



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment Reserved on: 16.04.2026

Judgment pronounced on: 21.04.2026

+ CRL.A. 686/2005

DINESH KUMAR

.....Appellant

Through: Ms. Riya Kumar, Advocate.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Utkarsh, APP for State with SI
Bheem Singh, PS ACB, GNCTD,
Delhi.

+ CRL.A. 717/2005 & CRL.M.A. 2272/2006

LAXMI CHAND

.....Appellant

Through: Mr. Sanchar Anand, Mr. Rajat Rathee
and Mr. Pratimesh, Advocates.

versus

STATE

.....Respondent

Through: Mr. Utkarsh, APP for State with SI
Bheem Singh, PS ACB, GNCTD,
Delhi.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. These appeals under Section 27 of the Prevention of Corruption Act, 1988 (the PC Act), read with Section 374 of the



Code of Criminal Procedure, 1973 (the Cr.P.C.), have been filed by accused nos. 2 and 3 (A2 and A3) in C.C. No. 105/1998 on the file of the Court of Special Judge, Delhi, challenging the conviction entered and the sentence passed against them for the offences punishable under Sections 7 and 13(1)(d) of the PC Act and Section 120-B of the Indian Penal Code, 1860 (the IPC).

2. The prosecution case is that on or around 10.05.1995, the accused persons, three in number, while being employed in the Railway Protection Force (RPF), entered into a criminal conspiracy to extract illegal gratification from PW5 and, in furtherance thereof, demanded a sum of ₹10,000/- for not implicating PW3, his brother-in-law, in a criminal case. It was alleged that on 13.05.1995 at about 09:00 AM, at the instance of the first accused (A1), A3 accepted ₹5,000/- from PW5 at Platform No. 1, RPF Police Post, Tuglakabad Railway Station.

3. On 13.05.1995, PW5 lodged a complaint, that is, Ext. PW5/A, before the Anti-Corruption Branch (ACB), New Delhi,



based on which, Crime No. 10/1995, that is, Ext. PW6/A FIR was registered alleging commission of the offences punishable under Sections 7 and 13 of the PC Act.

4. PW8, Inspector, Anti-Corruption Branch, CBI, New Delhi, conducted investigation into the crime and on completion of the same, submitted the charge-sheet/ final report alleging commission of the offences punishable under Sections 7 and 13 of the PC Act.

5. Ext. PW4/A Sanction Order for prosecuting A1, A2 and A3 was accorded by PW4, Chief Security Commissioner, RPF, New Railway, Baroda House, New Delhi.

6. When the accused persons on receipt of summons appeared before the trial court, the Court after complying with the formality contemplated under Section 207 Cr.P.C, and after hearing them, on 04.08.2003, framed a Charge under Sections 7 and 13(1)(d) of the PC Act and Section 120-B IPC against A1 to



A3, which was read over and explained to them, to which they pleaded not guilty.

7. On behalf of the prosecution, PW1 to PW11 were examined and Ext. PW1/A - B, Ext. PW2/A-B, Ext. PW3/A-B, Ext. PW4/A, Ext. PW5/A - H, Ext. PW6/A, Ext. PW9/A, Ext. PW10/A-C and Ext. PW11/A-C were marked in support of the prosecution case.

8. After the close of the prosecution evidence, A1 to A3 were questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against them in the evidence of the prosecution. They denied all those circumstances and maintained their innocence. They submitted that PW3 was wanted in Crime No. 04/1995 for commission of the offence punishable under Section 3 of the Railway Property (Unlawful Possession) Act, 1966 [the RP (UP) Act]. The said case was being investigated by A1 and A2, who had also obtained arrest warrant from the court. PW3 deposed against them to save himself and got



the present case registered through the ACB with the help of PW5, who was a Constable in the Delhi Police, as is evident from the final report submitted in the criminal case against PW3. PW5, the brother-in-law of PW3, was known to the members of the raiding team. PW5, in connivance with the officials of the ACB, has falsely implicated them. It was also submitted that PW6, the *panch* witness, a Government employee, is not an independent witness. There are material contradictions in the testimony of PW6, who deposed against A1 to A3 at the instance of the ACB and due to fear of departmental action. PW6 does not fully support the prosecution case and so he is not a truthful witness. PW8, PW9 and PW10 are also not credible witnesses.

9. DW1 and DW2 were examined on behalf of A1 to A3. Ext. DW1/A-B and Ext. DW2/B were marked in support of the defence.

10. On consideration of the oral and documentary evidence on record and after hearing both sides, the trial court, *vide* the



impugned judgment dated 16.08.2005, held A1, A2 and A3 guilty of the offences punishable under Sections 7 and 13(1)(d) of the PC Act and Section 120-B IPC. Accordingly, they have been sentenced to undergo rigorous imprisonment for a period of three years each with a fine of ₹5,000/- each under Sections and 13 of the PC Act and Section 120-B IPC and in default of payment of fine to further undergo rigorous imprisonment for four months each. The sentences have been directed to run concurrently. Aggrieved, A2 and A3 have preferred these appeals.

11. When the appeals were taken up for hearing, it was pointed out that A1 had also filed an appeal, being CRL.A. 711/2005. However, A1 died on 27.05.2021. The death had been verified, and a report to the said effect has been filed by the learned APP. The fine imposed had already been deposited and the legal representatives of A1 did not wish to prosecute the matter. Hence, the file was consigned to the records.



12. It was submitted by the learned counsel for the appellant/A2 that there is direct evidence of A2 having demanded or received any bribe amount and therefore, he cannot be held liable for the offences charged against him.

12.1 It was submitted by the learned counsel for the appellant/A3 that demand is *sine qua non* for establishing an offence under the PC Act, and in the case on hand, no such demand has been proved against the latter. A3 was not present at the time when the demand is alleged to have been made. There is no reference made to A3 in Ext. PW5/A complaint. On 13.05.1995, A3 was merely standing in the office of A1 and, upon being instructed by A1 and A2, he accepted the money on their behalf from PW5. Apart from this, there is no averment by any witness attributing any active role to him in the transaction. Mere acceptance and recovery from A3 does not establish guilt, as he was merely an innocent recipient and had no knowledge that the currency notes handed over by PW5 was bribe money.



12.2 It was further pointed out that when PW5 entered the office of A1, there was no conversation regarding any bribe in the presence of A3. The testimony of PW5 does not support the prosecution case against A3, as in his cross-examination, he admitted that prior to the raid, he did not know A3. It was further submitted that there is no evidence on record to show that A3 had any knowledge of the case registered against PW3 or that any bribe was to be accepted by him on behalf of A1 and A2.

12.3 It was also submitted that A3 could not have presumed that the money handed over was bribe money. At the relevant time, he was performing his duty as a sentry/orderly and was simply following instructions. There is no evidence to establish any meeting of minds or conspiracy involving him. There is also no charge of abetment proved against him, nor is there any material to show his conscious involvement in any criminal act. In the absence of proof of demand, knowledge, or intention, the essential ingredients of the offence are not satisfied, and therefore, he is



entitled to the benefit of doubt. Reference was made to the dictums in **Neeraj Dutta v. State (Government of NCT of Delhi) (2023) 4 SCC 731**, **N. Sunkanna v. State of A.P., (2016) 1 SCC 713** and **A. Karunanithi v. State, 2025 SCC OnLine SC 1677**.

13. It was submitted by the learned Additional Public Prosecutor that there is no infirmity in the impugned judgment calling for interference by this Court. PW3 deposed that a demand for illegal gratification was initially made by A1 and upon non-fulfilment of the said demand, A2 and one police constable started visiting PW3's place. Although the said constable was not specifically named as A3 at the initial stage, his involvement has been indicated in the cross-examination of PW3, where he denied the suggestion that no demand was made by A3 or that the latter had been falsely implicated. It was further argued that for an offence under Section 120-B IPC, an overt act is not required to be proved against each conspirator. The existence of a conspiracy can



be inferred from the conduct of the accused persons and the surrounding circumstances on record, argued the prosecutor.

14. Heard the learned counsel for A2 and A3 and the learned Additional Public Prosecutor.

15. I shall first 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 been made on 10.05.1995 and the trap laid on 13.05.1995. PW5 submitted a written complaint, that is, Ext. PW5/A on 13.05.1995 in the office of the Anti-Corruption Branch, in which he has stated thus:- "*...My brother-in-law, Mohd. Iqbal (PW3) works as a kabari at Ali More in the Badarpur area, which falls within the jurisdiction of the RPF Tuglakabad Police Station. The in-charge of the police station is one Inspector known as Chann Sahib (A1), along with one ASI, namely Dinesh Kumar (A2). About two and a half months earlier, one Bondu Khan was falsely implicated in a case by Inspector Chann (A1). Inspector Chann had also implicated my brother-in-law, Mohd. Iqbal*



(PW3), in that case. Thereafter, Inspector Chann (A1) and Dinesh Kumar (A2) started harassing my brother-in-law daily, demanding ₹10,000/- and threatening that the latter would be arrested if the amount was not paid. On 10.05.1995, I met Chann Sahib (A1) at the police station and requested him that my brother-in-law, Iqbal (PW3), was not at fault. They said that “खर्चा तो आपको करना ही पड़ेगा”. I explained that we were poor and could not arrange such a large amount. The Inspector (A1) asked me to pay ₹5,000/- within the next two to three days and the remaining amount after Iqbal's (PW3) name was removed from the case. I again met Inspector Chann Sahib (A1) on 12.05.1995, who told me to bring ₹5,000/- on 13.05.1995 in the morning, around 08:00 to 09:00 AM, at the running room of the police station. A1 also asked me to bring ASI Dinesh Kumar (A2) from quarter No. D-II/97 so that the former could also tell A2 not to trouble us. I am against giving bribe, however agreed to pay only under compulsion. Neither me nor my brother-in-law had any prior dealings with the Inspector or



the ASI. I have brought ₹5,000/- with me; appropriate action may be taken.”

16. PW5, when examined before the trial court reiterated his case in the complaint. He deposed that on 13.05.1995 at about 06:00 AM, he went to the office of the ACB and reported the matter. The *panch* witness, namely, Hari Kishan Mann (PW6) from the Food Supply Department, was already present there when his Ext. PW5/A complaint was recorded. Nine currency notes of the denomination of ₹500/- each and five currency notes of ₹100/- each, were handed over to Inspector SK Banta (PW9). The number of the currency notes was noted down in the pre-raid report. The currency notes were treated with powder, and a demonstration was conducted during which the *panch* witness (PW6) touched the notes and dipped his hands in a solution, which turned pink. He was instructed to keep the currency notes in his pocket. He was also instructed to keep the *panch* witness (PW6) along with him at the time of the raid, and similar instructions were given to PW6.



16.1. The raiding party, including himself, the *panch* witness and some officials of the ACB, left the ACB office at about 07:00 AM and reached Tuglakabad police station at 08:00 AM. He along with PW6, proceeded to the Traffic Office situated on the first floor, while the other members of the raiding party took their respective positions. He was instructed to hand over the money to Inspector Chann (A1) only on specific demand and the *panch* witness (PW6) was directed to overhear the conversation and give a prearranged signal on acceptance of the bribe by the Inspector (A1). Before going to the police station, he and the *panch* witness went to the house of Dinesh Kumar (A2). Thereafter, he along with the *panch* witness (PW6) and Dinesh Kumar (A2) went to the office of Preet Pal Singh (A1). A2 directed him and PW6 to wait outside the office and asked about the money, to which he replied that he had brought ₹5,000/-. A2 then asked him if he had brought Iqbal (PW6) with him, to which he replied in the affirmative. Thereafter, Dinesh Kumar (A2) went inside the office of Preetpal



Singh Chann (A1). After about 2 to 3 minutes, A2 came out and took him and the *panch* witness (PW6) inside the room of Preetpal Singh (A1). Inspector Chann (A1) was having his breakfast with another person, who left the room. At that time, Constable Laxmi Chand (A3) was also present inside the room of Preetpal Singh (A1). Preetpal Singh (A1), pointing towards ASI Dinesh (A2) and Constable Laxmi Chand (A3), said “*Mey enn logo ko bhaij raha hu*” and told him to hand over the money to them. They came out of the room and when he asked A2 to whom he should hand over the money, the latter told him to hand over the money to A3. A3 took him and the *panch* witness to the platform which was at a distance of about 50 yards. A3 demanded the money from him. He took out the currency notes of ₹5,000/- from his shirt pocket and handed it over to A3, who accepted the same with his right hand and counted the notes with both hands. PW6 gave the pre-arranged signal, and upon receipt of the same, members of the raiding party came to the spot and apprehended A3. PW9 disclosed his identity



and challenged A3 for having received the money. The tainted currency notes were recovered by PW9 from the left hand of A3. The number on the notes seized from A3 tallied with the number already noted. The left hand wash of A3 was taken in a solution, which turned pink. The hand wash was transferred into bottles and sealed with the seal of RE. The bottles containing the wash were marked as LHWI and LHWII and seized *vide* Ext. PW5/G seizure memo, which was signed by him. The personal search of A1 to A3 was conducted *vide* Ext. PW5/D to PW5/F memo. The pre-raid and post-raid proceedings were reduced into writing, that is, Ext. PW5/A and Ext. PW3/B. The tainted currency notes were seized *vide* Ext. PW5/H memo. According to PW5, Exts. P1 to P4 are the bottles containing the wash. The currency notes identified by PW5 were marked as Exts. P5 to P16.

16.2. PW5, in his cross-examination, deposed that the criminal case, in which one Bondu Khand and his brother-in-law (PW3) were involved, was related to theft of railway property. He



denied the suggestion that before giving the complaint to the ACB, an anticipatory bail application had been moved by PW3 in the theft case. He admitted that PW3, his brother-in-law, had surrendered before the court in the said case and had been remanded to police custody. He denied the suggestion that he had made a deliberate false statement that Bondu Khan and his brother-in-law had been falsely implicated in the said theft case. PW5 further deposed that he had been in the service of the Delhi Police since 01.05.1982. According to PW5, on 07.05.1995, his brother-in-law (PW3) came to his house and told him about the demand of ₹10,000/- made by Inspector Pritpal Singh Chann (A1). PW5 admitted that PW3 was very much available at the latter's residence during the period from 1995 to 1997. PW5 admitted that he had not produced his brother-in-law (PW3) before the IO in the theft case during the period 1995 to 1997, despite being asked to do so. When asked to assign a reason for not producing his



brother-in-law, he answered that he could not assign any specific reason and added that he was not asked by the IO.

16.3. On 10.05.1995, he was posted in Old Police Lines under Reserve Inspector Hari Bhushan Sharma. He used to mark his attendance in the attendance register. PW5 claimed that he does not know whether he was on duty or on leave on 10.05.1995. He admitted that an employee on duty cannot leave the police line without making an entry in the register concerned. He further admitted that had he been on duty on 10.05.1995, he could not have gone to the RPP, Tuglakabad on that day. He had gone alone to the police post and met A1 at about 6:00 PM. No other person was present in the room at that time. He had not disclosed to anybody that money had been demanded from his brother-in-law. On 12.05.1995, he had met A1 at about 05:00 or 06:00 PM. According to PW5, the office of the ACB situated in Civil Lines functions round the clock. He had not visited the ACB on 12.05.1995. He went to the ACB on 13.05.1995 at about 06:00



AM, where his report was recorded by the duty officer in the daily diary. He could not recall the name of the duty officer. PW9 had recorded his Ext. PW5/A complaint. When he reached the office of the ACB, PW6 was already present there. He denied the suggestion that he had lodged a false complaint to save his brother-in-law or that a false trap had been arranged.

16.4. According to PW5, his monthly income at the time of the raid was about ₹4,500/-. PW3 earned about ₹1,500/- per month. PW3 had arranged ₹5,000/- to be given as bribe. He denied the suggestion that the treated currency notes had been provided by the officials of the ACB from their secret fund. PW5 further deposed that it is a one-hour journey from the office of the ACB to Tuglakabad railway station. They had started from the ACB office at 07:05 AM and reached within an hour. By about 08:30 – 08:35 AM, they went to the office of A1 when A1 was having his breakfast. A2 went inside, while he and PW6 waited outside. He did not offer the money to A1 when he went inside the room of the



latter. He also did not offer the money to A2 when he along with the latter came out of the office of A1.

16.5. PW5 further admitted that prior to the raid, he was unaware of the involvement of A3 in the false implication of PW3. PW3 had not told him so. A3 was not present in the office of A1 when he had first interacted with A1 on the day of the raid. He denied the suggestion that A3 had not accepted the currency notes from him. PW5 admitted that A3 had never demanded any bribe from him or from PW3. PW5 further admitted that PW3 had never told him that A3 had also harassed the former.

17. PW3, the brother-in-law of PW5, when examined, deposed that in the year 1995, he was doing business of *kabari* in Ali More, Badarpur area. Sometime in 1995, A1 contacted him at his place of business. He was questioned by A1 regarding the authority under which he was running a godown there. A1 demanded payment of money every month. He expressed his reluctance to pay any money as he was not doing anything illegal.



A1 told him that if he was not willing to pay monthly, he would take ₹10,000/- in a lump sum. He expressed his inability to pay. Thereafter, A1 got a warrant issued against him. He contacted his brother-in-law, Shamim (PW5), who assured him that the latter would speak to A1. He is unaware of the details of the talk that took place between PW5 and A1. After the warrant was issued, A2 and one another police official started harassing him and demanding that he arrange money, saying that they would only charge a minor case against him so that he could get bail easily. Thereafter, he surrendered before the court. PW3 deposed that he had nothing more to say in the matter and had no further knowledge of the present case.

17.1 At this juncture, the prosecutor is seen to have requested permission of the trial court to “cross-examine” PW3 on the ground that he was resiling from his previous statement. The permission is seen to have been granted by the court. On further examination, PW3 admitted that he had stated to the police that on



03.03.1995, A1 had arrested three other accused in case No. 04/1995. In the said case, Tandon Sahib (A1) had also implicated him. He admitted that he had told the police that Tandon Sahib (A1), Dinesh (A2), and Constable Laxmi Chand (A3) had threatened to arrest him in the said crime if he failed to pay ₹10,000/- to them. PW3 identified A3 in the court. He admitted that he had also stated to the police that he had informed PW5, his brother-in-law, employed as a constable in the Delhi Police. He admitted that he had stated to the police that PW5 had made a request to Pritpal Singh Tandon (A1) not to implicate him in a false case. PW5 told him that the former had settled the matter for ₹5,000/-. He had also stated to the police that he was arrested on 20.09.1995 in the theft case. PW3 admitted that he had handed over documents relating to the said case to the IO in this case *vide* Ext. PW3/B memo, which was signed by him at point A. The documents handed over are Exts. P1 to P5. PW5 admitted having given a statement to the police. However, he denied having stated



that A3 also used to contact him along with A1 and A2, but it was some other constable. He further admitted that Tandon (A1), Dinesh (A2), and Laxmi Chand (A3) used to threaten to arrest him.

17.2 PW3 in his cross-examination admitted that he, along with Mohd. Haroon, Rafiq, Alambir, Gafoor, and Bondhu Khan are the accused persons in a criminal case relating to the theft of motors and copper wires belonging to the railway. He admitted to have surrendered before the Court concerned in the said crime, pursuant to which he was sent to police custody. Before he approached PW5 seeking help, he was aware of the crime registered against him. The bail application moved in the said case was dismissed. According to PW3, it was he who had arranged ₹5,000/- by selling his buffalo. He had accompanied PW5 to the office of the ACB when the complaint was given. He denied the suggestion that the money used for the trap had been provided by the raid officer from their secret fund.



18. PW6, the *panch* witness, deposed that he was posted in the Department of Food and Civil Supply, Government of Delhi. On 13.05.1995, he was deputed to perform duty as a *panch* witness in the ACB. He reported for duty in the office of the ACB at about 06:00 AM, where Inspector Banta Singh (PW8) was present. Ext. PW5/A complaint of PW5 was recorded in his presence, which bears his signature at point B. PW5 produced currency notes totalling ₹5,000/-, some in the denomination of ₹500/- and some in ₹100/- denomination. PW6 deposed regarding the pre-raid proceedings. He was instructed by PW9 to keep a watch on the transaction of money between PW5 and the person demanding money and to report the same. He, along with PW5, and PW9, and the members of the raid team proceeded to the Government Railway Quarters, Tuglakabad. The vehicle was parked at some distance, and the raiding team remained behind while he and PW5 went to a first-floor house where A2 was residing. In his presence, A2 asked PW5 whether he had brought the money, to which PW5



replied that he had brought ₹5,000/-. Thereafter, all three of them went to Tuglakabad Railway Station. On reaching the platform, A2 asked them to wait outside while A2 went inside the office of A1. After about 2 to 3 minutes, when they entered the office, they saw one Inspector and an elderly Sikh having breakfast, and A3 standing behind them. A2 then spoke to A1. Though he could not fully understand the conversation, he heard A1, while signalling towards A2, say “*Usko de dena.*” Thereafter, he, along with PW5, A2 and A3, came out of the room. PW5 asked A2 as to whom the money should be paid, to which the latter replied that it should be handed over to A3. Thereafter, A2 left the place. He and PW5 followed A3 to a place under a tree about 50 to 60 paces from the platform. PW5 took out ₹5,000/- and handed it over to A3. As soon as A3 accepted the amount, he gave the pre-arranged signal, and the raiding team immediately arrived and apprehended A3. A3 was taken to the office of A1, and the latter was informed that the former had been apprehended while taking money. The police



recovered ₹5,000/- from A3. The number on the currency notes tallied with the numbers noted earlier. The hand wash of A3 taken turned pink, and the same was transferred to two bottles. The bottles were sealed. He signed on the label on both the bottles. Thereafter, A1 to A3 were taken to the office of the ACB. PW9 had not prepared any documents at the spot but had seized some files. The writing work was done at the office. He did not sign any document(s) at the spot. He admitted his signature in Ext. PW5/C pre-raid report, Ext. PW6/A post-raid report and in Ext. PW5/H seizure memo, relating to the currency notes. The hand wash of both the hands of A3 taken turned red, and the washes were transferred into four bottles marked RHW-I, RHW-II, LHW-I, and LHW-II and sealed at the spot. PW6 identified the bottles containing the wash and the currency notes seized and marked as Ext. P1 to Ext. P4 and Ext. P5 to Ext. P18 respectively.

18.1. During the course of the examination-in-chief, the prosecutor is seen to have sought the permission of the trial court



to “cross-examine” PW6, on the ground that he had resiled from his previous statement. The request is seen allowed. On further examination, PW6 denied the suggestion that the old Sardar, who was having breakfast with A1 had left the room as soon as they had entered the room of A1. He denied the suggestion that the conversation between A1 and A2, including signalling of A1 towards A3, had taken place in the absence of the Sardar.

18.2. PW6 in his cross-examination deposed that on 12.05.1995 at about 10:00 AM, when he reported to the office of the ACB on duty as a *panch* witness, his presence had been recorded in the register. On the said day, he was instructed to report to the office of the ACB, on the morning of 13.05.1995. On 12.05.1995, he had been told that there was a possibility of a raid being conducted on 13.05.1995. He had not met PW5 in the office of the ACB on 12.05.1995. He is unaware whether PW5 had come to the office of the ACB on 12.05.1995. He never knew that PW5 was employed in the Delhi Police. PW6 admitted that the currency



notes to be used in the raid were already with PW8. However, he does not know from where PW8 got the same. He denied the suggestion that no pre-raid proceedings had taken place in the office of the ACB and that said proceedings had been done after the raid. According to PW6, PW5 had not offered the money to A2 at the latter's residence or offered it while in the office of A1. The handing over of the money took place on the platform of the railway station. According to PW6, one of the officials of the ACB had recovered the currency notes from A3. He admitted that the raid officer had not recovered the currency notes from the hand of A3. After apprehension of A3, when A3 was brought into the office of A1, the latter was present but A2 was absent. A2 was subsequently called to the said office from another office. A2 had not been brought from his quarter as he arrived there within a minute.

19. PW9, Inspector, ACB, Delhi, deposed that on 13.05.1995, he had recorded Ext. PW5/A complaint of PW5 in the



presence of the *panch* witness (PW6). The complaint was regarding the demand of bribe of ₹10,000/- by the Inspector and ASI of the RPF department for not falsely implicating PW3 in a case. PW5 brought the bribe amount of ₹5,000/-, that is, nine currency notes of the denomination of ₹500/- each and five currency notes of the denomination of ₹100/- each. He noted the serial number of the notes in Ext. PW5/C pre-raid report and smeared them with phenolphthalein powder. The *panch* witness was directed to touch the notes and his hand wash taken turned pink. PW9 further deposed that the characteristics of the powder and solution had been explained to the *panch* witness and PW5 through the said demonstration. The treated currency notes were given to PW5, who was instructed to remain close to PW6, the *panch* witness, and to carry out the transaction in a manner which would be visible and the conversation audible to the latter. PW6 was also instructed to remain close to PW5 and to signal the raiding team once the transaction was complete. Around 07:00



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AM, he organised a raiding team. The raiding team along with PW5 and PW6 reached the Tuglakabad Railway Station at around 08:00 AM. PW5 and PW6 were sent to the quarters of A2 while he along with the other members of the raiding team took suitable positions at a distance.

19.1. PW5, PW6 and A2 thereafter proceeded towards the office of A1. After some time, PW5, PW6 and one another person came outside the room, whereas A2 remained inside. PW5, PW6 and the said person proceeded to a distance of about 50 yards from the office on platform no. 1 and stood under a tree. At about 09:00 AM, he received the pre-determined signal from PW6. Then he, along with the members of the raiding party, rushed to the spot. A2 also reached there. PW6 informed them that A3 had accepted the bribe from PW5. He disclosed his identity and challenged A3 for having received the bribe. He recovered the treated currency notes from the left hand of A3. The serial number of the said notes tallied with the number recorded in the pre-raid report. He took the



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left and right hand wash of A3, which turned pink. The solution was transferred into four small empty clean bottles, which were sealed and marked as LHWI, LHWII, RHWI and RHWI. He prepared Ext. PW6/A, the post-raid report and also prepared PW9/A endorsement and sent the same to the ACB for registration of the case. Inspector Sobhan Singh (PW10) was then called to the spot, to whom the custody of the accused and the material objects of the case were handed over.

19.2. PW9 in his cross-examination deposed that at the time of recording the complaint, he did not know that PW5 was a constable in the Delhi Police. He had not enquired about PW5's occupation or profession at the time of recording the complaint, nor did the latter disclose his occupation at that time. He denied the suggestion that he knew PW5 very well, as the latter was employed in the Delhi Police. PW9 admitted that he had not enquired about the source of ₹5,000/- from PW5. He denied the suggestion that he had provided the treated currency notes of



₹5,000/- from their secret fund or that no pre-raid proceedings had taken place in the office of ACB. PW9 admitted that PW5 had not disclosed to him during the pre-raid proceedings that the latter would first go to the residence of A2 and take A2 along with him when he went to the office of A1. However, this fact was disclosed by PW5 while they were on their way to the office of A1. He had not inspected the office of A1 and had not entered the room at any stage. He admitted that, as per his endorsement made at 08:55 AM in the raid report, PW5 and PW6 had come out from the office of the In-charge along with another person, who had taken the money.

20. I will also make a brief reference to the testimony of the defence witnesses. DW1, Inspector, RPF, deposed that A1, A2 and A3 are employees of the RPF. In May 1995, A1 was posted as in-charge RPF Post, Tuglakabad, whereas A2 was posted as ASI and A2 as Head Constable in the police post. In June 1995, he was given charge of RPF, Tuglakabad, when A1 was suspended



pursuant to his apprehension. Crime no. 04/1995, registered under Section 3 of the RP (UP) Act, was pending investigation. The said crime was being investigated by A2. After he took charge, he took over the investigation. He had perused the case file and found that one Mohd. Iqbal s/o Ibrahim (PW3) was wanted in the said case. A2 had already arrested three other persons in the said crime. A disclosure statement had been given by one of the persons arrested in the crime, which disclosed the involvement of PW3 in the crime and hence PW3 was wanted in the said crime. A2 had already obtained non-bailable warrants from the Court against PW3, but the latter was evading arrest. On 20.09.1995, PW3 surrendered before the Court in the said crime. DW1 was not cross-examined by the prosecutor.

21. DW2 deposed that in May 1995, he was posted as Moharrar Head Constable at RPF Post, Tuglakabad. A1 was the in-charge of the RPF Post, Tuglaqabad. He produced a copy of entry of daily diary dated 12.05.1995, that is Ext. DW2/A. As per



entry 46, A1 had left the RPF post on 12.05.1995 at 11:37 AM to attend the office of Senior Security Commissioner and *vide* entry 81, the latter returned to the post on the said day at 08:25 PM.

22. The principal question that arises for consideration is whether the conviction of A2 and A3 under Sections 7 and 13(1)(d) of the PC Act and Section 120-B IPC is sustainable in law. In the case on hand, the prosecution alleges that A1 and A2 demanded ₹10,000/- from PW5 for not implicating PW3, his brother-in-law, in a theft case and that, in furtherance of the said demand, ₹5,000/- was accepted by A3 on behalf of A1 and A2. According to PW5, the demand by A1 was first made on 10.05.1995 and then reiterated on 12.05.1995 between 05:00 and 06:00 PM. DW2 has produced Ext. DW2/A, copy of the entry of the daily diary dated 12.05.1995. A perusal of Ext. DW2/A shows that A1 had left the police post on 12.05.1995 at 11:37 AM to attend a meeting/conference in the office of the Senior Security Commissioner. Going by Ext. DW2/A, which is not disputed, A1



returned to his office on 12.05.1995 at about 08.25 pm. There is no reason to disbelieve Ext. DW2/A as it is prepared in the regular course of business and as such, no material has been brought on record to show otherwise. If PW5 is to be believed, the demand for bribe was reiterated by A1 on 12.05.1995 when he met the latter between 05:00 and 06:00 PM in the office of the latter on the said day. But going by Ext. DW2/A, A1 was not in his office at that time. If that be so, who had made the demand on 12.05.1995 between 05:00 and 06:00 PM as claimed by PW5? This is one aspect that raises doubts regarding the prosecution case.

23. Further, the definite case of PW5 is that A1 and A2 were threatening PW3 that they would implicate him in a false case if money was not paid to them. However, PW3 does not seem to have such a case. If PW3 is to be believed, A1 demanded money for permitting the former to run his business in a godown situated at Ali More, Badarpur area. A1 demanded monthly payment from PW3 to which the latter expressed reluctance stating that he was



not doing anything illegal. A1 is then alleged to have stated that if PW3 was unwilling to pay monthly, the latter would have to pay an amount of ₹10,000/- in lump sum. PW3 again expressed his inability to pay. Thereafter, A1 got a warrant issued against him. Notably, PW3 has no case that A1 threatened to implicate him in a false case. PW3 in his cross-examination admitted that he was aware that he was an accused in Crime No. 04/1995 even before approaching PW5 for assistance. It has also come out from the materials on record that the bail application moved by PW3 in the said crime had been rejected by the Court concerned. When PW3 was already an accused in a theft case, there appears no reason for A1 and A2 to demand money to prevent his implication in the crime. PW3 and PW5 have no case that the bribe had been demanded for some other purpose, like for instance, not to arrest PW3 pursuant to a warrant being issued by the Court concerned. In such circumstances, the allegation of false implication also becomes doubtful.



24. According to PW3, a warrant had been issued against him in Crime No. 04/1995, after which, he had approached PW5 for help. On 20.09.1995, he surrendered before the Court concerned and was then remanded to police custody. No documents pertaining to Crime No. 04/1995 has been placed on record. Therefore, the outcome of the said case remains unknown to this Court. Further, it is admitted by PW3 that he was very much in Delhi during the year 1995. PW5 admitted that he had not produced PW3 before the IO in the theft case despite being asked to do so. When questioned, PW5 could not give any clear answer for not complying with the direction of the IO in the theft case. The sequence of events gives a strong indication that PW3 might have been evading arrest and PW5 was helping him to do so.

25. Further, PW5 deposed that he visited the office of the ACB for the first time on 13.05.1995 at about 06:00 AM for giving the complaint, at which time PW6, the *panch* witness, was already there. According to PW6, he had been deputed as a *panch* witness



to the office of the ACB on the relevant day. The learned Additional Public Prosecutor submitted that *panch* witnesses are normally deputed from various departments on specific days to the office of the ACB. However, no such document(s) has been produced to substantiate the case of deputation. PW6 deposed that on 12.05.1995, he had reported to the office of the ACB as he had been deputed on duty as a *panch* witness. On the said day, he was asked to report again in the morning of 13.05.1995, as there was a possibility/likelihood of a raid being conducted. Notably, PW6 had reported to the office of the ACB at about 10:00 AM on 12.05.1995. Therefore, the normal reporting time was probably around 10:00 AM. But on 13.05.1995, PW6 reported before the office of the ACB at 06:00 AM. PW5 has no case that he had gone to the office of the ACB on 12.05.1995. If that be so, how did the officials of the ACB know on 12.05.1995, that a raid would have to be conducted on 13.05.1995, that too, in the early morning? The only plausible explanation could be that PW5 had prior



acquaintance with PW9, the Trap Laying Officer (the TLO). However, PW9 asserts that he had no prior acquaintance with PW5. PW5 admittedly was a constable in the Delhi Police. But quite interestingly, according to PW9, he was unaware of the said fact. So, what enquiry or was any enquiry at all done by PW9, before the raid was arranged and conducted?

26. Further, according to PW5, he had gone to the office of the ACB on 13.05.1995 at 06:00 AM. The pre-raid formalities are supposed to have been completed and the raiding team left the office for the raid at about 07:00 AM. How all the formalities of registering the complaint of PW5, the pre-raid formalities etc., were completed within a short span of one hour? Was PW9, the TLO, expecting PW5 to approach him and make the complaint? It seems so. Otherwise, how could all the formalities have been completed and the raid team arranged within less than an hour and the raiding team leave the office for the raid at 08:00 AM? The TLO indeed seems to have done some fast work.



27. Another aspect that raises doubts is the conduct of A1 and A2 during the time of the alleged transaction. According to PW5, A1 did not accept the money directly from him, though the latter was alone in his office on 13.05.1995 when the former approached him. On the other hand, A1 is alleged to have indicated to PW5 to hand over the money to A2 and A3. However, A2 also does not accept the money directly from PW5. A2 in turn is alleged to have instructed PW5 to hand it over to A3. It is unclear as to why A1 would refuse to accept the money in the privacy of his office with no one around except the parties involved in the transaction and instead direct the transaction to occur in an open place or in a public platform. Further, if A1 had directed PW5 on 12.05.1995 to bring the money on the morning of 13.05.1995 between 08:00 and 09:00 AM, there is no clear explanation as to why he did not accept it himself.

28. Coming to the role of A3, there is no evidence that he had demanded any bribe from PW3 or PW5. PW5 admitted that



prior to the raid, he was unaware of the involvement of A3 in the false implication of PW3. A3 was also not present in the office of A1 when PW5 had first interacted with A1 on the day of the raid. PW5 further admitted that A3 had never demanded any bribe from him or from PW3 and that PW3 had never told him that A3 had also harassed him. According to PW3, A3 had never contacted or threatened him like A1 and A2, but it was some other police constable. The role of A3 appears only at the stage of accepting/receiving the bribe.

29. For recording a conviction under Section 7 and Sections 13(1)(d)(i) and (ii) of the PC Act, the prosecution has to prove the demand and acceptance of illegal gratification either by direct evidence, which can be in the nature of oral evidence or documentary evidence or circumstantial evidence. In other words, to convict a person under the aforesaid provision demand and acceptance of illegal gratification is *sine qua non*. [See **Neeraj Datta** (*supra*)].



30. Here, I refer to the two decisions submitted on behalf of A3. **A. Karunanithi** (*supra*) was also a case under the PC Act. In the said case, A1 therein was serving as Village Administrative Officer and A2 as Village Assistant in the same office. The complainant therein had applied to the Tehsildar for a community certificate for the purpose of joining government service. However, his application was returned with an endorsement to approach A1 for a report. When the complainant approached A1, the latter is alleged to have demanded bribe for processing the papers. Subsequently, the complainant lodged a complaint with the Vigilance and Anti-Corruption Department with regard to the demand for bribe made by A1. A trap was arranged and after the trap was laid and the complainant approached A1, he reiterated the demand for bribe and instructed A2 to collect the money from the complainant. The complainant then handed over the marked currency notes to A2, who accepted the same as directed by A1. A2 was apprehended with the treated currency notes and his hand



wash turned pink. Both A1 and A2 were found guilty by the trial court for the offences punishable under Section 7 and Section 13(1)(d) read with Section 13(2) of the PC Act. The conviction and sentence were confirmed by the High Court. When the matter came up before the Apex Court, it was noticed that the materials on record did not reveal that A2 had ever demanded any illegal gratification. On the other hand, the materials were only to the effect that A2 had accepted the money on the directions of A1 and kept it with him. It was held that the demand made by A1 could not be attributed to A2 as no evidence was adduced which could establish that A2 was a habitual offender working in aid with A1 or was facilitating A1 in demanding and receiving illegal gratification. Accordingly, in the absence of any allegation of evidence that A2 had demanded bribe from the complainant or that he was acting in connivance with A1, it was held that he could not be prosecuted for the commission of the crime of demanding and receiving illegal gratification. It was also noticed that A2 had



never been charged with abetment of the aforesaid crime. He had only accepted the money as per the directions of A1. A2 could have received the money innocently on the direction of A1 or he might have received it knowingly. Both views were possible. However, as no evidence had been adduced to prove that A1 and A2 had connived to demand and accept the bribe, it could not be concluded with certainty that A2 was an accomplice in the crime. Accordingly, in the absence of a charge of abetment and proof of connivance between A1 and A2, it was held that A2 could not be convicted for the offences charged against him.

31. In **N. Sunkanna** (*supra*), the materials on record revealed recovery of tainted currency notes from the possession of the accused, which possession was also admitted by the accused. However, it was held that mere possession and recovery of the currency notes from the accused without proof of demand would not bring home the offence under Section 7, since demand of illegal gratifications is *sine qua non* to constitute the offence. In



the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to have been established. It is only on proof of acceptance of illegal gratification that presumption can be drawn under Section 20 of the PC Act that such gratification was received for doing or forbearing to do any official act. Unless there is proof of demand of illegal gratification, proof of acceptance would not follow.

32. I also refer to dictum in **Mahendra Singh Chotelal Bhargad v. State of Maharashtra (1998) 2 SCC 357**, wherein it has been held that accepting money on behalf of another person may certainly constitute an abetment of an offence, but in the absence of a charge of abetment, the person accepting the bribe is not liable to be convicted.

33. In the case on hand, it is true that the materials on record show that the tainted currency notes were recovered from the possession of A3. Even if the materials on record is accepted



and taken into account, it only shows that A3 received the money on behalf of A1 and A2. However, there is no charge of abetment of the offence against A3 and therefore, his conviction under Sections 7 and 13 of the PC Act does not appear to be correct.

34. The trial court has found A2 and A3 also guilty of the offence punishable under Section 120-B IPC. To bring home the charge of conspiracy within the ambit of Section 120-B IPC, it is necessary to establish that there was an agreement between the parties for doing an unlawful act. Circumstances in a case, when taken together on their face value, should indicate meeting of minds between the conspirators for the intended object of committing an illegal act or an act which is not illegal, committed by illegal means. In other words, the essence of criminal conspiracy is an agreement to do an illegal act and such an agreement can be proved either by direct evidence or by circumstantial evidence or by both. It is a matter of common experience that direct evidence to prove conspiracy is rarely



available. Accordingly, the circumstances proved before and after the occurrence have to be considered to decide about the complicity of the accused. Even if some acts are proved to have been committed, it must be clear that they were so committed in pursuance of an agreement made between the accused persons who were parties to the alleged conspiracy. Inferences from such proved circumstances regarding the guilt may be drawn only when such circumstances are incapable of any other reasonable explanation. In other words, an offence of conspiracy cannot be deemed to have been established on mere suspicion and surmises or inference which are not supported by cogent and acceptable evidence. [See **CBI v. K. Narayana Rao, (2012) 9 SCC 512**]

34.1. In **State v. Anup Kumar Srivastava, (2017) 15 SCC 560**, it was observed that the object behind the conspiracy is to achieve the ultimate aim of conspiracy. A charge of conspiracy means knowledge about indulgence in either an illegal act or a legal act by illegal means is necessary. In some cases, intent of



unlawful use being made of the goods or services in question may be inferred from the knowledge itself. This apart, the prosecution has not to establish that a particular unlawful use was intended, so long as the goods or services in question could not be put to any lawful use. When the ultimate offence consists of a chain of actions, it would not be necessary for the prosecution to establish, to bring home the charge of conspiracy, that each of the conspirators had the knowledge of what the collaborator would do.

35. In the case of hand, there is absolutely no evidence to bring in the ingredients of Section 120-B IPC. Therefore, with the materials on record the trial court obviously went wrong in finding A2 and A3 guilty of the offence punishable under Section 120B IPC.

36. I find the materials on record unsatisfactory to find A2 and A3 guilty of the offences charged against them beyond reasonable doubt. Suspicion, however, strong cannot take the place



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of proof. Hence, I find that A2 and A3 are entitled to benefit of doubt.

37. In the result, the appeals are allowed. The impugned judgment convicting A2 and A3 for the offences punishable under Sections 7 and 13(1)(d) of the PC Act and Section 120-B IPC is set aside. The appellants/A2 and A3 are acquitted under Section 248(1) Cr.P.C. of the offences charged against them. They shall be set at liberty and their bail bonds shall stand cancelled.

38. Applications, if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

APRIL 21, 2026

p'ma/mj