receives further corroboration from the recorded conversation.

47. The prior demand proved through the testimony of PW-1 and the contemporaneous written complaint i.e. **Ex. PW-1/B**, followed by its reiteration at the time of the trap in the presence of PW-2, satisfies the first foundational requirement identified in **Neeraj Dutta v. State (NCT of Delhi) (supra)**. This is not a case in which demand has been inferred merely from the possession or recovery of the currency notes. There is direct evidence of



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the demand made before the trap as well as its reiteration immediately before the payment.

Proof of Conscious Acceptance and Recovery

48. PW-2 furnishes direct evidence of the appellant's conscious acceptance of the tainted currency notes. He deposed, that the appellant received the notes in his left hand, transferred them to his right hand and thereafter placed them in the left pocket of his shirt. PW-2 then left the room and gave the predetermined signal, whereupon the trap team entered. Now there was no intervening interval during which the currency notes could have changed hands or been shifted elsewhere. His testimony thus establishes an unbroken sequence comprising the receipt of the notes, their handling by the appellant with both hands and their retention in his shirt pocket.

49. The recovery proceedings lend further assurance to the testimony of PW-2. PW-2 stated that Madhav Thakur (PW-4) recovered the five tainted currency notes from the left pocket of the appellant's shirt and that their serial numbers tallied with those recorded in the handing-over memorandum. PW-7 also expressly acknowledged that PW-4 had taken the currency notes out of the appellant's shirt pocket. PW-10 also duly proved these recovery proceedings. PW-4 identified the recovered currency notes, the recovery memorandum and the sealed bottles containing the washes. His inability, when specifically questioned by the learned Senior PP at the time, to recollect, whether he had personally taken out the notes, does not displace the consistent evidence of PW-2, PW-7 and PW-10 regarding their recovery from the appellant's shirt pocket. Significantly, the appellant does not dispute, that the tainted currency notes were recovered from that pocket.

50. The scientific evidence fully also accords with PW-2's account of the manner in which the appellant handled the currency notes. Separate washes



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of the appellant's left hand, right hand and left shirt pocket were taken and preserved in bottles marked "LHW", "RHW" and "LSPW/LHPW", respectively. PW-3 examined all three sealed exhibits and proved, through the report i.e. **Ex. PW-3/A**, that each tested positive for phenolphthalein and sodium carbonate. The learned Trial Court considered this very evidence in the impugned judgment and correctly held that the positive washes corroborated PW-2's testimony that the appellant handled the tainted notes with both hands before placing them in his shirt pocket.

51. The variation between the testimonies of PW-1 and PW-2 as to the hand in which the appellant initially received the currency notes does not create any reasonable doubt. PW-1 stated that the appellant received the notes in his right hand and placed them in the left pocket of his shirt, whereas PW-2 stated that the appellant initially received them in his left hand, transferred them to his right hand and then placed them in the same pocket. The variation therefore, relates only to the hand first used in the transaction which occurred within a matter of moments. Both witnesses remain consistent on the material particulars, namely, that the appellant received the tainted currency notes and placed them in the left pocket of his shirt. The positive washes of both hands also provide an objective corroboration to the part, that the appellant handled the notes with both hands. The learned Trial Court was therefore correct, in treating this variation as immaterial to the factum of conscious acceptance.

52. The testimony of PW-7 also does not support the plea that the currency notes were forcibly inserted into the appellant's pocket. In his examination-in-chief, PW-7 stated that PW-1 gave the money to the appellant and that the same was placed in the appellant's pocket. When questioned by the learned Senior PP at the time, as to whether the appellant had initially received the money in his hand, PW-7 stated that he could not remember whether the



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appellant had accepted the money or whether PW-1 had placed it in his pocket. A failure to recollect which of the two acts occurred cannot be treated as being an affirmative proof of forcible insertion. At no stage did PW-7 state, that PW-1 had thrust the currency notes into the appellant's pocket against his will. The learned Trial Court was therefore justified, in concluding, that the testimony of PW-7 did not substantiate the defence sought to be raised by the appellant.

53. The answer furnished by the appellant to 'Question No. 14' in his statement under Section 313 CrPC also merits consideration wherein he stated that, "*My hand wash did not turned pink. **However the money was thrust into my pocket and the pocket wash did turn slightly pink....***". So the appellant admitted the presence of the tainted currency notes in his shirt pocket as well as the change in the colour of the pocket wash, while denying that his hand washes had turned pink. It is settled, that a statement under Section 313 CrPC cannot be used to fill any deficiency or lacuna in the prosecution's case, which must stand on the strength of its own evidence, but this Court is of the opinion that if the evidence tendered by the prosecution independently establishes demand, conscious acceptance, and recovery, the appellant's answer above may be considered for the limited purposes of examining the probability of the explanation offered by him in the light of the evidence proved on record. And the explanation of forcible insertion is wholly inconsistent with the proved circumstances. Had the currency notes merely been thrust into the appellant's pocket without being handled by him, the presence of phenolphthalein and sodium carbonate in the washes of both his hands would remain unexplained. No suggestion of accidental contamination during the wash proceedings was put to the material witnesses, nor was any such possibility elicited from PW-3. The immediate recovery of the very currency



notes whose serial numbers had been recorded before the trap, read with the positive washes of both hands and the left shirt pocket, is fully consistent with PW-2's account of conscious and voluntary receipt. These circumstances are incompatible with the plea that the appellant remained a passive recipient of currency notes forcibly placed in his pocket. The learned Trial Court's rejection of the said explanation is thus founded upon evidence independent of the cassette recording.

54. Once the prosecution proved the demand, and conscious acceptance of gratification other than legal remuneration, the statutory presumption under Section 20 of the PC Act arose in respect of the offence under Section 7 thereof. The appellant could rebut the presumption on the standard of preponderance of probability, and the plea of forcible insertion in the present appeal is neither supported by the testimony of PW-7 nor compatible with the positive washes of both hands. The appellant has, therefore, failed to rebut the statutory presumption. As clarified by the Supreme Court in ***Neeraj Dutta v. State (NCT of Delhi) (supra)***, the presumption under Section 20 does not extend to the offences under Sections 13(1)(d)(i) and 13(1)(d)(ii) of the Act, which must be established independently through proof of demand and obtainment. This requirement as is clear from the aforesaid discussion, also stands satisfied.

Consideration of the Remaining Submissions

55. The contention that no work remained pending with the appellant does not merit acceptance. Though the claim had already been approved, it is undisputed that payment had not been released to PW-1. PW-8 stated, that the payment scroll was prepared on 29.01.2003, following which the file was required to be sent to the Cash Section for preparation of the cheque. The appellant also admitted in his statement under Section 313 CrPC, that the



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scroll was prepared on 29.01.2003. The learned Trial Court noticed that PW-8 had proceeded on leave on 04.01.2003 for about a period of ten days and that therefore, he ordinarily would have resumed his duties by approximately 16.01.2003. So it questioned on the basis of the aforesaid observation that as to why the file still remained pending in the section and the payment scroll was prepared only on 29.01.2003. It further observed, that PW-8 being a colleague of the appellant, appeared to have attributed the entire delay to his own absence with a view to creating doubt in the prosecution's case. This Court agrees with the aforesaid observation of the learned Trial Court and is also of the opinion, that as the Section Supervisor of the concerned branch, the appellant remained associated with the claim until its onward transmission. The claim, therefore, did not constitute a closed transaction from the standpoint of PW-1 and the appellant was in a position to influence the moving forward of his claim.

56. The learned Trial Court also considered the contention that the appellant had completed the processing required at his level on 02.01.2003 and that, since the remaining steps were to be undertaken by the dealing assistant and the Cash Section, he had no occasion to demand gratification. In this regard, PW-5 stated that, after the appellant had cleared the file on 02.01.2003, further action was to be taken by the dealing assistant and the appellant had nothing further to do with the file. The learned Trial Court read this statement in the context of PW-5's further testimony that the appellant was working as the Section Supervisor of Accounts Group-I and that the section in which the application of PW-1 remained pending was under his charge and supervision. It accordingly held that the appellant could take advantage of the continued pendency of the application in the branch supervised by him, notwithstanding that the processing required at his own



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desk had been completed. It further found that, upon preparation of the payment scroll on 29.01.2003, the appellant, in his capacity as Section Supervisor, was required to forward the file to the Cash Section and that the file had not been so forwarded when the trap was laid.

57. The involvement of another official at a subsequent stage does not absolve the appellant. Section 7 does not require the public servant concerned to possess exclusive authority over every stage of the official process. It is sufficient that the gratification was demanded and accepted as a motive or reward for an official act or favour connected with his official functions.

58. The allegation that PW-1 fabricated the complaint at the instance of CBI is equally without substance. PW-1 stated that Inspector Alok Kumar had told him the manner in which the application was to be written but he did not state, that the allegation of demand had been supplied to him. The complaint, **Ex. PW-1/B**, was written and signed by PW-1 himself. His statement that he received ₹500/- from a CBI official also cannot be read in isolation. PW-1 and PW-10 consistently stated that PW-1 produced five currency notes, their serial numbers were recorded and the notes were returned to him after being treated with phenolphthalein powder. The evidence read as a whole, establishes that the CBI returned PW-1's own treated currency notes to him. The learned Trial Court was, therefore, correct in rejecting an interpretation founded upon isolated portions of his testimony.

59. The plea of false implication on account of previous hostility also lacks an evidentiary foundation. PW-8 referred to an occasion when a visitor became annoyed after being asked to approach the office through the PRO with a visitor's pass. This incident was never put to PW-1 in cross-examination. DW-1 similarly spoke of an unidentified person quarrelling with the appellant in December 2002, but admitted that he did not know PW-1. In



the absence of any evidence identifying PW-1 as the person involved in either of the aforesaid incidents, the alleged hostility cannot furnish a basis for false implication. The learned Trial Court therefore, rightly rejected this defence.

60. The objection concerning the time of registration of the concerned RC also does not advance the appellant's case. PW-10 stated that the RC was registered and signed by the Superintendent of Police (SP) before being entrusted to him for investigation. This part of his testimony remained unchallenged throughout. PW-1's statement that he signed the formal FIR among the papers presented to him after the trap, establishes only the time at which his signature was obtained. It does not however establish, that the RC itself was registered after the trap. PW-10's uncontroverted testimony, read with the complaint and the pre-trap proceedings, rules out the suggestion that the RC was brought into existence only after the recovery.

61. The permission granted to the learned Senior PP at the time to put leading questions to PW-1, PW-4 and PW-7 does not require their entire testimony to be discarded. Sections 142 and 154 of the Evidence Act recognise the Trial Court's discretion to permit a party to put questions in the nature of cross-examination to its own witness. In **Sat Paul v. Delhi Admn., (1976) 1 SCC 727**, the Supreme Court clarified that the grant of such permission does not efface the testimony of the concerned witness and that the Court remains entitled to rely upon those portions which are found credible and are corroborated by the other evidence on record.

62. The findings of demand and acceptance in the present case as is clear from the aforesaid discussion does not rest upon answers elicited through leading questions. PW-1 had already deposed in his examination-in-chief regarding the prior demand, the demand at the spot, payment, acceptance, and recovery. PW-2, who was not treated as resiling, independently proved *vide*



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his testimony, the demand by gesture, receipt of the currency notes by the appellant, their placement in his pocket and the subsequent recovery and washes. PW-7's inability to recollect the precise manner in which the money entered the pocket of the appellant has not been treated as proof of acceptance. Likewise, the recovery does not rest upon PW-4's uncertain recollection, but stands proved through PW-2, PW-7 and PW-10. The conviction is, therefore, not founded upon the prompted portions of the depositions.

63. Now the challenge to the recorded conversation raises two separate issues. Before the learned Trial Court, the appellant alleged that the cassette had been doctored, and further relied upon omissions and discrepancies in its transcript, but no objection, based on the absence of a certificate under Section 65-B of the Evidence Act was raised, when the cassette was tendered in evidence. The learned Trial Court rejected the allegation of doctoring in its judgment after noticing, that PW-9 had received the sealed parcels, compared the questioned and specimen voices, and identified the questioned voice as that of the appellant. Also, no suggestion of alteration or doctoring was put to PW-9 at that time. This Court in this regard is of the opinion, that the omission of certain words from the transcript indicated a mere lack of precision in transcription, but did not, in any manner, establish alteration of the underlying recording.

64. In appeal, the appellant has raised the additional objection, that the original digital recorder was neither produced nor sent to the CFSL and that the cassette containing the transferred recording was not accompanied by a certificate under Section 65-B of the Evidence Act. That since the cassette was prepared by transferring the conversation from the digital recorder, it constituted secondary electronic evidence. Now in terms of **Anvar P.V. v. P.K. Basheer (supra)** and **Arjun Panditrao Khotkar v. Kailash Kushanrao**



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Gorantyal, (2020) 7 SCC 1, a certificate under Section 65-B(4) of the Evidence Act is ordinarily a condition precedent to the admissibility of such evidence. The appellant, nonetheless, permitted the cassette to be tendered and proved in the concerned learned Trial Court without raising any objection thereunder under Section 65-B of the Evidence Act. He cross-examined the material witnesses regarding the recording, the devices used, its transfer to the cassette, preparation of the transcript and voice comparison. The prosecution was thus deprived of an opportunity to cure the deficiency at the appropriate stage. **Sonu v. State of Haryana, (2017) 8 SCC 570** holds that an objection relating to the mode or method of proof, must be taken, when the electronic record is tendered and cannot ordinarily be raised for the first time in appeal. The trial concluded in 2006, much before the decision in **Anvar P.V. v. P.K. Basheer (supra)** dated 18.09.2014. The application of the principle in **Sonu v. State of Haryana (supra)** to such trials was reiterated in by the Apex Court in **Sundar v. State, (2024) 12 SCC 764**. The objection based solely upon the absence of a certificate under Section 65-B is, therefore, belated and cannot be sustained.

65. Now PW-10 explained, that the conversation recorded on the digital recorder was transferred to two cassettes, one of which was sealed. PW-9 received the questioned and specimen cassettes in sealed parcels and after auditory and voice-spectrographic examination, he identified the questioned voice as being that of the appellant. The sealed exhibits were also identified before the Court, and PW-1 identified the relevant voices when the cassette was played. The discrepancies between the recording and its transcript therefore establish, only that the transcript was not exact. The transcript can consequently be used as an aid to understand the recording, but not as an independent substantive evidence.



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66. The recorded conversation may, therefore, be considered as being corroborative in nature and not as a substitute for direct proof of demand and conscious acceptance. *Meghraj Singh v. CBI (supra)* is distinguishable on facts. In that case, the alleged bribe-giver was not examined, there was no prior complaint regarding the demand, the person who made the recording was not present inside the premises and the forensic material raised serious questions concerning the originality of the recording. In the present case, PW-1 i.e. the bribe-giver, lodged the written complaint before the trap and gave direct evidence of demand and payment. PW-2 personally witnessed the demand and conscious receipt of it. Their evidence is also independently corroborated by the immediate recovery of the treated currency notes and the positive washes of both hands and the appellant's shirt pocket. The prosecution case thus remains fully proved, beyond reasonable doubt, even without treating the recording as substantive evidence.

67. The aforesaid evidence proves the demand and conscious acceptance of gratification and establishes the offence under Section 7 of the PC Act, as it stood on 30.01.2003. It also proves, independently of the presumption under Section 20, that the appellant obtained a pecuniary advantage of ₹500/- by corrupt or illegal means and by abusing his position as Section Supervisor in relation to a claim pending in his section. The ingredients of Sections 13(1)(d)(i) and 13(1)(d)(ii), punishable under Section 13(2) of the Act, as has been stated above, also stand proved.

CONCLUSION

68. In view of the foregoing discussion, the judgment of conviction dated 27.07.2006 and the order on sentence dated 28.07.2006 passed by the learned



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Special Judge, CBI, New Delhi, in **CC No. 37/03** arising out of **RC No. DAI-2003-A-0008** do not call for any interference by this Court.

69. Since the sentence of the appellant was suspended by a Coordinate Bench of this Court *vide* the order dated 18.08.2006, he shall now surrender before the concerned learned Trial Court within a period of four (4) weeks from today i.e. the date of pronouncement of this judgment to undergo the remainder of his sentence. In the event of his failure to surrender within the stipulated period, the learned Trial Court shall take appropriate steps, in accordance with law, to secure his custody.

70. Accordingly, the present appeal is dismissed and thereby disposed of.

71. The period of custody already undergone by the appellant shall be set off under Section 428 CrPC.

72. Pending application(s), if any, also stand(s) disposed of.

73. Interim order(s), if any, also stand(s) vacated.

74. A copy of this judgment be sent to the concerned learned Trial Court and the concerned Jail Superintendent for information and necessary compliance.

75. This judgment be uploaded on the website *forthwith*.

MADHU JAIN
(JUDGE)

OCTOBER 29, 2026/PG