



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

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+ **CRL.A. 242/2006**

RAM CHANDER

.....Appellant

Through: Mr. S.C. Buttan, Mr. Ojasvi Annadi
Shambhu, and Mr. Nikhil Thakran,
Advocates.

versus

STATE GOVT. OF NCT OF DELHI AND ANR.Respondents

Through: Mr Pradeep Gahalot, APP for State.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. Vide the present appeal, the appellant seeks setting aside of the judgment of conviction dated 01.04.2006 and the order on sentence dated 03.04.2006 rendered in the context of trial held in CC No. 61/1999 arising out of FIR No. 39/1998 registered under Sections 7/13 of the Prevention of Corruption Act, 1988 ("PC Act") at the Anti-Corruption Branch.

The Trial Court convicted the appellant for the offences under Section 7 and under Section 13(1)(d) punishable under Section 13(2) PC Act. He was subsequently directed to undergo RI for a period of 1 year and 6 months along with paying a fine of Rs.4,000/-, in default whereof he would undergo 2



months SI, for the offence under Section 7 PC Act; and to undergo RI for a period of 3 years along with paying a fine of Rs.6,000/-, in default whereof he would undergo 3 months SI, for the offence punishable under Section 13(2) PC Act. Both sentences were directed to run concurrently and the benefit under Section 428 Cr.P.C. was granted to the appellant.

2. The prosecution case emerging from the complaint dated 07.10.1998 filed by one *Rakesh Kumar* was captured by the Trial Court as under:-

"I run a Medical Store in Narela. I have been married in village Shagatpur, Jaffar Pur Kalan, Delhi. My sister-in-law Smt. Babita w/o Shri Ranvir Singh had committed suicide on 31.07.98 by taking poisonous substance, on which a case was registered in PS Jaffar Pur FIR No. 92/98, u/s 304-B/498-A IPC and ASI Ram Chander is the Investigating Officer in this case. ASI Ram Chander had arrested my mother-in-law, father-in-law and brother-in-law Ranvir Singh in this case, who have not still been granted bail. ASI Ram Chander has threatened many times my younger brother-in-law Jai Bhagwan to arrest him in this case while his name is not mentioned in the FIR No.92/98. I and my friend Pankaj Malik have advised ASI Ram Chander, PS Jaffarpur Kalan, not to harass them unnecessarily but he did not give hear to our advise and now he is demanding Rs.10,000/- for not arresting the my younger brother-in-law Jai Bhagwan. I have not told AS Ram Chander that reduce this amount but he replied that he will not accept less than Rs.10,000/- for not arresting the my younger brother-in-law Jai Bhagwan in this case and he will also co-operate for getting the bail of my in-laws. ASI Ram Chander has called me at his house at Paprawat Road, Najafgarh, Delhi in the evening at 7 p.m. with amount of Rs.10,000/-, I am against giving of bribe but I was constrained to make commitment to ASI Ram Chander to give him bribe due to his undue harassment. I neither have any dealings with the said ASI Ram Chander nor I have any grudge against him. I have brought the bribe money of Rs.10,000/- with me."

3. The appellant, employed at the time as an Assistant Sub-Inspector of Delhi Police, was accused of accepting illegal gratification to the tune of Rs.10,000/- on 07.10.1998 from the complainant/*Rakesh Kumar* in exchange



for not arresting the complainant's brother-in-law in case registered under FIR No.92/1998. Upon receipt of the complaint, pre-raid proceedings were drawn and the raid was conducted. After completion of post-raid proceedings and the investigation, the *challan* was filed in Court under Sections 7/13 PC Act. Charges under Section 7 read with Section 13(1)(d) punishable under 13(2) PC Act were framed against the appellant, to which he pleaded not guilty and claimed trial.

4. The prosecution examined 14 witnesses in support of its case with the most material witnesses being PW-7, PW-8, and PW-11. PW-7 is the complainant of the present case; PW-8 is the *panch* witness; and PW-11 is a friend of the complainant who was closely associated with the proceedings in the present case.

The other witnesses examined were the brother-in-law of the complainant, examined as PW-3. PW-6/Rohtas Singh was the ACP, Anti-Corruption Branch at the relevant time and deposed regarding custody of the case property. PW-12/SI Bhim Singh was a member of the raiding party. PW-13/ACP P. S. Patwal was the Raid Officer in the present case. PW-1 took the exhibits of the case to CFSL, Chandigarh and deposited them there. PW-2, while posted as SHO, P.S. Jaffarpur, on 07.10.1998, recorded the concerned DD No. 22-A upon receipt of a wireless message regarding the apprehension of the appellant by the Anti-Corruption Branch. PW-4/SI Maha Singh deposed that although the appellant was under transfer, he had not been relieved from P.S. Jaffarpur up to 07.10.1998. PW-5 had produced the service record of the accused (Ex. PW-5/A). PW-9 produced a photocopy of FIR No. 92/1998.



PW-10, the Sanctioning Authority, proved the sanction order (Ex. PW-10/A). PW-14, the MHC(M), proved the relevant *malkhana* entry regarding deposit of case property in the present case as Ex. PW-14/A.

5. The complainant (PW-7) deposed that one *Ranbir Singh* is his brother-in-law, that *Ranbir's* wife *Babita* had died after consuming poison, and that the police had registered a criminal case in this regard wherein they had arrested *Ranbir Singh* and his parents. He stated that some police officer from P.S. Jaffarpur whose name he did not remember had told him that his younger brother-in-law, *Jai Bhagwan*, was also to be arrested in connection with the same case. The witness had come to know that the appellant was threatening to arrest *Jai Bhagwan* if he did not pay him off. The witness told this to his friend *Pankaj*, who said that he had some acquaintance in the police department, and asked the witness to arrange Rs.10,000/-. Thereafter, *Pankaj* took the complainant to the Anti-Corruption Branch Office. The witness deposed that he simply appended his signature wherever he was asked to do so on the report which his friend *Pankaj* had got written. He stated that he gave the money to *Pankaj* and does not know what *Pankaj* did with the same thereafter. He also deposed that he did not have any conversation with police officials at the Anti-Corruption Branch and that everything was done by *Pankaj*. Thereafter, the two of them left the Anti-Corruption Office along with 8-10 police officials. Upon reaching Najafgarh, *Pankaj* said he will be going to the house of the appellant along with the police officials and then they left. After about 15-20 minutes, a quarrel broke out at the house of the appellant; however, the witness did not go to the place of quarrel. Soon thereafter, *Pankaj* told the witness that the work



had been done, and the witness then left the spot. It was only the next day that he even got to know, *via* the newspaper, that the appellant had been arrested.

In his cross-examination by the learned APP, the witness denied suggestions stating that he had disclosed his grievance to the officials at the Anti-Corruption Branch or that he had personally got the concerned complaint recorded. He denied the presence of the *panch* witness *Davinder Kumar* at the time of recording of his report. He stated that he signed a few blank papers at the Anti-Corruption Office before leaving for Najafgarh and did not sign anything thereafter anywhere.

6. *Davinder Kumar*/PW-8 deposed that in 1998 he reported for duty as a *panch* witness at the Anti-Corruption Branch. Upon speaking with the concerned Duty Officer, he was directed to meet with one Inspector whose name he could not recollect at the time of his deposition. The witness met the Inspector, who told him that the two persons sitting with him (whose names were not told to the witness) had come in connection with a demand for money raised by a police official (whose name was also not told to the witness). One of the two persons produced currency notes worth Rs.10,000/-, and the same were treated with phenolphthalein powder. The Inspector asked the witness to go somewhere and come back after 15-20 minutes, stating that he required some time to organise a raiding party. However, when the witness returned, he was made to sign some written papers and told that the same were the complainant's complaint as well as documents regarding demonstration of the phenolphthalein powder by the Inspector. Upon reaching the concerned spot in Najafgarh, the witness accompanied the complainant and his associate to the



house of the concerned police official. Inside the house, they met one person lying on a cot. The complainant and his associate sat down on the same cot. The witness stated that he could not hear the conversations they were having with each other, and that the complainant after taking out the currency notes in question, turned in a way where the witness' view became obstructed. It appeared that the complainant tried to put the currency notes below the *dari* (a mat) spread on the cot. The complainant then gave a signal to the witness, whereafter he went outside and informed the Raid Officer, Inspector *Patwal*, who then along with other police officials came inside the house. The Inspector told one of members of the raiding party to lift the *dari* and take into possession the currency notes. The Inspector also told someone to take a wash of the *dari*. The person who had been lying on the cot earlier started crying and shouting for help. The witness went outside the house to attend nature's call, and when he came back, he was told by the Inspector that the person who had taken the money had escaped from there and local police had been informed. The Inspector then showed the witness 4 bottles containing a pink-coloured solution and told him that the same was the wash from the *dari*. The *dari* and the said bottles were not sealed in parcels in the presence of the *panch* witness. Learned APP for the State cross-examined him, stating that the witness was resiling from his earlier statement, but he generally denied all the suggestions put to him by the APP and reiterated the version put forth by him in his examination-in-chief.

7. The friend of the complainant, *Pankaj Malik*, was examined as PW-11. He stated that a police official, whose name he did not remember, was



demanding bribe to exonerate his friend *Rakesh*'s brother-in-law from the concerned dowry-related-death case. In this regard, the witness went to Old Secretariat along with the complainant. He has stated that he stayed behind in the car while the complainant went inside and came out with 4-5 police officials, whereafter the witness accompanied all of them to Najafgarh. At Najafgarh, they went to a house and inquired about a person whose name the witness could not remember, but they were turned away by a lady, stating that the person they were looking for was not present in the house. They returned after half an hour, and the said lady again stated that the person they were looking for was not present. When they insisted to search the house, several persons collected at the spot and a commotion occurred. After some time, local police was called, and they were taken to P.S. Najafgarh. The witness stated that nothing else happened in his presence.

During cross-examination, he denied the suggestion that the complainant had told him that the appellant wanted to arrest his brother-in-law *Jai Bhagwan* and had asked for Rs.10,000/- bribe to exonerate him. He denied visiting P.S. Jaffarpur along with the complainant to persuade the appellant to not arrest *Jai Bhagwan*. He denied that the complainant handed over the money in the right hand of the appellant at the appellant's house and that the appellant stashed the said money under the bedsheet of his cot.

8. The appellant's statement under Section 313 Cr.P.C. was recorded, wherein he claimed to be innocent and alleged false implication. He claimed that he was not present at the time of the raid, and that the complainant as well as *panch* witness were harbouring resentment towards him as he had arrested



their family member in a dowry-related-death case. He stated that they wanted to give him a bribe, but he refused as he was doing his duties faithfully. He further stated that he has a clean service record and proceeded to examine two defence witnesses. DW-1/*Ram Niwas*, the *jija* (brother-in-law) of the appellant was examined as DW-1, and he deposed regarding his refusal to influence the appellant to favour *Jai Bhagwan* (PW-3). DW-2/*Satya Pal* is the neighbour of the appellant who deposed regarding the absence of the appellant at the time and place of the raid in question.

9. I have heard the learned counsel for the appellant and the learned APP for the State. On a careful perusal of the material on record, the primary question arising for consideration before this Court is whether the prosecution has proved the factum of the appellant demanding and accepting gratification beyond reasonable doubt.

10. It is settled law that to establish an offence under Section 7 or 13 of the PC Act, the factum of demand as well as acceptance, both need to be proved. Mere proof of acceptance would not by itself be sufficient and proof of demand is *sine qua non* for securing a conviction under Sections 7 and 13(1)(d) of the PC Act.

11. A gainful reference may be made to the Supreme Court's decision in B. Jayaraj Vs. State of Andhra Pradesh, reported as (2014) 13 SCC 55, where it was held as under:

"8. ...Mere possession and recovery of the currency notes from the accused without proof of demand will not bring home the offence under Section 7. The above also will be conclusive in so far as the offence under Section 13(1)(d)(i) and (ii) is concerned as 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 be established.

12. The Constitution Bench later affirmed the aforesaid decision in the case of Neeraj Dutta Vs. State (Govt of NCT of Delhi), reported as **(2023) 4 SCC**

731 and held that:

"88. What emerges from the aforesaid discussion is summarised as under:

88.1 (a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of the Act.

88.2 (b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.

88.3 (c) Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.

88.4 (d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:

(i) if there is an offer to pay by the bribe giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.

(ii) On the other hand, if the public servant makes a demand and the bribe giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Section 13(1)(d)(i) and (ii) of the Act.

(iii) In both cases of (i) and (ii) above, the offer by the bribe giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Section 13(1)(d), (i) and (ii) respectively of the



Act."

13. Recently, in Soundarajan Vs. State Rep. by Inspector of Police Vigilance Anticorruption Dindigul, reported as (2023) 16 SCC 141, the Supreme Court reiterated the meaning of word "gratification" as under:

"...To attract Section 7 of the PC Act, the demand for gratification has to be proved by the prosecution beyond a reasonable doubt. The word used in Section 7, as it existed before 26 July 2018, is 'gratification'. There has to be a demand for gratification. It is not a simple demand for money, but it has to be a demand for gratification..."

14. In the present case, neither the complainant *Rakesh*, nor his friend *Pankaj* who purportedly accompanied the complainant during the raid, nor the *panch* witness, has supported the prosecution case. The complainant in his deposition has stated that he was not even at the spot of the raid and that all necessary activities were carried out by his friend *Pankaj*, and that it was only the next day that he even found out about the appellant having been arrested. The complainant's friend *Pankaj*, on the other hand, has given an altogether different version, stating that they went to a house and inquired about someone, but were turned away by a lady twice; and thereafter when they attempted to search the house, a commotion occurred and they were taken to P.S. Najafgarh. The versions put forth by the concerned witnesses are also inconsistent on several other aspects, including but not limited to the way in which they approached the Anti-Corruption Branch, the number of police officials that were a part of the raiding party, the time at which the raid took place, who all were present there etc.

15. The *panch* witness has given an entirely different version, as well,



wherein the complainant and his friend both were involved in the raid proceedings; however, even the version put forth by the *panch* witness does not support the prosecution case. Even if the *panch* witness' version is taken at face value, the evidence on the aspect of demand and acceptance in the present case is incompatible with a voluntary demand and receipt of gratification, due to which the essential ingredients of the offences for which the appellant has been convicted remain unproved.

16. In light of the testimonies of the key witnesses as discussed above and the law as reproduced, it is clear that the essential ingredients of the offences under Sections 7/13(1)(d) read with 13(2) of the PC Act, namely the demand and acceptance of gratification, do not stand proved.

17. Accordingly, the present appeal succeeds and the appellant's conviction under the aforesaid Sections is set aside.

18. The appellant's bail bond is cancelled and his surety is discharged.

19. The present appeal is disposed of in the above terms.

20. A copy of this judgment be communicated to the Trial Court as well as the concerned Jail Superintendent.

MANOJ KUMAR OHRI
(JUDGE)

DECEMBER 18, 2025

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