



2026:DHC:2733



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

%

*Judgment Reserved on: 17.03.2026*  
*Judgment pronounced on: 02.04.2026*

+ **CRL.A. 229/2004**

K.C.SHARMA

.....Appellant

Through: Mr. M.S. Khan, Mr. Akbar Kaleem,  
Mr. M. Yasir Khan and Mr. M.  
Arshyam, Advocates.

versus

C.B.I.

.....Respondent

Through: Mr. Atul Guleria, SPP for CBI with  
Mr. Aryan Rakesh, Advocate.

**CORAM:**  
**HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA**

**JUDGMENT**

**CHANDRASEKHARAN SUDHA, J.**

1. This appeal under Section 374 of the Code of Criminal Procedure, 1973 (the Cr.P.C.) has been filed by the sole accused in C.C.No. 32/1997 on the file of the Court of Special Judge, Delhi, challenging the conviction entered and the sentence passed against him for the offences punishable under Sections 7 and 13(2) read



2026:DHC:2733



with Section 13(1) of the Prevention of Corruption Act, 1988 (the PC Act).

2. The prosecution case is that the accused, while serving as a public servant in the capacity of an Assistant Sub-Inspector (ASI) in the Delhi Police and posted at Tis Hazari police post, on 12.07.1996 between 04:30 PM to 04:50 PM, demanded and accepted illegal gratification of ₹1,000/- from PW5 as a motive or reward for accepting a bail bond to be executed by the latter pursuant to an anticipatory bail order in his favour. It is further alleged that the accused obtained pecuniary advantage of ₹1,000/- without any public interest. Hence, as per the charge-sheet/final report the accused is alleged to have committed offences punishable under Section 7 and Section 13(2) read with Section 13(1)(d) of the PC Act.

3. On 12.07.1996, PW5 lodged a complaint, that is, Ext. PW5/A, with the Anti-Corruption Branch, New Delhi, based on which, Crime no. RC 58(A)/96-DLI, namely, Ext. PW6/B FIR was



2026:DHC:2733



registered alleging commission of the offences punishable under Section 120-B of the Indian Penal Code, 1860 (IPC) read with Section 7 of the PC Act against two persons, namely Rajesh Kumar, Sub Inspector, Chowki Incharge, Police Post (P.P.) Tis Hazari Courts, Delhi and K.C. Sharma, A.S.I., Delhi Police, P.P. Tis Hazari, Delhi, that is, the appellant herein.

4. PW8, Inspector, Anti-Corruption Branch, New Delhi, conducted investigation into the crime and on completion of the same, submitted the charge-sheet/final report alleging the commission of the offences punishable under the abovementioned sections against the second accused alone, that is, the appellant herein. Rajesh Kumar, Sub Inspector, accused no.1 in the FIR was not chargesheeted as according to the Investigating Officer (IO), no sufficient evidence could be found against him.

5. Ext. PW2/A Sanction Order for prosecuting the accused was accorded by the then Deputy Commissioner of Police, North District, Delhi.



2026:DHC:2733



6. When the accused on receipt of summons appeared before the trial court, the Court after complying with the formality contemplated under section 207 Cr.P.C, on 15.01.1998, framed a Charge against the accused for the offences punishable under Sections 7 and Section 13(2) read with 13(1)(d) of the PC Act, which was read over and explained to him to which he pleaded not guilty.

7. On behalf of the prosecution, PW1 to PW8 were examined and Ext. PW1/A, Ext. PW2/A, Ext. PW3/A-F, Ext. PW4/B-C, Ext. PW5/DA1-16, Ext. PW5/DA24-26, Ext. PW5/DA-46, Ext. PW6/B-C, were marked in support of the case.

8. After the closure of the prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against him in the evidence of the prosecution. The accused denied all those circumstances and maintained his innocence. The accused submitted that all the prosecution witnesses are interested



witnesses. PW3 and PW4, despite being witnesses cited by the Central Bureau of Investigation (CBI), had not toed the line of the CBI. PW5, the complainant and PW7, his friend, were harbouring a grudge against the police officials. PW6 and PW8 are officials of the CBI and PW1, an expert associated with the CBI, has given a biased report. PW2 has accorded an invalid sanction. PW5 was acquainted with the CBI officials, and so, in order to help the former, had organised the present illegitimate trap and falsely apprehended him. The falsehood of the CBI and trap is reflected in the mechanical evidence in the case, including the alleged cassette recording, colourless hand and pant pocket wash.

9. DW1 to DW3 were examined on behalf of the accused.

10. On consideration of the oral and documentary evidence on record and after hearing both sides, the trial court, *vide* the impugned judgment dated 19.03.2004, held the accused guilty of the commission of offences punishable under Sections 7 and 13(2) read with 13(1)(d) of the PC Act and accordingly, sentenced him



2026:DHC:2733



under Section 248(2) Cr.P.C. to undergo rigorous imprisonment for a period of one year and to fine of ₹10,000/- under Section 7 of the PC Act and in default of payment of fine, to undergo rigorous imprisonment for three months and to rigorous imprisonment for a period of two and a half years and fine of ₹25,000/- under Section 13(2) read with Section 13(1)(d) of the PC Act and in default, to further undergo for a period of six months. The sentences have been directed to run concurrently. Aggrieved, the accused has preferred the present appeal.

11. It was submitted by the learned counsel for the appellant/accused that PW3, the shadow witness and PW4, the recovery witness, have not supported the prosecution case. It was pointed out that PW3 and PW4 deposed that the recovery was effected from a pair of pants hanging on a peg, whereas PW5 deposed that the recovery was made from the pants worn by the accused.



2026:DHC:2733



11.1. It was further submitted that there was no need for PW5 to have visited the Tis Hazari police post as he had already obtained an anticipatory bail order. The bail order does not contain any direction requiring him to appear before the police station. Moreover, there was no official intimation, summons, or notice issued by the accused to PW5 summoning him to the police station. Despite this, PW5 is stated to have voluntarily appeared at the police station to submit the bail bond. The conduct of PW5 in visiting the police station without any such direction creates doubt. It was also submitted that the accused was not the IO in FIR No. 276/1996, which was lodged against PW5. The IO was, in fact, SI Rajesh Kumar, who has not been chargesheeted. When the accused was never the IO, there was no occasion for him to demand any bribe.

11.2. It was further submitted that there is a delay of 3 days in forwarding the FIR to the court. Though the FIR was registered on 12.07.1996, as per the endorsement, it is seen to have



2026:DHC:2733



been received in the court on 15.07.1996. It was submitted that although SI Rajesh Kumar was initially arrayed as the first accused in the FIR, he was subsequently dropped during the investigation without any plausible explanation by the IO only because he happened to be the batchmate of the I.O.

11.3. Lastly, it was submitted that if the hand wash of the accused turned pink upon dipping in the sodium carbonate solution, then the solution in the container should have remained pink. However, the samples of the hand wash, when sent to the FSL, were found to be colourless. Even PW1, the expert witness, admitted that the solution had become colourless, which is yet another factor to doubt the case. Reliance has been placed on the dictums in **P. Satyanarayna Murthy v. State of Andhra Pradesh (2015) 10 SCC 152**, **B. Jayaraj v. State of Andhra Pradesh (2014) 13 SCC 55**, **C. Sukumaran v. State of Kerala (2015) 11 SCC 314**, **Nilesh Dinkar Paradkar v. State of Maharashtra (2011) 4 SCC 143**, **State of MP v. Sheetla Sahai (2009) 8 SCC**



2026:DHC:2733



**617 and Javed Shaukat Ali Qureshi v. State of Gujarat (2023) 9 SCC 164.**

12. *Per Contra*, it was submitted by the learned Special Public Prosecutor that the recovery of the tainted currency notes were effected from the very room where the accused and PW5 were present. Even if there is some discrepancy regarding whether the tainted money was recovered from the pant worn by the accused or from a pair of pant hanging on a peg, such inconsistency is immaterial in the facts of the case as the crucial incriminating circumstance was that the hand wash of the accused turned pink at the spot, which could only have occurred if the accused had come into contact with the tainted currency notes treated with phenolphthalein powder. Lastly, it was submitted that the impugned judgment does not suffer from any infirmity warranting interference by this Court. Reliance has been placed on the dictums in **Neeraj Dutta v. State (2023) 4 SCC 731**, **B. Jayaraj v. State of Andhra Pradesh (2014) 13 SCC 55**, **EdakkandiDineshan v. State of**



2026:DHC:2733



**Kerala, 2025 INSC 28 and Manoj Kumar vs. CBI 2026 DHC 796.**

13. Heard both sides and perused the records.

14. The only point that arises for consideration in the present appeal is whether there is any infirmity in the impugned judgment calling for an interference by this Court.

15. I shall first briefly refer to the evidence on record relied on by the prosecution in support of the case. The initial demand in this case is alleged to have taken place on 11.07.1996, and the trap was laid on 12.07.1996. PW5 submitted a written complaint, that is, Exhibit PW5/A on 12.07.1996 in the office of the Anti-Corruption Branch in which he has stated thus:- *“One Mr. Fazal Ahmed, who lives about three furlongs from my house and against whom several cases are registered at Srinivaspuri South Police station and are under investigation, filed a false complaint against me on 10.06.1996, at Sabzi Mandi Police Station. Based on this, FIR No. 276/96 was registered against me under Sections 506, 323 and 34*



2026:DHC:2733



*IPC. The investigation is being conducted from the Tis Hazari Chowki (Outpost), and S.I. K.C. Sharma is the Investigating Officer. On 04.07.1996, I was granted anticipatory bail in this FIR by the Court of the Additional Sessions Judge, Delhi. However, yesterday, on 11.07.1996, at around 6:00 PM, I went to Tis Hazari Chowki and met S.I. K.C. Sharma and the Chowki In-charge, Mr. Rajesh Kumar. Despite my repeated requests, they refused to accept my bail bond without money. Chowki In-charge Rajesh Kumar and S.I. K.C. Sharma told me to come back today, 12.07.1996, at around 4:00 PM. The In-charge said that he would take ₹5,000 for himself and ₹1,000 should be given to the S.I. Then, my work would be done. They further stated that they would help me in the investigation as well, even though they know the case is false, but since it is registered, an investigation must be done. They said if I pay the money, everything will be settled.”*

16. PW5, when examined before the trial court on 08.01.2002, deposed that one Fazal Ahmed had lodged a false



2026:DHC:2733



report against him with the police on the basis of which an FIR had been registered against him at Police Post, Tis Hazari alleging commission of offences punishable under Sections 506 and 323 IPC. He had obtained anticipatory bail in that case. His friend Rafiq Khan (PW7) had accompanied him to Police Post Tis Hazari on 11.07.1996 at about 6:00 PM, where he met SI Rajesh Kumar, Chowki In-charge, and ASI K.C. Sharma (the accused). They demanded a bribe for accepting the bail bond. He was carrying the bail bond with him and Rafiq Khan (PW7) was to stand as his surety. SI Rajesh Kumar demanded ₹5000/- for himself and ₹1000/- to be paid to the accused. As he did not have the money at that time, he was asked by SI Rajesh Kumar and the accused to bring the money the next day. On 12.07.1996, he, along with Rafiq Khan (PW7), went to the CBI office and lodged Ext. PW5/A complaint. The SP to whom he submitted the complaint handed it over to Inspector Lohmor (PW6). PW6 took him, and Rafiq Khan (PW7), to the room of DSP Mr. Bhist. Two officials of the Food



2026:DHC:2733



Corporation of India (FCI), one Surender Kumar (PW4) and the other whose name he could not recall, were introduced to him. The complaint was read over to the witnesses, and he confirmed its correctness. Ten currency notes of the denomination of ₹500/- each and ten currency notes of ₹100/- each, was handed over to Inspector Lohmor (PW6). The currency notes were treated with powder, and a demonstration was conducted during which Surinder Kumar (PW4) touched the notes and dipped his hands into the solution, which turned pink. He was instructed to keep the 10 notes of ₹500/- in the left pocket of his trousers and the remaining notes in the right pocket. He was also instructed to carry a photocopy of the court order and to hand over the money on demand. He was also given a receiver, which he kept in his left shirt pocket. An empty cassette was inserted, and the voices of the independent witnesses were recorded. The recorder with the cassette was given to Surinder Kumar (PW4) and the earphones were kept in the IO's bag. Rafiq Khan (PW7) and the independent witness, whose name he could



2026:DHC:2733



not recall, were asked to accompany him. Another witness was instructed to give a signal after completion of the transaction by scratching his head. They left the office of the CBI after 4:00 PM and reached the Tis Hazari police post. He, along with Rafiq Khan (PW7) and the independent witness, went inside. He switched on the recorder before entering the room of the accused. When he inquired about the chowki-in-charge, the accused told him that the latter had left after waiting for sometime. The accused offered him water, and after some conversation, asked whether he had brought the money. He replied in the affirmative. He requested to speak to the chowki-in-charge, but the accused stated that the share of the chowki-in-charge should also be given to him. Thereafter, he handed over 10 currency notes of ₹100/-each to the accused, who received them with his left hand and kept them in the left pocket of his pants. During the conversation, he told the accused that the case registered against him was false. The accused replied that he knew the case to be false, but it was a matter of competition and that his



2026:DHC:2733



work would be done if he paid more than the opposite side. After this, the independent witness gave the signal, and the raiding party entered the room. The accused was apprehended, and his wrists were caught. The accused was challenged for accepting the bribe, but he remained silent. PW5 was not sure as to who had recovered the 10 tainted currency notes from the left pocket of the accused. The number of the notes recovered tallied and matched with those in the handing-over memo prepared during the pre-raid proceedings. The wash of the left hand of the accused and the wash of the left pocket of his pants were taken separately in sodium carbonate solution, which turned pink. The solutions were sealed in bottles. PW5 also deposed that he was searched and the remaining tainted currency notes amounting to ₹5000/-; the receiver, and the bail order were recovered. The cassette was played, and its transcript was prepared. The recording was less than five minutes and contained background noise, with only some portions audible.



2026:DHC:2733



PW5 identified his voice as well as the voice of the accused in the audio recording, but he was unable to identify the other voices.

16.1. PW5 stood by his case when cross-examined. He deposed that a telephone call had been made from the CBI office to the accused at Tis Hazari police post before they proceeded for the trap. PW5 was unable to recall whether that call had been tape-recorded. PW5 denied the suggestion that the accused was wearing a shirt and pyjama when the latter was apprehended. He denied that his three companions were not allowed to enter Tis Hazari police post by the sentry. He denied the presence of SI Rajesh Kumar during the trap.

17. PW3, the shadow witness, deposed that on 12.07.1996, he, along with Surinder Kumar (PW4), visited the CBI Office on the directions of his Manager (Vigilance) and reported to Inspector RVS Lohmore (PW7). The complainant (PW5) and his friend were already present there. PW3 deposed that the complainant (PW5) produced ₹1000/- comprising 10 currency notes of ₹100/- each, and



2026:DHC:2733



that he did not produce anything else. At this juncture, the prosecutor sought permission of the court to “cross-examine” PW3 as he was resiling from his previous statement and suppressing the truth, which request was allowed by the trial court. On further examination, PW3 admitted that in the office of the CBI, after meeting Mr Lohmore (PW6), they had gone to the room of DSP H.C. Bhist, where they were introduced to PW5 and his friend Mohd. Rafi Khan (PW7). PW3 admitted that PW5 produced 10 currency notes of the denomination of ₹100/- each and 10 currency notes of ₹500/- each for the trap. The number of these notes were noted in the handing over memo. PW3 also admitted that the currency notes were treated with phenolphthalein powder. He admitted the pre-trap proceedings. PW3 further deposed that an audio cassette recorder was brought and a blank cassette was loaded. The cassette was played before them to show that no voice was recorded. Thereafter, sample voices of himself and Surinder Kumar (PW4) were recorded. He admitted that a paper slip was



2026:DHC:2733



pasted on the cassette and signed by him and the other witnesses. PW5 was directed to pass the treated currency notes to the accused on specific demand. PW3 denied the suggestion that ₹1000/- was to be paid to ASI KC Sharma (the accused) and ₹5000/- to SI Rajesh Kumar. He stated that an electronic gadget consisting of recorder-cum-receiver, two earphones, a credit-card-type mic, and a blank cassette was used. PW5 was directed to switch on the mic while entering the room of the accused. PW3 deposed that he was directed to act as a shadow witness and accompany PW5 to hear the conversation and see the transaction. He was also directed to give a signal to the trap party in the event of the accused accepting the bribe. PW3 admitted that Mohd. Rafi Khan (PW7) was also directed to accompany PW5 posing as surety. PW3 admitted that on reaching the police post, he along with PW5 and Mohd. Rafi Khan (PW7) went inside the police post to contact the Inspector concerned. The remaining members stayed outside. A constable on duty did not allow all of them to enter the room of the accused.



2026:DHC:2733



According to PW3, only one person was allowed to go in. PW5 went inside, while he and Mohd. Rafi Khan (PW7) remained outside. PW3 denied that all three of them had entered the room of the accused. He denied having heard the accused demanding the bribe or seeing PW5 handing over ₹1000/- to the accused or seeing the accused keeping the money in his left pocket. PW3 deposed that he was standing outside the room and that after giving the money, PW5 came out and gave a signal and on receiving the said signal, the CBI team entered the room of the accused. He denied having stated to the CBI that the accused was caught by two CBI officials and that he had informed the CBI that the accused had accepted the bribe with his left hand and kept it in the left side pocket of his pants. According to PW3, he saw a pant hanging on a nail and PW7 recovering 10 tainted currency notes of the denomination of ₹100/- each from that pant pocket. He denied PW7 recovering the notes from the left pocket of the pants worn by the accused. He admitted that the number on the notes when compared by Surinder Kumar



2026:DHC:2733



(PW4) with the number referred to in the handing over memo, was found tallying. PW3 also admitted that when the accused was asked to dip his left hand fingers in the sodium carbonate solution, the same had turned pink. He also admitted that the inner lining of the left side pocket of the pants when dipped in the solution also turned pink, and that the wash was preserved. PW3 denied witnessing recovery of ₹5000/- from the left side pocket of PW5's pants. From PW5, only a credit card-type mic was recovered and not cash or the bail order. PW3 further denied that the audio cassette had been played in the room of the accused or a transcript being prepared there. According to PW3, the transcript was later prepared in the office of the CBI in his presence. He denied the suggestion that he had been won over by the accused and that he was deposing falsely.

17.1. PW3 in his cross-examination reiterated that he did not see the accused accepting money from PW5, and he did not see the transaction and therefore could not say whether PW5 had put



2026:DHC:2733



the currency notes in the pants of the accused hanging on the nail. He did not hear any conversation between PW5 and the accused.

18. PW4, the recovery witness, deposed that on 12.07.1996, while working as Assistant Grade-I, Vigilance Department, FCI, Headquarters, he went to the office of the CBI on being called. He met Inspector Lohmor (PW6), who introduced him to one Zahid Khan (PW5). Zahid Khan (PW5) produced currency notes worth ₹6000/-, consisting of 10 notes of ₹100/- each and 10 notes of ₹500/- each. The notes were treated with some powder and he was asked to touch them. Thereafter, his hands were dipped in a solution, which turned pink. The notes were handed over to Zahid Khan (PW5) to be kept in the left side pocket of his trousers and to be handed over on demand. A tape recorder small in size was also given to Zahid Khan (PW5). Mr. Prem Chandra (PW3), another official from his office, also joined the proceedings. The cassette inserted in the recorder was shown to be blank. Thereafter, his voice and that of Prem Chandra (PW3) was recorded in the cassette,



2026:DHC:2733



and their signatures were also put on it. The mic was put in the pocket of the complainant (PW5), while the recorder was kept by the Inspector. The earphone part of the equipment was kept with one of the members of the trap party, but he could not recall with whom. Prem Chand (PW3) was asked to accompany the complainant (PW5) and act as a shadow witness. They left the CBI office at about 03:30 PM and went to Tis Hazari Police Post. The shadow witness (PW3) and the complainant (PW5) went inside, while other members of the raiding party, including himself, remained outside. After some time, a signal was received, and he, along with the other members of the raiding party, went inside. ASI Sharma (the accused) was present there. The complainant (PW5) told them that the said ASI had taken the bribe. PW4 identified the accused in the court. He was asked by someone from the raiding party to take the pant hanging on a peg on the wall and to take out the money from the pocket. The pant was handed over to him and he took out ₹6000/- from one of its pockets. The number on the



2026:DHC:2733



recovered notes tallied with those noted in the handing-over memo. The wash of one hand of the accused was taken in sodium carbonate solution, which turned pink. The wash was poured into a clean, empty bottle and sealed. The wash of the pocket of the trousers from which the money had been taken was also taken, which turned pink, and was similarly sealed in another bottle. His signatures and those of another independent witness were taken on the wrappers of both the bottles. The accused was arrested and the personal search memo was prepared. A recovery memo and a site plan were also prepared. The cassette was played and a transcript was prepared. The complainant (PW5) was also searched, but PW4 was unable to recall what was recovered.

18.1. At this juncture, the prosecutor sought permission to “cross-examine” PW4 as he was suppressing the truth and resiling from his previous statement. The request was allowed by the trial court. On further examination, PW4 deposed that he could not recall whether a copy of the bail order dated 07.07.1996 was



2026:DHC:2733



given to the complainant (PW5). PW4 denied knowledge of any instruction to PW5 that ₹1000/- was to be paid to the accused and ₹5000/- to SI Rajesh Kumar. PW4 admitted that a transmitter had been given to the complainant (PW5), but denied that the mic had been given to him. He also denied that one earphone had been given to him and the other to Inspector Malik. He could not recall whether Rafiq Khan (PW7) had also accompanied the complainant (PW5) and the shadow witness (PW3) inside the police post. He denied that the pant from which the money was recovered was worn by the accused and not hanging on the peg. He was unable to recall whether ₹5000/-, the balance tainted money, was recovered from the complainant (PW5) along with the bail order.

18.2. PW4 in his cross examination admitted that he had been a witness about 5–6 times earlier in similar trap cases. He admitted that he always went whenever he was called by the CBI. He had gone about eight times to be a witness in CBI cases. He admitted he did not see anyone handing over or receiving money.



2026:DHC:2733



According to PW4, about five pants were hanging on a peg inside the room where the accused and the complainant (PW5) were present. Someone from the trap party identified the pants as belonging to the accused. When apprehended, the accused was wearing a pyjama and a shirt.

19. PW7, Mohd. Rafiq Khan, a friend of PW5, deposed that he had accompanied the latter to the Tis Hazari police post and met the Chowki-in-charge Rakesh Kumar and K.C. Sharma (the accused). Both of them took Zahid Khan (PW5) to a room. After some time, Zahid Khan (PW5) came out and told him that he had been asked to come the next day. On the way, Zahid Khan (PW5) told him that ₹6000/- had been demanded from him. The next day, Zahid Khan (PW5) told him that he was not interested in giving bribe and wanted to lodge a complaint with the CBI. Thereafter, he and Zahid Khan (PW5) went to the CBI office and met SP Shri Bisht. Zahid Khan (PW5) showed his complaint to the SP, who asked the former whether the complaint was correct, to which the



2026:DHC:2733



former replied affirmatively. The SP introduced them to two persons from the FCI, namely, Surinder Kumar (PW4) and Prem Chand (PW3), and also introduced them to Inspectors Malik and Lohmor (PW6). ₹6000/- was arranged for use in the trap in the form of 10 currency notes of ₹500/- each and 10 currency notes of ₹100/- each. The number of those currency notes was recorded and the notes were treated with phenolphthalein by Inspector Malik. Sodium carbonate was mixed in a glass of water. He was asked to touch the currency notes and dip his hand in the solution. Thereafter, in a blank cassette the voice of Prem Chand (PW3) and Surinder Kumar (PW4), was recorded. Prem Chand (PW3) was asked to remain close to Zahid Khan (PW5). Zahid Khan (PW5) was given a card-type instrument to keep in his pocket with directions to switch it on at the time of the transaction of the bribe amount. Prem Chand (PW3) was directed to give a signal by scratching his head with both hands after completion of the transaction. Surinder Kumar (PW4) was given a hearing instrument



2026:DHC:2733



to hear the conversation. An automatic recorder was also given. The treated currency notes were given to Zahid Khan (PW5) after his search was conducted, and was directed to give the bribe only on a specific demand and not otherwise. ₹5000/- was to be given to Rakesh Kumar and ₹1000/- to K.C. Sharma (the accused). In the office of the CBI, he signed the handover memo. They left the office of the CBI at about 03:45 PM. He, along with Zahid Khan (PW5) and Prem Chand (PW3), went inside the police post, while the remaining persons stayed outside. The Chowki-in-charge was not there. They met K.C. Sharma (the accused), who was in uniform. The accused asked Zahid Khan (PW5) whether he had brought the money to which the latter replied in the affirmative. The accused demanded the money by a gesture. Zahid Khan (PW5) asked to meet the in-charge, but the accused stated that the in-charge had gone for a meeting. Thereafter, Zahid Khan (PW5) handed over ₹1000/- to the accused. The accused received the amount in his left hand and kept it in the left side pocket of his



2026:DHC:2733



trousers. In the meantime, Prem Chand (PW3) went out to give the signal. On this, the entire team, including SP Bhist, reached there and the accused was apprehended by his wrists. The CBI officers disclosed their identity and challenged the accused. The accused remained silent. A solution of sodium carbonate was prepared, and the left fingers of the accused were dipped in the solution, which turned pink. Thereafter, Surinder Kumar (PW4) took out currency notes of ₹1000/- from the pocket of the accused. The left pocket of the trousers of the accused was also dipped in a freshly prepared sodium carbonate solution, which also turned pink. The accused K.C. Sharma was arrested. Both the washes were transferred into separate bottles, sealed and labelled, and signatures were obtained on the labels. Zahid Khan (PW5) was also searched, and the remaining ₹5000/- along with surety papers were seized. The cassette was sealed at the spot.

19.1 PW7 stood by his case when cross-examined.



2026:DHC:2733



20. PW6, the Trap Laying Officer (the TLO) fully supported the prosecution case. PW7 denied having deliberately allowed the actual accused to go scot-free and had falsely implicated the present accused. On 12.07.1996, SI Rajesh Kumar was called to the office of the CBI after the trap. PW6 admitted that SI Rajesh Kumar was not arrested despite his name being mentioned in the complaint. PW6 denied the suggestion that SI Rajesh Kumar had been let off because the latter was a batchmate of CBI officer, and that false allegations had been made against the accused. He denied the suggestion that he was deposing falsely due to official pressure.

21. I also make a brief reference to the defence witnesses. DW1 was summoned to produce certain documents. However, he deposed that the said document had already been weeded out.

22. DW2 deposed that he knows the accused, who had been posted at Tis Hazari P.P. On the day of the trap, he was present at the police post as he had gone to complain regarding the theft of his telephone instrument. He inquired from the duty constable about



2026:DHC:2733



the in-charge and was informed that the in-charge was not present. He then informed the duty constable about the theft and he was asked to wait. After some time, the accused arrived at the police post wearing a kurta-pyjama. He informed the accused about the theft of his telephone instrument. Meanwhile, two other persons arrived. Both the said persons asked the accused about the in-charge to which the latter replied that the in-charge was not present and asked them to wait inside the room. One of those persons went inside the room. He, along with the accused, also went inside the room to register his complaint. While the accused was preparing to give him the paper, the other person present in the room went out of the room stating that he would return within two minutes. After about 3–4 minutes, 5–6 people entered the room. One of them caught hold of the accused's hand and disclosed that he was from the CBI and that the accused had been trapped. He asked the officials about the nature of the trap. He was told that it was their work and he was directed to go outside. In the meantime, two or



2026:DHC:2733



three lawyers also arrived but were not allowed to enter the police post. According to DW2, the accused had been falsely implicated in the case and that he had witnessed the entire proceedings.

22.1. DW2 in his cross-examination deposed that his telephone instrument was never recovered and that on the said day he could not lodge a report due to the trap. He was unable to lodge the report thereafter also. DW2 denied the suggestion that he had been attending court on each and every date of the case. According to him, he had come only on specific dates, including when the statement of Zahid Khan (PW5) was recorded. DW2 deposed that no conversation had taken place between Zahid Khan (PW5) and the accused on the date of the trap. He also deposed that no post-trap proceedings were conducted in his presence, as he had been asked to go outside. He denied the suggestion that he was deposing in favour of the accused as the latter was his friend. DW2 admitted that he had not made any complaint to higher authorities regarding the false implication of the accused. DW2 further admitted that he



2026:DHC:2733



had filed a bail application on behalf of the accused and secured the release of the latter on bail. He admitted that he had not mentioned his presence at the time of the trap in the bail application. He further stated that he did not make any DD entry at the police post after the accused had been taken away by the CBI officials.

23. DW3, the then DD Writer, Tis Hazari P.P., deposed that he was present in the police post when the raid was conducted. On the said day, at about 04:00 PM, two persons came to the police post and inquired about the chowki-in-charge multiple times. He informed them that the in-charge was not available. He then told them to go inside the police post and verify for themselves that the in-charge was not present. One of them went inside to check, while the other remained standing at the gate. When the person returned, DW3 asked whether he was convinced that the in-charge was not inside. Both persons then left, stating that they would return after some time. Thereafter, a lawyer came to the police post and stated that his instrument had been lost. He also inquired about the



2026:DHC:2733



chowki-in-charge. While they were talking, the accused arrived wearing a kurta-pyjama from the bathroom located within the police post premises. He told the lawyer to speak to the accused since the in-charge was not present. They began conversing. Meanwhile, the same two persons returned and again asked about the chowki-in-charge. He told them that since the in-charge was not available, they should wait. He further told them that if they had urgent work, they could speak with the accused. The accused asked them to sit inside the police post and told them that the in-charge would be coming shortly. One of them went inside, while the other remained standing near the gate. The lawyer and the accused were standing near the gate and conversing. In the meantime, about 10–12 people arrived. Two persons stood near his seat, while the others went inside the room where the lawyer and the accused were talking. The person who had earlier gone inside the room, along with the accused and the lawyer, was inside the room. He heard



2026:DHC:2733



noises of a raid taking place but stated that he did not know anything further about the case.

23.1. DW3 during cross-examination admitted that he had not recorded any DD entry regarding the visit of the CBI team, the lawyer or the arrest of the accused. He denied the suggestion that he was not present at the police post at the time of the raid and stated that the CBI officials had made entries in the *roznamcha* at about 04:00 PM in his presence. He did not inform his senior officers about the arrest of the accused, as the CBI officials had stated that they would do so. He had not informed anyone about the false implication of the accused till date. He denied the suggestion that he was falsely deposing in favour of the accused merely because he was subordinate to him.

24. Now, the question is whether the aforesaid evidence is sufficient to find the accused guilty of the offences charged against him or whether the appellant/accused has been able to rebut the presumption contemplated under Section 20 of the PC Act with the



2026:DHC:2733



materials on record. It is not in dispute that the accused in his capacity as Assistant Sub-Inspector was posted at Tis Hazari police post. It is a well-settled position of law that the offer by the bribe giver and the demand by the public servant have to be proved by the prosecution as a fact in issue for conviction under Sections 7 and 13(1)(d) of the PC Act. Mere acceptance of illegal gratification without proof of offer by the bribe giver and demand by the public servant would not constitute an offence under Sections 7 and 13(1)(d)(i) and (ii) of the PC Act, as held by the Apex Court in **Neeraj Dutta v. State (Government of NCT of Delhi) (2023) 4 SCC 731**.

25. The prosecution relies primarily on the testimonies of PW5 and PW7, his friend, as well as on the testimony of PW3 and PW4 to establish the demand made on 11.07.1996 and its acceptance on 12.07.1996. It is true that PW3, the shadow witness and PW4, the recovery witness, did not fully support the prosecution case. Though they have not supported the prosecution



case with regard to the acceptance of illegal gratification, they have admitted several material aspects of the prosecution case. Both witnesses have supported the pre-trap proceedings, including the production and treatment of the currency notes with phenolphthalein powder. They have also admitted that the hand wash of the accused and pocket wash of the pant turned pink. Thus, their testimony, to a great extent corroborates the prosecution case. It is well settled that the testimony of a hostile witness is not to be discarded in toto and the Court may rely upon those portions of the testimony which inspire confidence and support the prosecution case. (**Mohan Lal v. State of Punjab; AIR 2013 SC 2408, Ramesh Harijan v. State of U.P.; AIR 2012 SC 1979, Prithi v. State of Haryana; (2010) 8 SCC 536, Lella Srinivasa Rao v. State of A.P.; AIR 2004 SC 1720, Koli Lakhmanbhai Chanabhai v. State of Gujarat; AIR 2000 SC 210**).

26. Further, the materials on record show that when the accused was apprehended, he remained quiet and he never claimed



to be innocent. This is yet another circumstance supporting the prosecution case regarding the demand and acceptance of illegal gratification [See **M. Narsinga Rao v. State of A.P., 2001 SCC (Cri) 258**].

27. Further, I also refer to Ext. PW3/F transcription of the audio recording which translated roughly reads:-

“Mohd. Zahid Khan: I left the card.... In the car with identity card and FD (fixed deposit)

KC Sharma: FD ?

Mohd. Zahid Khan: He had made an FD

KC Sharma: Give some water to him

Mohd. Zahid Khan: Cold .....

KC Sharma: .....

Mohd. Zahid Khan: I made two STD calls to you, however, both times you were not available.

KC Sharma: STD call?

Mohd. Zahid Khan: yes

KC Sharma: yes I came to know

----

KC Sharma: Did you get money?

Mohd. Zahid Khan: Yes sir .. I want to meet Saheb

KC Sharma: I will make you meet Saheb also



.....

KC Sharma: We were avoiding that you don't get arrested

Mohd. Zahid Khan: Let me talk to Saheb so that I get reassured.

.....

Mohd. Zahid Khan: You know that it's a false case

KC Sharma: It is a false case. He must have spent a lot to file a case against you.

Mohd. Zahid Khan: I don't understand

KC Sharma: Please understand ..... This is a competition ....

Mohd. Zahid Khan: I am not behind in the competition. I will do as the in-charge orders.”

(Emphasis supplied)

28. It was submitted by the learned defence counsel that the transcription has not been proved in accordance with law. Many portions of the audio recording is not audible. Only the portion convenient or favourable to the prosecution is audible. As the entire conversation is not audible, the same cannot be relied on as chances of tampering cannot also be ruled out.

29. The fact that an audio device had been used during the trap proceedings is spoken to by the prosecution witnesses



2026:DHC:2733



including PW3 and PW4, the witnesses who turned partially hostile to the prosecution case. It is true that the transcript itself shows that the entire conversation was not audible. But the materials on record do not indicate or probablize a case of tampering of the audio recording. Even assuming that the audio recording or the transcript cannot be relied on, there is still the testimony of PW5 and PW7 which has to be read along with the testimony of PW3 and PW4.

30. It was submitted by the learned defence counsel that the testimony of PW7 can never be relied on because he has admitted that he is a very close friend of PW5 and hence clearly an interested witness. The term 'interested' postulates that the witness must have some direct interest in having the accused somehow or the other convicted for some animus or for some other reason (See **Kartik Malhar v. State of Bihar, 1996 KHC 1402: (1996) 1 SCC 614** and **Dalbir Kaur v. State of Punjab, 1976 KHC 932: (1976) 4 SCC 158**). The testimony of even a close relative, who is a natural witness, cannot be regarded as an interested witness, as ordinarily, a



2026:DHC:2733



close relative would be the last person to screen the real culprit and falsely implicate an innocent person. The mere fact of relationship, far from being a foundation for false implication is often a sure guarantee of truth (See **Dalip Singh v. State of Punjab, 1953 KHC 369: AIR 1953 SC 364**). There is no proposition in law that relatives are to be treated as untruthful witnesses. On the contrary, reason has to be shown when a plea of partiality is raised to show that the witnesses had reason to shield actual culprit and falsely implicate the accused (**Harbans Kaur v. State of Haryana, 2005 KHC 642: (2005) 9 SCC 195**). A close relative cannot be characterised as an “interested” witness. His evidence, however, must be scrutinised carefully. If on such scrutiny, his evidence is found to be intrinsically reliable, inherently probable and wholly trustworthy, conviction can be based on the testimony of such witness. Close relationship of witness with the deceased or victim is no ground to reject his evidence.



2026:DHC:2733



31. In the case on hand, it is true that PW7 has admitted that he is a close friend of PW5. However, that alone is not sufficient to discard his testimony unless it is shown that he had a direct interest in having the accused somehow or the other convicted for some animus or for some other reason. It is only that the Court must scrutinize his evidence carefully and if on such scrutiny his evidence is found credible, the same can be relied on. In the case on hand, PW7 has given an explanation for his presence along with PW5. PW7 deposed that he had gone along with PW5 as the latter's surety. This part of his testimony has not been discredited. Moreover, his testimony will have to be read along with the remaining evidence on record.

32. Coming to the contention that PW5 had no reason to visit the police station in the absence of any summons or direction in the anticipatory bail order. Ext. PW5/DA-13 bail order dated 04.07.1996 reads:

*“Counsel for the applicant.*



*Heard. Considering the facts and circumstances of the case, it is ordered that in the event of arrest of the applicants, he be admitted to bail on furnishing a P.Bond in the sum of Rs. 10,000/- with one surety each of the like amount to the satisfaction of the IO/SHO concerned. However, applicant are directed to join the investigation as and when required.*”

(Emphasis supplied)

33. The explanation offered by PW5 in his cross-examination that he was advised by his advocate to approach the police for the purpose of execution of the bail bond appears plausible especially when he had been directed to co-operate with the investigation.

34. It was further contended by the learned defence counsel that since the accused was not the IO in FIR No. 276/1996, which was lodged against PW5 and as the chowki-in-charge, SI Rajesh Kumar, was in fact the IO, there was no occasion for the accused to demand any bribe. SI Rajesh Kumar was named in Ext. PW6/B FIR as the first accused. However, he has not been chargesheeted. It was submitted that PW8, the IO in the present case, is a batchmate of SI



Rajesh Kumar and hence the latter was not chargesheeted. On the other hand, the learned prosecutor submitted that there was no evidence that bribe had been accepted by SI Rajesh Kumar and that the offence becomes complete only on acceptance of the bribe. That was not the case with SI Rajesh Kumar and as no offence was made out against the said person, he was not chargesheeted.

35. Section 7 of the PC Act as it then stood reads thus:

***7. Public servant taking gratification other than legal remuneration in respect of an official act.—***

*Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of Section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than three years but which may extend to seven years and shall also be liable to fine.*



2026:DHC:2733



(Emphasis supplied)

36. A plain reading of the above provision shows that even an attempt to obtain or an agreement to accept gratification other than legal remuneration is sufficient to attract Section 7 PC Act. Further, mere demand or solicitation of gratification by a public servant amounts to an offence under Section 161 IPC. (See **Mubarak Ali v. State, AIR 1958 MP 157**). In order to bring home the guilt of the public servant, it is not necessary to prove that he has actually accepted or obtained illegal gratification. It is enough if it is shown that he had agreed to accept the said illegal gratification. In other words, if a proposal is made to a public servant for payment of illegal gratification and the proposal is accepted by him, he would be guilty under Section 161 IPC. (See **Damodar v. State, ALR 1955 Bom 61**). Therefore, the argument that no offence(s) was made out against SI Rajesh Kumar does not appear correct.

37. But this mischief done by the IO, would not help the appellant/ accused in the light of the consistent testimony of PW5



2026:DHC:2733



and PW7, corroborated by the testimony of PW3 and PW4. The testimony of the defence witnesses do not in any way help the appellant/accused. On going through the testimony of DW2 and DW3, I find that they have put forward a case which the appellant/accused himself does not have either during the examination of the prosecution witness or when he was examined under Section 313(1)(b) Cr.P.C.

38. Certain lapses in the investigation were also pointed out, particularly the delay of 3 days in forwarding the FIR to the court. Delay alone cannot be a ground to reject the prosecution case unless materials are brought in to support the case put forward. However, the defects in investigation do not by themselves render the prosecution case unacceptable if the substantive evidence on record establishes the commission of the offence. [See **Hema v. State, (2013) 10 SCC 192** and **C. Muniappan v. State of T.N. (2010) 9 SCC 567: (2010) 3 SCC (Cri) 1402**]



2026:DHC:2733



39. On an overall appreciation of the evidence on record, this Court is of the view that there is no infirmity in the impugned judgment calling for an interference by this Court.

40. The appeal is accordingly dismissed.

41. Application(s), if any pending, shall stand closed.

**CHANDRASEKHARAN SUDHA  
(JUDGE)**

**APRIL 02, 2026**

*kd/p'ma*