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

Date of reserving Judgment: 03rd August, 2026

Date of Decision: 04TH November, 2026

IN THE MATTER OF:

\+ CRL.A. 559/2007

BABU RAM .....Appellant

Through: Mr. Pradeep Norula, Mr. Mradul Prakash Agnihotri, Advs. alongwith Appellant-in-person.

versus

C.B.I. .....Respondent

Through: Mr. Aryan Rakesh, Adv. for Mr. Atul Guleria, SPP-CBI.

CORAM:
HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

VIMAL KUMAR YADAV, J.

1. The present appeal has been initiated by the Appellant assailing the judgment of conviction dated 29.08.2007 through which the Appellant was held guilty and convicted under Section 7 and 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'PC Act') and the order on sentence dated 30.08.2007 through which the Appellant was sentenced to undergo two and a half years Rigorous Imprisonment (RI) for the offence punishable under Section 7 of Prevention of Corruption Act, 1988 with a fine of Rs. 10,000/- and in default of payment of fine, he was further undergo Simple Imprisonment (SI) for 15 days. The Appellant was also sentenced to undergo RI for a period of three years for the offence

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punishable under Section 13(2) read with Section 13(l)(d) PC Act with a fine of Rs. 15,000/- and in default of payment of fine, he was to further undergo SI for 30 days, through order on sentence dated 30.08.2007.

2. The brief facts, as borne out from the record, are that the complainant Satya Prakash (PW-3) approached the CBI with a complaint alleging that the Appellant, who was working as a JE/Inspector with DVB at Nand Nagri, had demanded a sum of ₹10,000/- from him in connection with an electricity theft case pertaining to the premises of his father. The complainant stated that he was not willing to pay the demanded amount and, accordingly, approached the CBI. On verification of the complaint, a trap was laid on 19.12.2000. The complainant produced Rs.3,000/- in Government Currency ('GC') notes, which were treated with phenolphthalein powder and their numbers were duly recorded. Two independent witnesses, namely Shishu Pal (PW-4) and Edward Toppo (PW-5), were associated with the proceedings. A tape recorder/micro-cassette recorder was also arranged for recording the conversation at the spot. The raiding party thereafter proceeded to the Delhi Electricity Supply Undertaking ('DESU') office at Nand Nagri and on arrival the complainant entered the office of the Appellant while being accompanied by the shadow witness, Shishu Pal (PW-4).

3. It is the case of the prosecution that the Appellant met the complainant at the aforementioned location and demanded the money and, while the complainant was handing over the tainted currency, directed him to hand over the same to one Ram Kumar, who accepted the money. Upon the pre-appointed signal being given, the raiding party entered the premises and Ram Kumar was apprehended. The tainted currency of Rs.3,000/- was recovered from the right-side pant pocket of Ram Kumar and the recovered

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notes tallied with the numbers recorded during the pre-trap proceedings vide handing over memo (Ex. PW-3/B). The hand washes of Ram Kumar and the wash of the inner lining of his right pant pocket were taken which subsequently tested positive for phenolphthalein and sodium carbonate.

4. The Appellant, however, had escaped from the spot and could not be apprehended at that time. He was subsequently arrested on 22.12.2000. In his statement recorded under Section 313 of the Code of Criminal Procedure, 1973 (herein after referred to as Cr.P.C.), the Appellant denied the allegations and claimed false implication on account of the electricity theft proceedings conducted at the premises of the complainat's father, while setting up an alibi regarding his presence elsewhere on the date of the trap.The audio cassettes and the washes were sent to Central Forensic Science Laboratory (CFSL) for examination. The investigation was thereafter concluded, culminating in the filing of the chargesheet. It is pertinent to note that Ram Kumar, who had allegedly actually received the tainted currency, was discharged by the learned Trial Court at the stage of framing of charge, whereas charge under Sections 7 and 13(2) read with Section 13(1)(d) of the PC Act was framed against the present Appellant.

5. The prosecution in support of its case, has examined twelve witnesses. N.P. Singh (PW-1) is the sanctioning authority who proved the sanction accorded for prosecution of the Appellant. K.S. Chhabra (PW-2) is the Chemical Examiner from CFSL who examined the three sealed bottles containing the washes and gave a positive report for the presence of phenolphthalein and sodium carbonate. Satya Prakash (PW-3) is the complainant who deposed regarding the demand made by the Appellant, the pre-trap proceedings, the demand at the spot, the direction given by the Appellant to hand over the money to Ram Kumar, the subsequent recovery

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and the conversation recorded at the spot. Shishu Pal (PW-4) is the shadow witness, who accompanied the complainant during the trap and deposed about the Appellant directing the complainant to hand over the money to Ram Kumar and about the subsequent receipt of the money by Ram Kumar. Edward Toppo (PW-5) is the recovery witness who deposed regarding the apprehension of Ram Kumar and recovery of Rs.3,000/- from his right-side pant pocket, as also the subsequent wash proceedings. Ranjeet Singh (PW-8), a neighbour of the complainant, was examined regarding the circumstances preceding the complaint and was declared hostile during the course of his examination. Dr. Rajinder Singh (PW-9) is the forensic voice expert from CFSL who examined the audio cassettes and prepared the transcription by auditory method. A.K. Malik (PW-11) is the Trap Laying Officer who deposed regarding the verification of the complaint, pre-trap proceedings, laying of the trap, apprehension of Ram Kumar, recovery of the tainted currency and the post-trap proceedings. C.K. Sharma (PW-12) is the Investigating Officer ('IO') who took over the investigation subsequently, arrested the Appellant, sent the washes and audio cassettes to CFSL and prepared the transcription of the recorded conversation after playing the cassettes in the presence of the complainant and the independent witnesses.

6. At the outset, learned Counsel for the Appellant has submitted that this is a case which is based upon the audio recording but there are multiple transcripts of the audio recording, prepared by the CBI (EX.PW-9/B and Ex. PW-9/C) and by the FSL (Ex.PW-4/E) and incidentally both of these are at variance. While elaborating on this, it has been submitted that the transcripts do not bear the signatures of anyone who could attest or prove its authenticity. Dr. Rajinder Singh (PW-9), who had prepared the transcript

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and the CFSL report (Ex.PW9/A) has categorically admitted that it was not prepared by him rather one Ms. Vimmy had prepared it but the said Ms. Vimmy has also not put her signatures nor has she come to depose. In these circumstances it is submitted that the transcript goes out of contention as its veracity remains elusive. Then again, it is contended that which one of the two transcripts may be relied upon as both of them are different.

7. Learned Counsel for the Appellant has also pointed out and argued that there were two persons who were apprehended in this matter i.e. the Appellant, Babu Ram and one Mr. Ram Kumar but the said Ram Kumar, who had received the bribe money, even as per the case of the CBI, was discharged by the Trial Court. It has been vehemently argued by the learned counsel for the Appellant that therefore, in these circumstances, when the Appellant himself had not accepted any money and that he was not arrested from the spot nor any hand-wash test was carried out about him, the Appellant could not have been convicted. It has been further argued that since, the actual recipient and the intermediatory in the transaction has since been let off by the learned Trial Court thus, the Appellant cannot be held responsible for any offence. In the absence of corroboration to the testimony qua the complicity of the Appellant whose identity is not clearly established either by the complainant, or the Panch witnesses who have categorically stated that a sum of Rs.3,000/- was recovered from the possession of Ram Kumar and not from Babu Ram, therefore, in such circumstances, the impugned judgment is, apparently, not in consonance with the facts and circumstances and therefore, is liable to be set aside.

8. Learned counsel for the Appellant has further assailed the impugned judgment on the following grounds:

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a) That there is no clear-cut evidence regarding the taking of the voice samples or their having matched with the audio recording. Further, that there is no independent identification of the voice of the Appellant as has been admitted by the Forensic voice expert, Dr. Rajinder Singh (PW-9).

b) The sanction was granted without any application of mind, no office reference or memo number on the sanction order and even no forwarding letter received from the CBI requesting the sanction.

c) The complainant himself was motivated since the premises of his father had been raided by the team of DVB wherein he was found to be committing theft of electricity, and in connection to the same, a bill was also prepared by DVB- corroborated by PW-6,7,8 and 10.

d) Learned trial court completely ignored the corroborated alibis of the appellant who collectively deposed, that the appellant was carrying out inspection of electric lines on 19.12.2000 at Nand Nagri.

e) That the testimonies of the witnesses are replete with contradictions and improvements, with no corroboration on the vital aspects of the case under Sections 7 and 13 of the PC Act. The prosecution has failed to establish either the demand for bribe or its acceptance, and the alleged recovery of the bribe amount was not made from the Appellant, Babu Ram.

f) That the Appellant was not present at the spot, as is evident from the fact that he could not be arrested on 19.12.2000, when the alleged transaction took place. Rather, he himself surrendered before the Court on 22.12.2000.

9. Learned SPP for CBI, on the other hand, came up with the plea that the fact that the Appellant was not the actual recipient of the bribe money

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does not in itself demolish the prosecution's case, rather it banks upon the fact that the demand was made by the Appellant-Babu Ram on 18.12.2000, as can be seen from the contents of the complaint made by complainant (Ex.PW3/A). Learned SPP has submitted that the money was accepted at the behest of and on behalf of the Appellant by Ram Kumar and the same was recovered from the possession of Ram Kumar. These aspects when read in conjunction with the overall evidence brought on record by CBI especially the audio recordings and transcripts, which are also part of the record, then the only conclusion which can be drawn is against the Appellant, that he was the person who actually demanded money on the pretext of resolving the issue of inflated electricity bill raised by DVB against the father of the complainant. It has also been submitted by the learned SPP that the demand was reiterated as can be seen from the transcript and due to the said demand, the complainant approached the CBI where his complaint (Ex.PW-3/A) laid the foundation of the present case.

10. It has been submitted by learned SPP for the CBI that a Regular Case {RC No.73(a)/2000} was registered by the CBI after verification of the said complaint (Ex. PW-3/A). Pursuant to this, a raid was organized after complying with the requisite formalities of having independent witnesses (shadow witness), demonstration of the process with regard to hand wash test (Phenolphthalein test) etc. during the pre-raid proceedings. The post raid proceedings are also there which substantiate the allegations against the Appellant. Learned SPP has submitted that the learned Trial Court has recorded the evidence and the facts of the present case and has correctly applied the law, and therefore, the Impugned Judgment is not required to be interfered with in any manner.

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11. Learned SPP has further submitted that the prosecution's case, therefore, rests not on the physical recovery of the tainted currency notes from the Appellant himself, but on the evidence on record which points towards the fact that the demand was made by the Appellant and that the money was accepted by Ram Kumar at the express direction of the Appellant. The absence of recovery from the Appellant, in such circumstances, cannot by itself be treated as determinative of his innocence. It is submitted that what is required to be examined is whether the prosecution has established, through reliable evidence, that the Appellant made the demand and thereafter directed the complainant to hand over the demanded amount to Ram Kumar, and whether such acceptance can, in the facts of the present case, be attributed to the Appellant.

12. Learned SPP has also submitted with regard to the transcripts and the audio evidence, that the two cassettes used to record the conversation between the complainant and the Appellant during the raid were sealed immediately upon conclusion of the raid. Thereafter, transcripts were prepared, voices identified and the forensic examination was conducted as per the requirement under law. The sealed cassettes were received by Dr. Rajinder Singh (PW-9) who, as per his deposition, received the cassettes with the seals intact, after which he prepared a transcript and prepared the forensic report of the same (Ex. PW-9/A). Learned SPP has submitted that the sequence of events pertaining to the recording of the electronic evidence vide automatic receiver-cum-recorder and the cassettes being sealed immediately after and being sent for forensic examination and transcription, creates an unbroken chain of custody which successfully eliminates any possibility of tampering with evidence or any other possibility of foul play.

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13. With regards to the contention raised by the learned Counsel for the Appellant regarding the lack or the failure of the prosecution to establish that the voices heard in the electronic evidence were correctly identified and accordingly attributed to the concerned parties involved in the case, Learned SPP in reply has brought to this court's attention, the deposition of the Investigating officer, Insp C.K. Sharma (PW-12) who has categorically stated that the cassette was played in the presence of both the complainant and the independent witnesses whereafter the voices were correctly identified and attributed accordingly to the complainant and the Appellant. Learned SPP has further submitted that the cassette was again played during the deposition of the complainant (PW-3), who had identified his own voice as well as the Appellant's voice, especially on specific key points of the recordings wherein the amount involved and the alleged work for which the illegal renumeration was being demanded was also being discussed i.e.*"kitne hain", "sham ko kardunga ji", "gin lo ji".*

14. Learned SPP has further submitted that the plea of the defence regarding the lack of proper identification of the Appellant holds no water. Learned SPP has submitted that the shadow wintess, Shishu Pal (PW-4) has categorically deposed in both his examination-in-chief, as well as his cross-examination that the Appellant was present during the raid and that he had instructed the complainant to hand over the tainted notes to Ram Kumar. In support of his submission, learned SPP has placed reliance on ***Sarwan Singh v. State of Punjab***, (2003) 1 SCC 240 wherein it was held that even in the absence of Test Identification Prade (TIP), credible identification can be done in court and minor variations in identification do not affect the overall result of such identification.

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15. Additionally, learned SPP has placed reliance on the following judgments in order to strengthen his arguments:

a. ***T.Shankar Prasad v. State of AP***, (2004) 3 SCC 753 wherein the Hon'ble Supreme Court while discussing the evidentiary value of a hostile witness' testimony held that once acceptance of illegal gratification is proved, the statutory presumption under Section 20 of the PC Act arises; and

b. ***Madhukar Baskarro Joshi v. State of Maharashtra,*** 2000 (Suppl) SC 458 wherein it was held by the Apex Court that proof of acceptance of illegal gratification attracts the statutory presumption of bribery, and that delay in proceedings does not by itself, constitutes special reasons to impose a sentence below the statutory minimum.

16. Having considered the rival submissions and on perusal of the record, the question which arises for consideration is whether the prosecution has succeeded in establishing, beyond reasonable doubt, the foundational facts necessary to sustain the conviction of the Appellant under Sections 7 and 13(1)(d) read with Section 13(2) of the PC Act, particularly with respect to the demand and acceptance of illegal gratification, notwithstanding the fact that the tainted currency was recovered from Ram Kumar and not from the Appellant.

17. The law relating to offences under the Prevention of Corruption Act is well settled that demand of illegal gratification is a *sine qua non* for constituting an offence under Section 7 and for establishing the corresponding misconduct contemplated under Section 13(1)(d) of the PC Act. Equally, acceptance of the gratification has to be established. In ***Neeraj Dutta v. State (Govt. of NCT of Delhi),*** (2023) 4 SCC 731, the Constitution

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Bench has reiterated that the demand by the public servant and the acceptance or obtainment of illegal gratification constitute facts in issue which have to be established by the prosecution. The prosecution, therefore, cannot succeed merely by demonstrating recovery of currency notes unless the circumstances surrounding such recovery establish that the amount was received as illegal gratification pursuant to a demand made by the public servant. The Hon'ble Supreme Court in B. ***Jayaraj v. State of Andhra Pradesh,*** (2014) 13 SCC 55 has held that mere recovery or the possession of tainted currency is insufficient to sustain a conviction in the absence of proof of demand. At the same time, the law does not require that the person who makes the demand must necessarily be the person from whose physical possession the tainted currency is ultimately recovered. The question is one of attribution of the receipt and the circumstances in which the money came to be accepted.

18. In the present case, the prosecution has led evidence on the aspect of demand through the complainant Satya Prakash (PW-3), who has given a specific account of his interaction with the Appellant. PW-3 has stated that the Appellant had demanded Rs.10,000/- from him in connection with the electricity theft case at his father's residence and that, pursuant to the said demand, he approached the CBI and produced Rs.3,000/- for the purposes of the trap. More importantly, his testimony does not stop at the initial demand. He has deposed about what transpired at the DESU/DVB office on the date of the trap and has specifically stated that the Appellant demanded the money from him and, when the money was being handed over, directed him to give the same to Ram Kumar on the representation that the Appellant was going to wash his hands.

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19. This aspect of the complainant's testimony assumes considerable significance because it provides the necessary link between the person who allegedly made the demand and the person from whom the money was ultimately recovered. The prosecution is not seeking to attribute the receipt to the Appellant merely because Ram Kumar happened to be present at the spot. The specific case of the prosecution is that Ram Kumar received the money at the instance and on the direction of the Appellant. The complainant (PW-3) has consistently deposed to this aspect and his testimony, as also corroborated by the other witnesses.

20. The testimony of Shishu Pal (PW-4), who was associated as the shadow witness, lends material corroboration to this part of the prosecution's case. PW-4 has stated that he accompanied the complainant and saw the Appellant, Ram Kumar and the complainant at the relevant time i.e. during the raid. He has specifically deposed that the Appellant directed the complainant to pay the money to Ram Kumar. He further stated that he saw the money being received by Ram Kumar and thereafter gave the pre-appointed signal to the raiding party. PW-4 has remained consistent regarding his account of the raid and the handing over of the tainted currency notes to Ram Kumar, at the behest of the Appellant in both his examination in chief and his cross examination.

21. The defence has sought to discredit PW-4 on the ground that he had earlier deposed that the corridor was dark and that he only had a glimpse of the Appellant. The said circumstance does require consideration, but it cannot be examined in isolation. PW-4 has not merely claimed to have seen an unknown person at the spot. He has specifically attributed to the Appellant the act of directing the complainant to hand over the money to Ram Kumar. His evidence on this material aspect has remained substantially

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intact in cross-examination. The fact that the corridor may have been dark may affect the quality of visual observation to some extent, but it does not, by itself, render the entire testimony unreliable, particularly when the witness has identified the Appellant and has given a consistent account of the role attributed to him.The relevant portion of his cross-examination is reproduced hereunder for reference:

> *"We reached DESU office Nandnagri at about 2.30 pm. The corridor was dark. Only one person was sitting in the cabin whose name was Ram Kumar. I saw Babu Ram in the corridor. He was carrying a bundle of wire but I could not see him due to dark in the corridor. He had a talk with Satya Prakash regarding money and he asked Satya Prakash to pay the money to Ram Kumar."*

22. The evidence of Edward Toppo (PW-5) operates on a somewhat different plane. He was associated principally as the recovery witness and has deposed that, after the signal was received and the raiding party entered, Ram Kumar was apprehended and the sum of Rs.3,000/- was recovered from the right side pocket of his pant. The numbers of the recovered currency notes were tallied with the numbers recorded during the pre-trap proceedings and were found to correspond. PW-5 therefore provides direct corroboration to the recovery of the very currency which had been produced and treated during the pre-trap proceedings. His evidence does not materially advance the prosecution's case regarding the conversation preceding the acceptance, but that by itself does not detract from the evidentiary value of his testimony on recovery.

23. The chemical examination further corroborates the recovery proceedings. The washes of both hands and the right-side pant pocket of Ram Kumar were taken and the resulting solutions were found to contain phenolphthalein and sodium carbonate. K.S. Chhabra (PW-2), the Chemical

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Examiner, through his report has provided scientific corroboration of the fact that Ram Kumar had handled the tainted currency. The recovery evidence, therefore, is not dependent merely upon the oral assertion of the witnesses but is supported by the contemporaneous trap proceedings and the subsequent chemical examination.

24. The principal objection raised by the learned counsel for the Appellant, however, is that since the tainted currency was recovered from Ram Kumar and the Appellant neither handled the currency nor underwent any positive hand-wash or pocket-wash, the ingredient of acceptance cannot be attributed to him. However, the prosecution's case is not that the Appellant personally put the currency into his pocket. Quite the contrary, the prosecution's case is that after making the demand, the Appellant directed the complainant to hand over the money to Ram Kumar. The present case, as it currently stands, dictates that if this part of the prosecution's evidence is found reliable, the physical recovery from Ram Kumar does not sever the connection between the demand made by the Appellant and the eventual receipt of the gratification.

25. Moving onto addressing the argument of the learned counsel for the Appellant, that since Ram Kumar, the recipient of the tainted currency notes and the man from whom the recovery was affected, was let off by the Learned Trial Court, the Appellant would also be entitled to the same type of treatment. However, the fact that Ram Kumar was discharged at the stage of framing of charge also does not result in the automatic exoneration of the Appellant. The question before this Court is not whether Ram Kumar ought or ought not to have been charged. The order of discharge operates in relation to Ram Kumar and cannot, by itself, determine the evidentiary worth of the acts attributed to him insofar as those acts form part of the

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prosecution's case against the Appellant. The prosecution is required to establish against the Appellant that the illegal gratification demanded by him was accepted by Ram Kumar pursuant to his direction. That question has to be answered on the evidence led in the present trial.

26. The role attributed to Ram Kumar is, in fact, significant but limited only to the extent that it completes the transaction alleged by the prosecution. The complainant had brought a sum of Rs.3,000/- pursuant to the demand allegedly made by the Appellant. At the spot, the Appellant allegedly directed that the money be handed over to Ram Kumar. Ram Kumar received the money. The same tainted currency was recovered from his possession immediately thereafter and his hand and pocket washes tested positive. These circumstances form a continuous and unbroken chain of events. The recovery from Ram Kumar is thus not an isolated circumstance divorced from the Appellant, rather, it is the consequence of the specific direction attributed to the Appellant.

27. The audio recording has been assailed at considerable length by the learned counsel for the Appellant. It is submitted that there are multiple transcripts, that the transcripts are not identical, that Dr. Rajinder Singh (PW-9) did not receive specimen voices, that the number of speakers was not mentioned in his report and that the transcription was in the handwriting of his assistant Ms. Vimmy, who did not sign the same nor did she enter the witness box. These are circumstances which undoubtedly require the Court to examine the audio evidence with caution. However, the objections raised do not, in the facts of the present case, completely obliterate the other evidence available on record.

28. Dr. Rajinder Singh (PW-9) has stated that the two sealed cassettes were received by him and that their contents were transcribed by auditory

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method. In cross-examination, he admitted that the transcript was in the handwriting of his assistant Ms. Vimmy, who had not signed it and that the report did not mention how many persons' voices were contained in the cassette. He had also admittedly deposed that he had not received any specimen voice of any person in the case. These admissions undoubtedly weaken the forensic aspect of the voice identification, particularly if the prosecution were to rest its entire case upon a scientific comparison of the Appellant's voice with the recorded voice.

29. That, however, is not the position here. The prosecution has not relied upon the audio recording in isolation. PW-3, the complainant, was himself present during the conversation and identified the voices when the cassette was played in Court. He identified his own voice as well as the voices attributed to Ram Kumar and the Appellant. C.K. Sharma (PW-12), the Investigating Officer, has also stated that the transcription (Ex.PW-4/E) was prepared after the recorded conversation was played in the presence of the complainant and the independent witnesses, after the voices were identified, and that the transcription bears his signature as well as those of the independent witnesses.

30. The objection that the transcription could not have been relied upon merely because it was prepared by the Investigating Officer also cannot be accepted as an absolute proposition. The weight to be attached to such transcription would necessarily depend upon the evidence by which the underlying recording and the identity of the voices are established. Here, the complainant was not a stranger to the conversation. He was the person who allegedly participated in it and was therefore in a position to identify his own voice and the voices of the persons with whom he had conversed during the trap.

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31. There is also a distinction between the two aspects of the prosecution's case which the learned counsel for the Appellant has vehemently opposed, namely, the authenticity of the recording and the evidentiary value of the transcription. A transcription by itself cannot establish that a conversation took place. It is the recorded conversation, together with evidence establishing its identity and authenticity, which has to be assessed. In the present case, the prosecution has led evidence that the recording equipment was supplied during the pre-trap proceedings, that the conversation was recorded during the transaction and that the cassettes were subsequently sealed and sent to CFSL. PW-12 has further deposed about the preparation of the transcription after the voices were identified by the persons who were present during the raid proceedings i.e. the complainant and the Panch witness. The variations pointed out between the transcripts also do not, in themselves, demolish the prosecution's case. What is material is whether the portions relied upon by the prosecution are substantially consistent with the oral evidence regarding what transpired at the spot. The central and prominent circumstance emerging from the prosecution's evidence is that the Appellant was demanding the money and that the complainant was directed by him to hand it over to Ram Kumar. The transcript relied upon by the prosecution contains utterances attributed to the Appellant concerning the amount and the direction to hand over the money, while Ram Kumar is heard participating in the conversation concerning the amount. This broad circumstance is consistent with the oral account given by PW-3 and PW-4.

32. The argument raised by the learned counsel for the Appellant regarding the absence of specimen voice of the Appellant also cannot be treated as fatal in the present facts. Had the prosecution sought to establish

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the identity of the Appellant's voice solely through a scientific comparison with a specimen voice, the absence of such specimen would undoubtedly have assumed greater significance. Here, however, the complainant (PW-3), who was a participant in the conversation, identified the voice of the Appellant in Court. The evidence of voice identification is therefore not confined to the forensic expert.

33. Learned counsel for the Appellant had also raised an argument with regards to the sanction, particularly on the ground that there was no office reference or forwarding letter and that the sanctioning authority N.P. Singh (PW-1) did not remember the number of documents placed before him. However, PW-1 in his deposition has categorically stated that he had perused the relevant documents and statements before issuing the sanction. Moreover, his inability to recall the precise number of documents or the exact procedural details, merely indicates a very human tendency to be unable to recall precise details pertaining to certain events due to passage of time and lapse of memory. Even so, there is nothing on record to indicate that the sanction itself was issued without application of mind or otherwise. Learned counsel for the Appellant has also relied upon the testimony of D.R. Gautam (PW-10) who stated that the preparation of the electricity bill was his duty and not the Appellant’s. This fact however, cannot come to the rescue of the Appellant as the actual performance of the act or the competence of the Appellant to perform the act for which illegal gratification was demanded and accepted, is not a ground for acquittal, especially in a case like the one in hand. The mere fact that the final bill was to be prepared by a superior officer and not the Appellant, does not, unto itself makes it impossible for the Appellant to demand illegal gratification.

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34. The argument raised by the learned counsel for the Appellant that the complainant was motivated by the electricity theft raid conducted at the premises of his father also does not incidentally furnish a sufficient explanation for the subsequent events. Although, such circumstance undoubtedly calls for the testimony of the complainant to be scrutinised with due care. The earlier contention of the learned counsel that the Appellant was not the competent authority to issue the electricity bill does not do much, to advance this argument. Rather, it leaves an unanswered question as to why, out of all the officials associated with the proceedings, would the complainant go to such lengths to falsely implicate the Appellant. Even if the entire body of evidence supporting the prosecution case were, for the sake of argument, disregarded, the defence theory of false implication would still fail to furnish a plausible explanation for the specific circumstances in which the Appellant came to be implicated. The contention, therefore, does not, by itself, cast a reasonable doubt on the prosecution case.

35. The evidence led by the defence also does not inspire confidence. The Appellant has sought to rely upon the testimony of D.R. Gautam (PW-10) and the defence witnesses to contend that he was engaged in inspection of electrical lines in A and B Block, Nand Nagri, and therefore could not have been present at the place of trap. PW-10 does support the fact that the Appellant had accompanied him for inspection earlier in the day. However, PW-10 has also stated that he left the Appellant in B Block at about 4.00 PM and thereafter went away. The alleged trap took place subsequently. Thus, the testimony of PW-10 does not establish the continued presence of the Appellant at B Block at the time when the alleged transaction took place. More importantly, the plea of alibi has to be considered against the positive evidence of the complainant (PW-3) and the shadow witness Shishu Pal

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(PW-4), both of whom place the Appellant at the spot and attribute to him the direction to hand over the money to Ram Kumar. The defence evidence, therefore, does not create such a complete and irreconcilable circumstance as would displace and dislodge the direct testimony of the prosecution witnesses. The fact that the Appellant could not be apprehended at the spot and was arrested on 22.12.2000 is also not sufficient to establish that he was not present there. The prosecution witnesses have consistently explained that he left the immediate place of occurrence and could not thereafter, be located by the raiding team.

36. The submission regarding the conduct of the Appellant in leaving the spot also requires to be examined in the context of the circumstances prevailing at the time. The prosecution's case is that the Appellant left after directing the complainant to hand over the money to Ram Kumar and that the raiding party entered at the scene after the pre-appointed signal was given. By that time, the money had already been received by Ram Kumar. The fact that the Appellant was not found when the raiding team entered does not, by itself, negate the occurrence which had already taken place.The Hon'ble Supreme Court in ***State by Lokayuktha Police v. Sri. K. Rangayya***, 2026 SCC OnLine SC 963, has succinctly held that Section 7 of the PC Act does not contemplate a requirement that the demand or attempt to obtain undue advantage must necessarily be made directly and personally by the public servant himself. The statutory scheme, particularly Explanation 2 to Section 7, also encompasses an attempt to obtain undue advantage for another person or through intermediaries, including subordinate public servants, where such conduct is attributable to the public servant. Thus, the fact that the gratification is sought to be obtained through an intermediary or another person does not, by itself, take the conduct outside the ambit of

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Section 7 of the PC Act. The relevant portion of ***Lokayuktha*** (supra) is reproduced hereunder:

> *"**24.** The High Court fell into a grave error in characterizing the aforesaid conduct of the Respondent No. 1 as insufficiently proximate to constitute a 'demand' within the meaning of Section 7 of the PC Act. The High Court appears to have imported a requirement of a direct, personal, and express demand by the public servant himself by not taking into consideration Explanation 2, a standard not warranted by the broad statutory language. The PC Act does not countenance any such straitjacketed formulation limiting to acts of demand and acceptance of bribe by the official himself as explained by expansive provision of Explanation 2. It can be for obtaining the undue advantage "for another person" also. Further, an attempt to obtain a bribe through subordinates who are also public servants, is precisely the kind of indirect corruption that the legislature, by enacting Explanation 2 to Section 7, has sought to bring within the fold of the statute.*
>
> ***25.** The interpretation adopted by the High Court, if permitted to stand, would limit the broad scope of Section 7 read with Explanation 2, and would create a pernicious loophole in the anti-corruption law by permitting senior public officials to orchestrate and direct the collection of illegal gratification through their public servant subordinates and park the benefits in the account of the "another person" for whose benefit the public servant intends, while maintaining personal deniability. Such a construction would subvert the manifest purpose and policy of the PC Act and render the Explanation 2 redundant, and thus, cannot be countenanced.*
>
> ***26.** In this regard, it is apposite to note the legal proposition as set out in the observations of this Court in Devinder Kumar Bansal v. State of Punjab:*
>
> > *"**12.** Further it is seen that, Section 7 speaks of the "attempt" to obtain a bribe as being in itself an offence. Mere demand or solicitation, therefore, by a public servant amounts to commission of an offence under Section 7 of the PC Act. The word "attempt" is to imply no more than a mere solicitation, which, again may be made as effectually in implicit or in explicit terms.*
> >
> > ***13.** Actual exchange of a bribe is not an essential requirement to be prosecuted under this law.*

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Further, those public servants, who do not take a bribe directly, but, through middlemen or touts, and those who take valuable things from a person with whom they have or are likely to have official dealings, are also punishable as per Sections 10 and 11 of the 1988 Act, respectively.

14. *****

15. *We may also refer to a Division Bench decision of the Bombay High Court in Damodar Krishna Kamli v. State [Damodar Krishna Kamli v. State, 1954 SCC OnLine Bom 72 : 1955 Cri LJ 181]. P.B. Gajendragadkar, J. (as his Lordship then was), speaking for the Bench, observed as under: (SCC OnLine Bom para 9)*

"9. ... If we turn to Section 161, it would be clear that a public servant would be guilty of the offence of taking gratification under the said section even if he agrees to accept the prohibited gratification. It is thus not necessary in order to bring home to the public servant the charge under Section 161 to prove that he has actually accepted or obtained illegal gratification. It would be enough if it be shown that he had agreed to accept the said illegal gratification. In other words, if a proposal is made to the public servant in respect of payment of illegal gratification and the proposal is accepted by the public servant, he would be guilty under Section 161 of the Penal Code."

16. *Section 161 of the Penal Code, 1860 came to be omitted at the time when the Prevention of Corruption Act, 1947 came to be repealed and the Prevention of Corruption of Act, 1988 came into force. Section 161 IPC is parimateria to Section 7 of the 1988 Act."*

27. *Mere demand or solicitation, therefore, by a public servant may amount to commission of an offence under Section 7 of the PC Act. The word 'attempt' is to imply no more than a mere solicitation, which, again, may be made as effectually in implicit or in explicit terms. This Court further observed therein that "actual exchange of a bribe is not an essential requirement to be prosecuted under this law" and that those public servants who do not take a bribe directly but through middlemen are equally*

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> *made liable under the provisions of the PC Act, 1988. These observations, though rendered in the context of grant of anticipatory bail in a case involving offence under Section 7 of the PC act, firmly reflect the legislative policy pervading the PC Act that an attempt to obtain undue advantage whether for oneself or for another, and whether directly or through intermediaries is equally culpable under Section 7 read with Explanation 2 of the Act. The Respondent No. 1's implicit yet unmistakable direction to the Complainant to provide illegal gratification to his subordinate police officials as disclosed in the records thus falls squarely within the scope of "attempt to obtain" an "undue advantage" "for another person," as contemplated by Explanation 2(i) to Section 7 of the PC Act. The fact that the Respondent No. 1 may not personally have received or even intended to receive any part of the illegal gratification is entirely immaterial to the establishment of the offence at the stage of prima facie inquiry, by reason of the express statutory language of Explanation 2 to Section 7 of the PC Act."*

37. The alleged contradictions and improvements in the testimonies of PW-3 and PW-4 have also been considered. It is true that there are discrepancies regarding timings, the preparation of documents and certain details concerning the recording equipment. There are also omissions in the earlier statements of the witnesses. However, the discrepancies which have been pointed out do not dislodge the central features of the prosecution case. Both PW-3 and PW-4 place the Appellant at the spot, both speak of the direction given by the Appellant to hand over the money to Ram Kumar, and PW-4 specifically states that he saw the money being received and thereafter gave the pre-appointed signal. PW-5 independently establishes the immediate recovery of the same currency from Ram Kumar, supported by the positive chemical examination.

38. The evidence, therefore, when examined cumulatively, establishes a sequence which cannot be separated into isolated fragments. The complainant approached the CBI with a specific allegation of demand. The

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pre-trap proceedings were conducted and Rs.3,000/- in treated currency was produced. The shadow witness accompanied the complainant inside the DESU Office wherein the Appellant was present and, according to PW-3 and PW-4, directed the complainant to hand over the money to Ram Kumar. The money was thereafter recovered from Ram Kumar almost immediately pursuant to the pre-appointed signal. The currency notes tallied with the notes produced during the pre-trap proceedings and the hand and pocket washes of Ram Kumar tested positive for phenolphthalein and sodium carbonate. The audio recording and the testimony concerning the conversation provide further corroborative circumstances.

39. The absence of physical recovery from the Appellant, therefore, cannot be elevated into a requirement that must necessarily be satisfied in every case. Acceptance of gratification may be established from the circumstances and need not invariably take the form of the accused personally putting the currency into his own pocket. In the present case, the prosecution has established that the Appellant was the person who made the demand and that the amount was handed over to Ram Kumar pursuant to his direction. The subsequent recovery and chemical examination corroborate the occurrence of the transaction.

40. The statutory presumption under Section 20 of the PC Act also has to be considered in this context. The presumption does not arise merely because currency is recovered in a trap. The prosecution must first establish the foundational facts concerning the demand and acceptance of gratification. Once those foundational facts are established, the statutory presumption operates in accordance with law. In the present case, the evidence discussed above establishes the demand by the Appellant and the acceptance of the demanded amount through Ram Kumar. The positive

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recovery and scientific evidence provide substantial corroboration to the factum of acceptance.

41. The defence has sought to rely upon the absence of a positive hand-wash of the Appellant as though it completely negatives acceptance. Such an approach would overlook the very case set up by the prosecution. If the money was accepted by Ram Kumar pursuant to the direction of the Appellant, the absence of phenolphthalein on the Appellant's hands would be an expected circumstance and not a contradiction in the prosecution's case. The scientific evidence is relevant to establish the handling of the currency by Ram Kumar; the oral evidence is relied upon to establish why and at whose direction Ram Kumar received it. It is also significant that the Appellant, in his statement under Section 313 Cr.P.C., has denied the conversation and the demand altogether. He has not offered any satisfactory explanation for the presence of the complainant and Ram Kumar at the relevant place or for the recovery of the exact amount of Rs.3,000/- from Ram Kumar immediately after the pre-appointed signal. His plea is one of complete denial coupled with alibi and false implication. Such denial, by itself, cannot displace the positive evidence led by the prosecution.

42. This Court is conscious of the fact that the prosecution's evidence concerning the audio recording contains certain deficiencies. The forensic expert did not undertake specimen voice comparison and the transcription prepared at the CFSL has not been established with the degree of certainty which would make it, standing alone, conclusive against the Appellant. The investigation also contains certain omissions. However, a criminal case has to be assessed on the totality of admissible and reliable evidence and not on the basis of one isolated piece of evidence. In the present case, even if the audio evidence is kept aside or its weight is considerably reduced, the

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testimony of PW-3 and PW-4, read with the immediate recovery from Ram Kumar and the positive chemical examination, conclusively to establish the material circumstances against the Appellant.

43. The evidence of the complainant (PW-3) has come from his experience in the whole ordeal as someone who personally interacted with the Appellant and handed over the money pursuant to his direction. The Panch witness, Shisu Pal (PW-4) was an independent shadow witness who corroborates the material circumstance, of the Appellant directing the complainant to hand over the money to Ram Kumar and thereafter witnessed the receipt of the money. Edwart Toppo (PW-5) corroborates the immediate recovery. K.S. Chhibra (PW-2) provides scientific corroboration to the handling of the treated currency. A.K. Malik (PW-11) corroborates the trap proceedings and C.K. Sharma (PW-12) the subsequent investigation. These pieces of evidence, when stitched together, form a coherent chain pointing towards the guilt of the Appellant.

44. The prosecution has, therefore, succeeded in establishing the demand of illegal gratification by the Appellant and the acceptance of the same pursuant to his direction through Ram Kumar. The fact that Ram Kumar was discharged does not efface the evidence of the transaction or the recovery made from him. The prosecution was not required to establish that the Appellant physically possessed the currency at the time of the raid especially when its specific case, supported by the testimony of the complainant and the shadow witness, is that he directed its delivery to Ram Kumar.

45. In view of the aforesaid discussion, this Court is of the considered opinion that the learned Trial Court has correctly appreciated the evidence on record and has rightly arrived at the conclusion that the Appellant had demanded illegal gratification and that the amount demanded by him was

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accepted pursuant to his direction. The deficiencies pointed out by the learned counsel for the Appellant, including those relating to the audio recording, transcription, sanction, alibi and the absence of recovery from the Appellant, do not create a reasonable doubt when the prosecution evidence is considered cumulatively in conjunction with the whole set of facts and circumstances.

46. The essential ingredients of the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the PC Act thus stand established against the Appellant beyond reasonable doubt. The conviction, therefore, does not call for interference.

47. Consequently, the judgment of conviction dated 29.08.2007 and the order on sentence dated 30.08.2007 are upheld as nothing has been argued qua the aspect of sentence.

48. The appeal is accordingly dismissed. Appellant within two weeks from the date of judgment order to undergo the sentence.

49. Copy of the judgment be transmitted to the learned Trial Court and Prison Authorities for information and requisite compliances.

VIMAL KUMAR YADAV, J

NOVEMBER 04, 2026/*hk/ij*

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