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

Date of reserve: 09th February, 2026

Date of decision: 16th July, 2026

IN THE MATTER OF:

\+ CRL.A. 1320/2011

JAGDISH CHANDER .....Appellant

Through: Mr. Jatin Rajput, Mr. Rajesh Kumar Jha, Mr. Varun Panwar, Mr. Sandeep Kumar, Mr. Rajendra Pratap Singh & Mr. Gaurav Sharma, Advs.

versus

STATE .....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for State with SI Naresh Kumar, PS Anti Corruption Branch.

\+ CRL.A. 1339/2011

DHARAMVIR SINGH .....Appellant

Through: Mr. Ashutosh Bhardwaj, Adv. (through VC).

versus

STATE GOVT. OF NCT OF DELHI .....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for State with SI Naresh Kumar, PS Anti Corruption Branch.

CORAM:
HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

VIMAL KUMAR YADAV, J.

1. The present appeals bearing number Crl.A.1339/2011 and Crl.A.1320/2011 being off-shoot of the common judgment dated 08th September 2011 (hereinafter referred to as 'impugned judgment') where the Appellants were held guilty, convicted and sentenced through order dated 12.09.2011 are hereby disposed of through the instant judgment.

2. The Appellants were held guilty and convicted and sentenced as detailed hereunder:-

S. No.	Name of convict(s)	Sentence awarded
1.	Jagdish Chander, S/o Sh. Ram Swaroop	Convict Jagdish Chander was sentenced to undergo Rigorous Imprisonment ('RI') for a period of 8 months and fine of Rs.2,500/- (Rupees Two Thousand Five Hundred only) under Section 7 of Prevention of Corruption Act, 1988 and in default of payment of fine, convict was further directed to undergo SI for a period of three months. Convict Jagdish Chander was further sentenced to undergo Rigorous Imprisonment ('RI') for a period of 1 year and fine of Rs.2,500/- (Rupees Two Thousand Five Hundred only) under Section 13(i)(d) punishable under Section 13(2) of the Prevention of Corruption Act, 1988 and in default of payment of fine, he was further directed to undergo Simple Imprisonment ('SI') for a period of three months.

2.	Dharamvir Singh S/o Sh. Jogi Ram	Convict Dharamvir Singh was sentenced to undergo Rigorous Imprisonment ('RI') for a period of 8 months and fine of Rs.2,500/- (Rupees Two Thousand Five Hundred only) U/s 7 of Prevention of Corruption Act, 1988 and in default of payment of fine, convict was further directed to undergo Simple Imprisonment ('SI') for a period of three months. Convict Dharamvir Singh was further sentenced to undergo Rigorous Imprisonment ('RI') for a period of 1 year and fine of Rs.2,500/- (Rupees Two Thousand Five Hundred only) under Section 13(i)(d) punishable Under Section 13 (2) of the Prevention of Corruption Act, 1988 and in default of payment of fine, convict was further directed to undergo Simple Imprisonment ('SI') for a period of three months.

3. The indispensable facts of the case are required to be looked into before proceeding further, which are as below. On receipt of an information by the Anti-Corruption Branch of Delhi known as "source information" in the parlance of anti-corruption agencies, with regard to some malpractices being done at the Toll Tax Barrier on the Delhi-Haryana Border known as 'Singhu Border" on the G.T. Karnal Road ACB got activated. It was reported that the staff posted at the Toll Tax Barrier were allowing certain commercial vehicles to cross the border from the side of Haryana into Delhi without charging the toll tax payable. A raiding party was thus, constituted at the Anti-Corruption Branch and raid was carried out. The source information was confirmed inasmuch as certain drivers of the commercial vehicles were stopped after the Toll Tax Barrier, in order to

check the receipt of toll tax. It was found that some of the vehicles did not have the toll tax receipts despite the fact that they have already crossed the toll tax barrier. On this confirmed information, thereafter the raiding party consisting of Anil Kumar, Pradeep Joy, Ram Dayal, Inspector O.P. Arora, swooped down to the toll tax barrier where the present two Appellants were found manning it. The three drivers of the commercial vehicles namely Abdul Haq driving truck bearing registration number DL-1GB-0503, another driver driving tempo bearing registration number HR-38-3827 and one Bahadur Singh transporting a consignment of vegetables in vehicle bearing registration number HR 06 GA-0225, who all were intercepted and checked by the raiding party, were also joined in the raid. The statements of aforesaid three drivers were taken into account and raid conducted at the Toll Tax, which resulted into recovery of money from Jagdish Chander and Dharamvir, the Appellants herein.

4. The requisites of the investigation were carried out which culminated into a chargesheet. A formal charge was framed against the Appellants under section 7, 13 (i) (d) and 13(2) Prevention of Corruption Act, 1988.

5. On the strength of 16 witnesses examined, the Anti-Corruption Branch was able to bring home the case against both the Appellants inasmuch as the defence put forth by the Appellants and the explanations furnished by them in their respective statements under Section 313 Cr.P.C. failed to absolve them of their criminal liability. Thus, through the impugned judgment and order on sentence as referred above, both the Appellants were sentenced as noted earlier.

6. The impugned judgment came under challenge by both the Appellants on the ground that they have been falsely implicated in this case and that the evidence led on record is not sufficient enough to hold the Appellants guilty, especially when two out of three independent public witnesses i.e. drivers who could be and have been treated as 'independent witnesses' have turned hostile so-much-so that PW-4 Anil Kumar has completely erased the case and went to the extent of saying that there was no Toll Tax Barrier at the border, to pay toll tax to anyone. Apparently, he is not truthful or that he was used to using the alternative route by passing the Toll Tax Barrier; a reference of which has come in his deposition.

7. The learned counsel for the Appellants has assailed the impugned judgment primarily on three counts that two out of three most vital independent witnesses have not supported the case at all as the aspect of the existence of the Toll Tax barrier itself has been put under cloud. No proper identification of the Appellants/officials manning the barrier is there and the recovery of money or bribe money is not above board and that there is no corroborative scientific or technical evidence. As such, the prosecution has failed to prove its case beyond reasonable doubt in establishing the crucial aspects of demand and acceptance in the case in hand.

8. It is argued that the prosecution has failed to establish the foundational requirement of demand of illegal gratification, which is *sine qua non* for conviction under the Prevention of Corruption Act. It is submitted that the case is not based on a trap, rather it was a *post-facto* raid. There is no independent or reliable evidence of prior demand or acceptance. The alleged demand rests solely on the testimonies of

witnesses, which are riddled with inconsistencies. It has been submitted that the very involvement of the appellants in the current case is questionable due to the reason that their identification itself is shrouded in doubt and uncertainty. PW-2 Bahadur Singh who had clearly deposed about interacting with the appellants to the extent of paying them ₹10 for passing through the Toll Counter, but when asked to identify the Appellants, he could not do so properly. The element of certainty and confidence was amiss. During his Examination-in-Chief, when asked to identify the accused, he has stated that the person standing at the toll tax barrier was "*similar to the accused persons"* and *"may be the same*" as the appellants herein.

9. PW-7 Ram Dayal who had joined as one of the panch witnesses in the raid, had stated, in both his Examination-in-Chief and Cross Examination, that none of the complainants/drivers were able to confirm, let alone identify either of the accused as the officials who were working at the toll counter and had collected money from the drivers.

10. The learned counsel for Appellants has placed heavy reliance on PW-4 Anil Kumar, who has completely turned hostile and has denied the prosecution's case in toto, so much so that he has categorically deposed in his Examination-in-Chief that there was no Toll Tax barrier on the route and as such there was no occasion or reason to pay, nor did he pay any amount to any person. He alleged that his signatures were obtained on some papers by ACB personnel forcibly. He stuck to his guns even in his cross-examination as well, wherein he reaffirms his deposition made during

the examination-in-chief. The relevant part of his Examination-in-Chief is reproduced hereunder:

> *“ I do not remember the exact date however it was 5-6 years back I was coming to Delhi in my tempo number HR-38-3827 I was coming from Kondali. There was no toll tax on the way to Delhi. Officials of AC Branch met me at Tikari. They enquired from me if I had paid toll tax I told them since there was no barrier on the way I had not paid toll tax to anyone. The officials of AC Branch got my signatures forcibly on some papers.”*

PW-4 Anil Kumar has thus, attempted to blast off the very foundation of the case and in a way has tried to take away the genesis itself.

11. It has been further argued by the learned counsel for the Appellants that this deposition by PW-4 Anil Kumar, who was among the three people who did not have the toll receipts despite crossing the toll counter/border, completely demolishes the prosecution’s version regarding one of the key transactions i.e. the demand of illegal money. PW-7 Sh. Ram Dayal has also expressed his ignorance regarding the amount allegedly recovered by the Raiding party. In his cross-examination, he once again confirmed that the drivers could not identify the appellants as the officials present at the toll counter. He has reaffirmed his earlier deposition of being unaware of the amount that was recovered by the Raiding Party.

12. Learned counsel for the appellants has submitted that such statements made on key and material aspects, strikes at the root of the prosecution’s case regarding identification and recovery.

13. The learned counsel for the Appellants has further drawn attention to the contradictions in the prosecution’s case concerning the aspect of recovery, which according to him further dents the prosecution’s version. It

is submitted that as per the prosecution, the alleged illegal gratification consisted of Rs. 50/- purportedly paid by the complainant Abdul Haq (PW-15) to accused Jagdish Chander and Rs. 10/- each allegedly paid by the other drivers to accused Dharamvir Singh. However, the recovery affected during the raid is wholly inconsistent with this version, inasmuch as only Rs. 30/- was recovered from accused Jagdish Chander and Rs. 120/- from accused Dharamvir Singh could not be reconciled. There is no cogent explanation on record as to how the specific amounts allegedly paid by the drivers are reflected in the amounts recovered, nor is there any evidence to show segregation or identification of the alleged bribed currency notes from any other currency notes that may have been in possession of the accused persons in the ordinary course of their duties/life. The learned counsel for the appellants has further submitted that the impugned judgment itself records a clear inconsistency between the alleged demand and the recovery, yet fails to address or explain the same. While the prosecution's case, as noted in the judgment, is that Rs. 50/- and Rs. 10/- each were allegedly demanded and accepted, whereas the recovery recorded is Rs. 30/- from accused Jagdish Chander and Rs. 120/- from accused Dharamvir Singh. The learned Trial Court has nonetheless treated such recovery as corroborative of demand and acceptance, without establishing any linkage between the amounts allegedly paid and those recovered. The absence of any reasoning on this crucial aspect, despite it being apparent on the face of the record, renders the finding on recovery incompatible to the record, incomplete and unreliable. Albeit, it cannot be ruled out that the Appellants must be having some money belonging to them, but other possibilities cannot be ruled out either.

14. It has been further argued by the learned counsel for the Appellants that the impugned judgment, while appreciating the evidence of various prosecution witnesses, has failed to reconcile material inconsistencies arising from that very record it relies upon. It has been further submitted by the learned counsel for the Appellants that the impugned judgment, on one hand, notices that PW-2 Bahadur Singh was uncertain in his identification and that PW-7 Ram Dayal did not support the prosecution on the aspect of identification and recovery, yet proceeds to hold that identity of both accused persons stands conclusively established. Further, no reasons have been assigned as to how an equivocal identification ("*similar*" and "*may be the same*") made by PW-2 and a complete lack of identification by PW-4 could together satisfy the standard of proof beyond reasonable doubt. This selective reliance, without proper reconciliation of contradictions noted in the judgment itself, vitiates the finding on identity.

15. It has also been contended that the impugned judgment fails to properly appreciate the effect of hostile and non-supporting witnesses, despite recording their testimony. The judgment notes that PW-4 Anil Kumar turned hostile and denied the prosecution's case, and that PW-7 did not support the prosecution on material particulars.

16. The learned Trial Court, as such, has neither analysed the evidentiary value of these testimonies nor indicated which portions, if any, were being relied upon. There is no discussion as to why the exculpatory portions of such testimony were discarded.

17. It has also been argued that the impugned judgment proceeds on an erroneous legal approach by invoking the presumption under Section 20 of the Prevention of Corruption Act without first recording a clear and independent finding on the proof of demand. The judgment states that the prosecution succeeds once it is shown that the public servant has accepted some money which is not legal remuneration, and thereafter, shifts the burden upon the accused. It has been however argued by the learned counsel for the appellants that the impugned judgment does not separately analyse whether demand, as a foundational legal requirement, stands proved beyond reasonable doubt, especially in light of the inconsistencies evident in the testimonies of PW-2, PW-4 and PW-7. This approach, as reflected from the reasoning in the judgment itself, results in a premature shifting of burden and affects the legality of the conclusion reached.

18. Lastly, it has been submitted that the impugned judgment arrives at the conclusion of guilt without adequately dealing with the Appellant's version. The Appellant's plea that they had not demanded or accepted any illegal gratification and had been falsely implicated has, though been noted in the judgment but, the same has been rejected summarily without any substantive analysis. The judgment does not examine whether the deficiencies and inconsistencies in the prosecution evidence, as recorded within it, lend any support to the appellant's version or create a reasonable doubt. The conclusion that the prosecution has proved its case beyond reasonable doubt is, thus, not supported by a comprehensive evaluation of the material on record. In view of the above, it has been vehemently argued by the learned counsel for the appellants that the prosecution has failed to

prove demand and acceptance beyond reasonable doubt, and the benefit of doubt must, therefore, necessarily be extended to the accused persons.

19. Per contra, it has been argued by the prosecution that the essential ingredients of the offences under Sections 7 and 13 of the Prevention of Corruption Act, stand duly established through consistent ocular and recovery evidence. It is submitted that the complainant Sh. Abdul Haq (PW-15) has categorically deposed that accused Jagdish Chander demanded and accepted a sum of Rs. 50/- from him and deliberately refrained from issuing any toll tax receipt. His testimony further establishes that upon being stopped by the Anti-Corruption Branch, he immediately disclosed the said fact and subsequently identified both accused persons at the Toll Tax Barrier. The said testimony, reproduced hereunder, as per the prosecution is clear, direct and inspires confidence as regards demand and acceptance.

> *"when I reached Singhu border at toll tax counter, two persons were standing there and one of them stopped me by danda and another came to me and demanded Rs. 50/. Accused Dharam Vir (witness pointed out towards this accused) was holding danda. Both the persons present in the court today, correctly identified are the same persons who stopped me and demanded rs. 50/-. I gave Rs. 50/- to accused Jagdish Chander (witness pointed out towards this accused) as I asked for the receipt for that amount but accused Jagdish told me that there was no need for the receipt and he asked me to go. Thereafter I entered Delhi"*

20. Learned APP for the state further relies upon the testimony of Pradeep Joy examined as PW-6 (Panch Witness) and Inspector O.P. Arora examined as PW-16 (Raid Officer), who have corroborated the version of the complainant on all material particulars. Both PW-6 and PW-16 have

consistently deposed that upon reaching the Toll Tax Barrier, the accused persons were identified by the drivers as the individuals who had taken money without issuing receipts, and upon search, an amount of Rs. 30/- was recovered from accused Jagdish Chander and Rs. 120/- from accused Dharamvir Singh. The prosecution relied upon the testimonies of PW-6 and PW-7 in order to establish that the recovery of money from the accused persons and that too immediately after their identification by the two witnesses, which constitutes a strong incriminating circumstance. It is further argued that the testimony of PW-2 Bahadur Singh, though partially resiling when asked to personally confirm the identity of Jagdish, but still supports the prosecution's case to the extent that, despite being unsure about the exact amount that was recovered, he admitted recovery of the tainted money from the accused persons. In his cross-examination, he corroborates the identification of accused Jagdish Chander by driver Abdul Haq and of accused Dharamvir by driver Anil Kumar. On this aspect it has been submitted by the learned APP that even a hostile witness does not efface the evidentiary value of the portion of testimony which supports the prosecution and corroborated by other evidence. The prosecution also places reliance on the testimony of PW-3 (Panch Witness Anil Kumar), who has affirmed that the accused persons were identified by the drivers and that cash was recovered from their possession pursuant to the raid. The recovery memos Ex. PW3/A and PW3/B stand duly proved and thereby lending credibility to the recovery proceedings and in turn to the case of the prosecution.

21. It is submitted that once acceptance of money other than legal remuneration is established, the statutory presumption under Section 20 of the Prevention of Corruption Act arises against the accused persons. The accused have failed to furnish any plausible explanation for the possession of the recovered money. Mere denial in statements under Section 313 Cr.P.C. is insufficient to rebut the statutory presumption.

22. The prosecution further contends that minor discrepancies, such as variation in exact denominations due to lapse of memory and passage of time, do not go to the root of the case. The core base, namely demand, acceptance, and recovery, stands proved beyond reasonable doubt. Accordingly, it is urged that both accused persons have been rightly convicted and the appeals are, therefore, liable to be dismissed.

23. It has been further submitted by the prosecution, that the legal framework governing the offence under Section 7 of the Prevention of Corruption Act has been correctly identified and applied by the learned Trial Court, and that once the said framework is juxtaposed with the factual matrix on record, the culpability of the accused persons stands established. The learned Trial Court, in paras 19 and 20 of the judgment, has delineated the essential ingredients of the offence, namely, that the accused must be a public servant and that he must have accepted or obtained gratification other than legal remuneration in the discharge of his official functions, the relevant paras of which are reproduced hereunder:

> *"19. Before an offence is held to fall under Section 7 of the Prevention of Corruption Act, 1988, the following requirements are required to be satisfied:*

> 1. *The accused at the time of an offence was or accepted to be a public servant.*
> 2. *That he accepted or obtained, or agreed to accept, or attempted to obtain from some person a gratification;*
> 3. *That such gratification was not a legal remuneration due to him and that he accepted the gratification in question as a motive or reward for;*
>   a) *Doing or forbearing to do official act;*
>   b) *Showing or forbearing to show favour or disfavour to someone in exercise of his official functions;*
>   c) *Rendering or attempting to render, any service or dis-service to someone.*
>
> *20. Thus all that the prosecution has to establish is that the accused was a public servant and that he had obtained illegal gratification or showing or forbearing to show in exercise of the official functions favour or disfavour"*

24. Building upon this formulation, the prosecution contends that the requirement is not of proving something abstract, but rather of demonstrating, on the basis of evidence, that the money received by the accused was not sanctioned by law and was obtained in connection with the official duties. It is submitted that both accused persons have been shown, through official records namely Ex. PW-5/D which is the Attendance Register for the dates 01.03.2002 to 03.05.2002 along with Ex. PW-5/X-4 and Ex. PW-5/X-5, which are the service records (Bio-data) of the Appellants, which show the appellants to be functioning at the Toll Tax Barrier in their capacity as public servants. The deposition of PW-15, supported by other witnesses, establishes that money was, in fact, received by the Appellants in the course of such duty. According to the prosecution,

once these two elements co-exist i.e. a) status as a public servant and b) receipt of money not legally due, then the offence stands attracted, and the Trial Court has rightly proceeded on this legal proposition.

25. It has also been contended that the impugned judgment rightly draws an inference from the conduct of the accused persons in permitting the vehicles to cross the toll barrier without following due procedure, and that such conduct constitutes an abuse of official position for illicit gains within the meaning of the statute. The prosecution submits that the role of the accused persons, at the toll tax barrier, was integrally connected with regulating the passage of vehicles upon payment of lawful toll, and that any deviation from this process, particularly when the money is charged but no receipt is issued, amounts to showing undue favour in the exercise of official functions for personal monetary gains. Learned Trial Court has rightly rejected the plea that the vehicles may have been using alternate routes to bypass the toll barrier or that the accused had no role in that. A finding has been recorded that the complainant was allowed to pass through the barrier on the "responsibility" of the accused without issuance of receipt. The prosecution argues that this finding is significant, as it establishes a direct nexus between the money received and the official act performed, namely, allowing passage of the vehicle. Such a nexus, according to the prosecution, is sufficient to bring the act within the ambit of corrupt conduct, as it demonstrates that the accused persons acted in a manner inconsistent with their official duties and conferred an undue benefit upon the drivers in exchange for money which went into their pockets.

26. Having considered rival submissions and on perusal of the record, it appears that the prosecution has been to some extent able to establish the essential ingredients of the offences under Sections 7 and 13 of the Prevention of Corruption Act, particularly the foundational requirements of demand, acceptance and recovery, and the reasoning adopted in the impugned judgment cannot be faulted.

27. At the outset, the contention advanced by the learned counsel for the appellants that the prosecution has failed to establish demand of illegal gratification, requires careful evaluation. The prosecution primarily relies upon the testimony of Abdul Haq (PW-15), who has categorically deposed regarding demand of Rs. 50/- by accused Jagdish Chander and the role of accused Dharamvir at the spot who both were acting in tandem with each other. This testimony, if taken in isolation, does satisfy the requirement of direct evidence of demand to an extent. However, the evidentiary weight of such testimony must be tested against the surrounding circumstances and other prosecution evidence. It is evident from the record that Anil Kumar (PW-4) has completely denied the prosecution's case and Bahadur Singh (PW-2), on the other hand, has expressed uncertainty in identification of the accused/appellants, while Ram Dayal (PW-7) has not supported the prosecution on identification at all. Thus, while demand is asserted through PW-15, the corroborative structure expected in a non-trap case appears to have a setback and gets weakened. The question, therefore, is not whether who and how demand and recovery have been reposed, but whether it is proved beyond reasonable doubt in light of inconsistencies, which assumes significance in corruption cases. It has been held in ***State of Lokayuktha***

police, Davanagere v. C.B. Nagaraj 2025 SCC OnLine SC 1175, relevant portion of which has been reproduced hereunder:

> *"the observation of the High Court to this extent is correct that just because money changed hands, in cases like the present, it cannot be ipso facto presumed that the same as pursuant to a demand, for the law requires that for conviction under the Act, an entire chain- beginning from demand, acceptance and recovery has to be completed"*

28. On the aspect of identification of the accused persons, the prosecution has placed their reliance upon the identification by PW-15 who in his Examination-in-Chief, clearly identified the appellants as the two persons who were operating/ present at the toll counter and in his cross examination he went a step further in confirmation by stating that the appellants were present at the toll counter at the time of the incident. The relevant part of PW-15's cross examination is reproduced hereunder:

> *"I was alone in the truck and there was no helper. Sometime I used to pass through that toll tax both the accused persons were standing on the front side towards the driver side. At the time, only both these two accused persons were present and no other person was present again said the two persons were sitting inside the booth and these two accused were standing near the toll tax. I did not complaint to those two persons sitting in the booth regarding non issuing of receipt as I was not knowing about that. I am driver for the last 12 years. I had earlier paid the amount at other toll tax booth and obtained the receipts and also from this toll tax booth. The accused persons were standing out from the booth and they asked for money and I paid them and at that time nobody was present."*

29. To this effect the deposition of PW-15 has been supported by the versions deposed by Pradeep Joy (PW-6) who had confirmed in both his examination-in-chief and his cross-examination that the drivers had

identified the appellants as well. Inspector O.P. Arora (PW-16) who also deposed about the identification of the appellants by the drivers at the toll tax counter. However, the learned counsel for the Appellants has rightly pointed out that PW-2, a material witness, was unable to confidently identify the accused and described them only as *"similar"* and "*may be the same"*, whereas PW-7 did not support identification as he had stated in his cross-examination, as reproduced hereunder:

> *"it is incorrect to suggest that the drivers identified the accused Jagdish and Dharambir as to be the officials who had not given toll tax receipts despite taking the bribe of Rs. 50/- and Rs 10/- each"*

30. The impugned judgment nevertheless concludes that identity stands proved. From an adjudicatory standpoint, identification must inspire confidence and be free from doubt, particularly where conviction is sought to be based on oral testimony.

31. On the aspect of identification, the prosecution relies upon a combination of documentary proof regarding duty and the testimonies of various witnesses. The record shows that Sh. K.S. Sharma, examined as PW-9 (posted as Assistant Commissioner of Toll Tax department, MCD at the time of the offence) has produced the service record (bio-data) of Jagdish Chander which has been brought on record as Ex PW-5/X-4 and Ex PW 5/X-5 and PW-11 has also deposed positively towards the fact that accused Dharamvir posted as a Toll tax peon at the Singhu Border on the date of the offence, which can be seen in his examination-in-chief, relevant portion of which has been reproduced hereunder:

> *"On 3-5-2002 I was posted as Administrative Officer in Toll tax Narela Zone MCD, Delhi and on that day I was present in*

my office. I directed accused Dharambir present in court today who was posted as Toll Tax Peon at the Singhu Boarder to call the Sh. Anand Singh, TTI with the Attendance Register and accordingly, he came to my office with the said register."

32. These pieces of evidence, put together provide some positive corroboration towards establishing the fact that the accused were posted at the toll tax barrier/counter at the relevant time. The service record (bio data) provided by PW-9 satisfies the requirement of the accused's status as public servants and their presence at the Toll Tax Barrier/Counter in an official capacity. However, it must be clarified that such evidence is limited to proving presence and official capacity on the conjoint reading of evidence to the extent of proving that the accused were the very persons who were stationed and thus, possibly engaged in the act of demanding or accepting illegal gratification from the drivers. It is an established principle that the proof of status or presence cannot be elevated to proof of culpability in an offence under the Prevention of Corruption Act. The identification of the accused as the perpetrators of the alleged act must be independently established through reliable and consistent evidence. In the present case, the evidentiary position on identification, albeit, is not uniform but if considered in its entirety then fortifies against the appellants. The complainant Sh. Abdul Haq (PW-15) has identified the accused persons and attributed specific roles to them, however, this version is not corroborated by all the material witnesses. PW-2 Bahadur Singh, though claiming to have interacted at the toll barrier, expressed uncertainty in identifying the accused thereby introducing some element of uncertainty in the identification. PW-7 Ram Dayal, who was part of the raiding process,

does not support the prosecution on the aspect of identification and has stated that the drivers did not identify the officials at the toll barrier as the persons who had taken money from them. This directly weakens the prosecution's case on a core aspect. Further, the testimonies of PW-3 (panch witness), PW-6 (panch witness), and PW-16 (Raid Officer) do not constitute independent identification of the accused in the act of demand or acceptance. Their evidence is essentially derivative in nature as they do not claim to have witnessed the original transaction, nor do they provide any direct account of the accused demanding or accepting money. Their role is confined to the events subsequent to interception and the process of recovery. Thus, their testimonies cannot cure the deficiencies arising from the inconsistent or weak identification by the primary witnesses. However, the official records are significant to the limited extent of establishing the posting, designation, and official presence of the accused at the toll tax barrier on the relevant date. Such records are essentially administrative in nature and while they may corroborate the accused's official capacity and deployment at the spot, they cannot, by themselves, bridge the evidentiary gap in establishing the identity of the persons who allegedly engaged in the incriminating conduct complained of by the prosecution witnesses.

33. In such circumstances, the evidence relating to identification remains fractured and seems to lack the kind of certainty and consistency required in criminal proceedings. While the presence of the accused at the Toll Tax Barrier is established through PW-9 and PW-11, the crucial link connecting them to the alleged act of illegal gratification does not seem to be conclusively proved. The mere fact of posting or presence at the site, under

law, cannot bridge this evidentiary gap or substitute the requirement of clear and cogent identification of the accused as the perpetrators of the alleged offence.

34. In view of the above, the aspect of identification cannot be assessed in isolation by discarding the entirety of the prosecution evidence merely on account of certain inconsistencies. The complainant (PW-15) has positively and unequivocally identified both accused persons and attributed specific roles to them in the alleged transaction. His testimony, therefore, constitutes direct and ocular evidence on the point of identity. PW-2, while not giving a firm identification, has not denied the presence of the accused, his description that the person present was *"similar"* or *"may be the same"* reflects a somewhat qualified identification. This hesitation, when viewed in context, is not devoid of explanation, as the incident pertains to the year 2002 whereas his Examination-in-Chief was conducted in 2008, after a lapse of approximately six years. It is a matter of common human experience that memory, particularly with respect to facial recognition arising out of brief and isolated interactions, is susceptible to fading over time. Such passage of time, therefore, reasonably accounts for the lack of precision in his identification, without rendering his testimony wholly unreliable. Further, the evidence of PW-6 and PW-16 indicates that upon being taken back to the toll barrier, the drivers identified the accused persons as those who had taken money without issuing receipts. Though this form of identification is not independent in the strict sense and is derivative of what was pointed out by the drivers, it nonetheless lends a measure of corroboration to the version of PW-15 regarding the presence

and role of the accused at the relevant point of time. At the same time, the absence of clear and unequivocal identification by PW-2 and the lack of support from PW-7 cannot be ignored, as they introduce an element of uncertainty which the Court is bound to consider. Accordingly, the identification evidence presents a mixed evidentiary picture. On one hand, there is positive identification by PW-15, supported to a limited extent by the surrounding circumstances. The testimony of other witnesses, on the other hand, contains hesitation and inconsistency and lack of support. The position that emerges is that identification is corroborated to the extent that it must be weighed along with the other evidence on record, particularly on the aspects of demand, acceptance, and recovery, before arriving at a final conclusion on guilt.

35. On the issue of recovery, the prosecution has relied upon the testimonies of PW-3, PW-6 and PW-16 to establish that Rs. 30/- and Rs. 120/- were recovered from the accused persons. There is no dispute that recovery has been proved in a formal sense through seizure memos (Ex. PW-3/A and Ex. PW-3/B) and supporting witnesses. However, the ld counsel for the appellants has highlighted a material inconsistency between the amounts allegedly paid (Rs. 50/- and Rs. 10/- each) and the amounts recovered. This discrepancy is evident on record and is also noticed in the impugned judgment. From a legal standpoint, recovery assumes evidentiary significance only when it can be linked to the alleged demand and acceptance. In the absence of such linkage, recovery by itself is not sufficient to sustain conviction. The learned Trial Court has treated recovery as corroborative without addressing this inconsistency or

establishing a nexus, which weakens the evidentiary value of recovery as a circumstance proving guilt.

36. Insofar as the aspect of recovery is concerned, it stands established on record that certain amounts, namely ₹30/- from one accused and ₹120/- from the other, were recovered in the presence of PW-3, PW-6 and PW-16 and duly seized through memos. To that extent, the factum of recovery is not in dispute. However, the evidentiary value of such recovery must be assessed not in isolation, but in conjunction with its nexus to the alleged demand and acceptance. The prosecution's case, as reflected in the record, is that a total amount of ₹70/- (₹50/- from PW-15 and ₹10/- each from the other drivers) was allegedly demanded and paid. The recovery of ₹120/- from one of the accused and ₹30/- from the other (which is about double the amount allegedly paid to the accused) does not, on the face of it, correspond to the prosecution version. This discrepancy is not merely arithmetic but goes to the root of whether the recovered amounts can be treated as the same money allegedly paid by the drivers. It could have been argued on behalf of the appellants, that the mismatch between the alleged payments and the amounts recovered weakens the inference that the recovered money represents illegal gratification received in the course of the alleged transaction. In the absence of any segregation or identification of the specific amounts allegedly paid, the possibility that the recovered sums formed part of money already in possession of the accused in the ordinary course of their duties cannot be excluded. This assumes greater significance in the present case, which is not a pre-arranged trap but a *post-facto* raid. There were no pre-raid formalities such as marking or recording

the numbers of currency notes, no application of phenolphthalein powder, and no contemporaneous mechanism to trace the movement of specific currency from the complainants to the accused. Further, apart from the oral assertions of PW-15 and PW-2 that the amounts paid by them were taken by the accused, there is no independent evidentiary material linking the recovered currency to those alleged payments. In the absence of such linkage, recovery remains a neutral fact-consistent both with the prosecution case and with the possibility of lawful or unrelated possession. As recovery by itself cannot substitute proof of demand and acceptance, nor can it sustain a conviction unless it forms part of a complete and reliable evidentiary chain. In the present case, the Trial Court has treated recovery as corroborative without adequately addressing the inconsistency in amounts or establishing a clear nexus between the recovered sums and the alleged illegal gratification. Accordingly, while the recovery is formally proved, its probative value as an incriminating circumstance is substantially diminished. The discrepancy in amounts, the absence of pre-raid safeguards, and the lack of identifiable linkage between the recovered money and the alleged transaction introduce a reasonable doubt as to whether the recovery can be treated as evidence of illegal gratification. In such circumstances, recovery cannot be relied upon as a decisive factor in establishing the guilt of the accused.

37. Another side of the coin is that the complainant dodged the barrier or by passed it from some other route and on being caught he spun this tale. He is apparently lying as Toll Tax barrier was there as can be seen from the evidence of Sh. R.M. Bajaj (PW-11) who was posted as Administrative

Officer in Toll Tax Narela Zone MCD who not only says about the existence of Toll Barrier but deposed about the Appellants being deputed there. It is a matter of common knowledge that state borders have Toll Barriers. The place in question is the border between Haryana and Delhi, so it can be concluded that PW-4 was lying and the barrier was there.

38. The testimony of PW-4, who has been declared hostile, assumes considerable significance in the overall evidentiary assessment of the prosecution case. It is settled law that the evidence of a hostile witness is not to be rejected in total and may be relied upon to the extent it finds corroboration from other material on record. In the present case in hand, PW-4 has not merely resiled on peripheral aspects, but has gone to the root of the prosecution story by denying the very existence of the toll tax counter, disputing any payment of money, and further alleging that his signatures were obtained forcibly by the Anti-Corruption Branch officials. Such a version, if not accepted in its entirety, nevertheless introduces a serious element of doubt with respect to the manner in which the alleged transactions were recorded and documented during the raid proceedings. He is apparently lying as Toll tax Barrier was there. The prosecution case rests upon three alleged instances of illegal collection of money and the complete disowning of one such transaction by a material witness effectively weakens the continuity and uniformity of the prosecution narrative. The learned Trial Court, though noticing that PW-4 had turned hostile, has not undertaken any analysis as to the evidentiary impact of such hostility on the prosecution's case as a whole. In a case dependent upon multiple interlinked factual assertions forming a chain of circumstances,

the failure to examine how the collapse of one link affects the integrity of the entire chain, renders the appreciation of evidence incomplete. The absence of any reasoning as to why the testimony of PW-4 was either partially relied upon or wholly discarded, and how the remaining evidence compensates for this deficiency, creates a lacuna in the evaluation of evidence as a whole.

39. At the same time, the specific assertions made by PW-4 in his deposition, particularly his claim that there was no toll tax barrier on the route and that he had not paid any amount to any person, require to be tested on the touchstone of probability, surrounding circumstances, and the entirety of the evidence on record. The route in question is a principal entry corridor into Delhi, where toll tax collection is ordinarily effected through designated barriers situated on major roadways. *Prima facie*, it would appear improbable that a regular or habitual user of such a route would neither encounter a toll tax barrier nor be aware of its existence. However, this improbability must be balanced against the material emerging from the cross-examination of PW-2, who has stated that there exists a by-pass route passing through Singhu, which diverges prior to the Toll Tax Counter and rejoins the main G.T. Road at a point before the location where the Anti-Corruption Branch officials were intercepting vehicles and certainly after the Toll Tax Barrier. The same can be seen on an examination of the site plan that is on record as Ex. PW-5/A. This disclosure assumes significance as it introduces a plausible alternative route which could, in theory, enable a driver to avoid the toll barrier altogether. The relevant portion of PW-2's Cross-Examination is reproduced hereunder:

> *"It is correct that there is a bye-pass passes through the Singhu Village which started prior to the Toll Tax Counter/ Barrier and ousted on the main GT Road prior to the place where AC Branch Officials were stopping the vehicles. It is incorrect to suggest that number of drivers take that route to avoid the payment of toll tax. I do not know if any such vehicles pass through that way. I do not know how much penalty is imposed for not paying the toll tax"*

40. To that extent, the absolute improbability of PW-4's version is diluted, inasmuch as the existence of such a by-pass renders it possible, though not necessarily probable, that a driver may not encounter the toll counter on a given occasion. However, the mere existence of an alternate route does not, by itself, lend complete credibility to PW-4's assertion. His deposition goes further to deny not only the transaction but even the existence of the toll barrier, without offering any explanation as to why he chose such a route, whether he habitually used it, or whether it offered any advantage in terms of distance, time, or accessibility. The absence of any such explanation renders his version incomplete and lacking in contextual support. Moreover, PW-2 himself, despite acknowledging the existence of the by-pass, has deposed that he did encounter the Toll Tax Barrier, paid the demanded amount, and was not issued a receipt.

41. Similarly, PW-15 has also deposed about the existence of the toll barrier and the interaction with the accused at that location. Thus, the evidence on record presents a situation where, notwithstanding the theoretical availability of an alternate route, two witnesses who were also users of the same corridor have affirmed the existence of the toll infrastructure and the occurrence of the transaction at that point. In contrast, PW-4's version stands isolated in its complete denial of both the

barrier and the transaction. In these circumstances, while the testimony of PW-4 cannot be discarded out rightly and it does introduce an element of inconsistency in the prosecution’s case, its evidentiary weight must be assessed in the light of its internal limitations and lack of explanatory support. The existence of the by-pass prevents treating his version as inherently impossible. However, the absence of any cogent reason for his alleged use of such route, coupled with the consistent version of other witnesses regarding the toll barrier, diminishes its value as a reliable rebuttal. His testimony, therefore, operates not as a conclusive negation of the prosecution case, but as a factor requiring cautious evaluation of the overall evidence, without displacing the core version emerging from PW-15 and PW-2.

42. On the aspect of statutory presumption under Section 20**,** the prosecution has contended that once acceptance of money other than legal remuneration is shown, the burden shifts upon the accused. The impugned judgment adopts this reasoning. However, it is settled that such presumption arises only after the prosecution establishes foundational facts, including demand and acceptance. In the present case at hand, while acceptance is sought to be inferred from recovery and testimony of PW-15, the inconsistencies in identification, hostile witness testimony, and mismatch in recovery amounts create doubt as to whether these foundational facts have been firmly established.

43. The learned counsel for the Appellant’s contention that the impugned judgment fails to properly consider their version, also merits consideration. Their version is the denial of demand and acceptance by the appellants and

the suggestion of false implication by the complainants. The impugned judgment has rejected the defence without detailed analysis of whether the inconsistencies in prosecution evidence lend support to the possibility of false implication. While mere denial is insufficient, the law requires that where the prosecution evidence itself contains inconsistencies, the appellant's version need not be independently proved but only needs to raise a reasonable doubt. In ***Vibhav v. State of Maharashtra***, 2025 8 SCC 315, it was held as reproduced below:

> *"31. In law, there is a significant difference in the evidentiary burden to be discharged by the prosecution and the accused. Whereas, the former is expected to discharge its burden beyond reasonable doubt, the latter is only required to prove a defence on the anvil of preponderance of probabilities. If the accused leads defence evidence in the course of a criminal trial, the same ought to be tested as probable or improbable in the facts and circumstances of the case."*

44. In totality of the facts and circumstances, the present case hinges upon whether the prosecution evidence, taken as a whole, inspires confidence and establishes guilt beyond reasonable doubt. While there is evidence in support of demand, acceptance and recovery, the same is accompanied by material inconsistencies relating to identification, recovery linkage, and supporting witnesses. The reasoning in the impugned judgment does not fully reconcile these aspects. Therefore, each of these elements must be carefully weighed to determine whether the threshold of proof required in criminal law stands satisfied.

45. It would also be worth noting that the case at hand originates from what is described as "source information," which, as per the record, was

2026:DHC:5681

neither reduced into a detailed written form nor subjected to any demonstrable prior verification. The Raid Officer (PW-16) has deposed only in general terms that information was received to the effect that toll staff were collecting money without issuing receipts. It is conceivable that such source information may have been based on prior complaints, general inputs, or past patterns of conduct. However, no such underlying material has been brought on record. There is no indication of the precise contents of the information, the identity or credibility of the source, or any contemporaneous record reflecting the same. Equally, there is no evidence of any preliminary inquiry or verification having been undertaken to test the veracity of the 'source information' before proceeding with the raid. The relevant part of the Raid Officer Inspector O.P. Arora's (PW-16) Cross-Examination is reproduced hereunder:

> *"we received the information in the morning at about 9:30 AM. That information was not reduced into writing"*

46. In the absence of such foundational material, the source information remains confined to a broad and unparticularized allegation, incapable of lending substantive support to the prosecution case. As elucidated in ***Neeraj Dutta v. State (Govt. of NCT of Delhi)***, *2023 4 SCC 731*, while a prosecution under the Prevention of Corruption Act is not rendered invalid merely because it is not preceded by a formal complaint or a pre-arranged trap, the burden upon the prosecution correspondingly intensifies. It must then establish, through cogent and reliable evidence, the essential ingredients of demand and acceptance either by direct proof or by a complete and unbroken chain of circumstantial evidence.

47. In the present case, the source information serves only as a triggering mechanism for the raid and does not assume the character of evidence capable of corroborating the prosecution's version. The absence of any documented, specific, or verifiable basis at the inception stage assumes significance when the entire prosecution case is built upon a post-facto reconstruction of events based on statements of intercepted drivers. In such a scenario, where the origin of the case itself lacks demonstrable substantiation on record, the Court is required to scrutinize the subsequent evidence with heightened care and caution. The lack of clarity and details surrounding the source information thus constitutes a relevant factor in assessing whether the prosecution has been able to establish its case beyond reasonable doubt.

48. Upon careful examination of the evidence on record and the facts of the case, can a conclusive view be drawn that the prosecution has succeeded in establishing the foundational facts of demand and acceptance of illegal gratification in a manner that satisfies the threshold of proof required under law? The testimony of PW-15 (Abdul Haq) assumes central importance in this regard. His deposition is clear, specific and consistent on all material particulars, that he was stopped at the Toll Tax counter, that a sum of ₹50/- was demanded from him by one of the accused, that the amount was paid, and that no receipt was issued despite request. His version is not only direct evidence of demand and acceptance but also carries inherent credibility, as it is based on his immediate personal interaction with the accused at the relevant time and place. There is nothing on record to suggest any motive for false implication, nor has any material

contradiction been elicited in his cross-examination which would discredit his testimony on these core aspects. This version of PW-15 does not receive material corroboration from other witnesses. PW-2 (Bahadur Singh), who has, in his examination-in-chief, deposed to a substantially similar transaction involving demand of ₹10/-, payment thereof, and non-issuance of receipt, but falters on the aspect of identity. The significance of this corroboration lies not merely in repetition, but in its independent origin. Both PW-15 and PW-2 are separate drivers, with seemingly no prior connection or familiarity with one another, and their depositions converge on the essential features of the occurrence i.e. demand of money at the toll barrier, acceptance by the personnel present, and absence of any official receipt. Such convergence of independent testimonies on material particulars lends a high degree of assurance to the prosecution's case and reduces the likelihood of fabrication or coincidence. It also reflects a pattern of conduct rather than an isolated or accidental incident, thereby strengthening the inference that the amounts were not collected as lawful toll but as unauthorized gratification. However, despite this evidence, the aspect of identity not fortified in the testimony of PW-2 Bahadur Singh and complete turn around by PW-4 Anil Kumar.

49. The contention that PW-2's testimony is weakened by his hesitation on identification does not materially affect the evidentiary value of his deposition on demand and acceptance. His uncertainty pertains to facial identification after a lapse of approximately six years between the incident (2002) and his deposition (2008), a factor which is judicially recognized as capable of affecting memory, particularly in cases involving brief and sole

interaction with stranger. Such hesitation does not amount to a contradiction of the occurrence itself. On the contrary, PW-2 has consistently maintained that money was demanded from him, paid, and no receipt was issued. Therefore, his testimony, when confined to these aspects, remains reliable and corroborative. The law does not require perfect recollection or photographic memory; it requires that the testimony, read as a whole, inspires confidence on material facts, which in the present case it does to some extent. It was held in ***Balu Sudam Khalde & Anr. v. State of Maharashtra,*** (2023) 13 SCC 365 as reproduced hereunder:

> *"**25.** The appreciation of ocular evidence is a hard task. There is no fixed or strait jacket formula for appreciation of the ocular evidence. The judicially evolved principles for appreciation of ocular evidence in a criminal case can be enumerated as under:*
>
> *"I. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the Court to scrutinise the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief.*
>
> *II. If the court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details.*
>
> *III. When eyewitness is examined at length it is quite possible for him to make some discrepancies. But courts should bear in mind that it is only when discrepancies in the*

evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence.

IV. Minor discrepancies on trivial matters not touching the core of the case, hypertechnical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole.

V. Too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.

VI. By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen.

VII. Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.

VIII. The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind whereas it might go unnoticed on the part of another.

IX. By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape recorder.

X. In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guesswork on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time-sense of individuals which varies from person to person.

XI. Ordinarily a witness cannot be expected to recall accurately the sequence of events which take place in rapid succession or in a short time span. A witness is liable to get *confused, or mixed up when interrogated later on.*

XII. A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross-examination by counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The subconscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him.

XIII. A former statement though seemingly inconsistent with the evidence need not necessarily be sufficient to amount to contradiction. Unless the former statement has the potency to discredit the later statement, even if the later statement is at variance with the former to some extent it would not be helpful to contradict that witness.”

50. The hostility of PW-4 and the limited support from PW-7 must also be assessed in their proper legal context. It is well settled that the testimony of a hostile witness is not to be discarded in its entirety and that the prosecution case does not fail merely because some witnesses do not support it. Evidence brought on record may be examined and relied upon, subject to those portions being credible and consistent with the overall prosecution narrative. In the present case, even if PW-4’s denial is taken at face value, it only affects one of the alleged transactions and does not undermine the consistent and corroborated accounts of PW-15 and PW-2. Similarly, PW-7’s lack of support on certain aspects such as the number of drivers that accompanied the raiding party to the toll counter/ gate, the amount that was recovered and whether the drivers were able to positively identify the accused; do not negate the direct evidence of demand and acceptance given by the primary witnesses. Criminal adjudication does not proceed on a rule of numerical sufficiency but on the quality and reliability

of evidence. Where the core substratum of the prosecution case is supported by credible and consistent testimony, the absence of uniform corroboration from every witness is not fatal. In ***Vadivelu Thevar and anr v State of Madras***, AIR 1957 SC 614, it was held as under:

> *16. "It is not necessary specifically to notice the other decisions of the different High Courts in India, in which the court insisted or corroboration of the testimony of a single witness, not as a proposition of law, but in view of the circumstances of those cases. On a consideration of the relevant authorities and the provisions of the Evidence Act, following propositions maybe safely started as firmly established:*
>
> *16.1 As a general rule, a court can and may act on the testimony of a single witness, not uncorroborated. One credible witness outweighs the testimony of a number of other witnesses of indifferent character.*
>
> *16.2 Unless corroboration is insisted upon by statute, courts should not insist on corroboration except in cases where the nature of the testimony of the single witness itself requires as a rule of prudence, that corroboration should be insisted upon, for example in the case of a child witness, or of a witness whose evidence is that of an accomplice or of an analogous character.*
>
> 16.3 *Whether corroboration of the testimony of a single witness is or is not necessary, must depend upon facts and circumstances of each case and no general rule can be laid down in a matter like this and much* depends upon the judicial discretion of the Judge before whom the case comes."

51. Further, the surrounding circumstances reinforce the prosecution version. The interception of vehicles shortly after crossing the toll barrier without receipts, the immediate disclosure by the drivers that money had

been paid, and their consistent narration upon being taken back to the toll counter, to some extent, provide contextual support to the direct evidence of demand and acceptance. These circumstances, though not independently sufficient, may operate cumulatively with the ocular testimony to form a coherent chain of events in the current case. In light of the above, the prosecution has not merely raised a suspicion or probability, but has somewhat established through direct and corroborated evidence that money was demanded and accepted without issuance of receipt, and that such collection was not part of lawful remuneration. The essential requirement of proving demand and acceptance, as mandated under Sections 7 and 13 of the Prevention of Corruption Act, thus stands satisfied on the face of it.

However, the aspect of identity being not certain puts a spanner in the free flowing wheels of evidence. It has come in evidence that two more people were present on the Toll Tax barrier, sitting in a cabin there. Who were these persons? Is it not possible that those two persons were the actual culprits, that is why PW-2 is unsure about the identity of the Appellants. The testimony of PW-9 may be taken in consideration on this count, as was noted earlier, which talks about Appellant Dharamvir being posted at Singhu Border as Toll Tax Peon.

52. A crucial aspect of the prosecution's case requires to be looked into with greater scrutiny, that is, whether the two accused/Appellants, Jagdish Chander and Dharamvir Singh, were in fact posted at the Singhu Border Toll Tax Barrier on the date of the incident and whether or not it was within the scope of their official duties to collect toll tax from commercial vehicles and issue receipts for the same. In order to ascertain this issue, it is

required to examine the evidence led by the prosecution through PW-8 O.P. Tomar (Executive Engineer), PW-9 K.S. Sharma (Assistant Commissioner, Toll Tax Department, MCD), and PW-10 Anand Singh (Retired Head Clerk/TTI), along with the documentary record produced by them.

53. PW-8 O.P. Tomar has merely deposed that he supplied the service records (bio-data) of accused Dharamvir Singh to the Investigating Officer. Beyond producing the said record, his testimony does not throw any light upon the exact place of posting of either of the appellants on the date of the incident, nor does it establish the nature of their duties at the relevant Toll Tax Barrier. Similarly, PW-9 K.S. Sharma has deposed only to the extent that he forwarded the service records (bio-data) of Jagdish Chander and Dharamvir Singh to the Investigating Officer vide forwarding letters Ex. PW-9/A and Ex. PW-9/B. His testimony is equally silent pertaining to the actual presence of the appellants at the Singhu Border Toll Tax Barrier on 03.05.2002. PW-10 Anand Singh has stated that on 03.05.2002 he was working as TTI in the Toll Tax Department and that accused Dharamvir Singh had informed him that he had been called by the Administrative Officer. However, the significance of his testimony is confined only to the furnishing of the attendance register for the dates 01.03.2002 to 03.05.2002 (Ex. PW-5/E). A careful examination of the said attendance register does not conclusively establish the presence of either of the appellants at the Toll Tax Barrier on the date of the alleged incident. Insofar as Jagdish Chander is concerned, the register reflects an entry which appears to have been written and then subsequently struck off at one place, and lightly erased at another, the indentations of which remain visible, thus, creating

uncertainty regarding the authenticity and reliability of the entry itself. Insofar as Dharamvir Singh is concerned, no clear entry reflecting his presence on the relevant date is discernible from the attendance register. On the contrary, the register contains consistent entries of several other employees whose attendance appears regularly recorded on multiple dates. The absence of similarly clear entries pertaining to the appellants assumes significance and renders the attendance record inconclusive on the issue of their presence at the Toll Tax Barrier on 03.05.2002. The quarterly transfer/posting order dated 29.04.2002 indicates that both the appellants were posted within the Narela Zone. However, such posting order merely establishes their broader area of deployment and does not specifically demonstrate that they were posted at the Singhu Border Toll Tax Barrier itself on the date of the incident.

54. A perusal of the service records (bio-data) brought on record reveals that Jagdish Chander was working as a regular Beldar and was posted at G.T. Road T.T. Post and his duties were limited to checking toll tax receipts of commercial vehicles and diverting commercial vehicles towards the Toll Tax Barrier for the payment of toll tax. Dharamvir Singh on the other hand, was working as a daily-rated Beldar and his duties primarily consisted of performing indoor work or performing the duties of Toll Tax Peons who happened to be on leave. Whether a daily rated Beldar is a public servant in strict sense of the word. Significantly, neither of the service records indicates that either appellant was authorised or entrusted with the collection of toll tax from vehicles or with the issuance of toll tax receipts. In the absence of any such material which places the appellants at

2026:DHC:5681

the toll tax border when the raid was conducted puts a question mark and it would be unsafe to presume that the appellants were exercising powers i.e. collecting the toll tax money and issuance of toll tax receipts.

55. Cumulatively, the evidence led by the prosecution leaves the issue of the Appellant's actual deployment at the Toll Tax Barrier on the relevant date shrouded in uncertainty. The documentary evidence does not conclusively establish their presence at the Toll Tax Barrier, while the service records themselves indicate that the duties assigned to them did not encompass the collection of toll tax or issuance of receipts. Apart from PW-15 Abdul Haq, whose testimony stands as the solitary unequivocal identification of the appellants, the remaining evidence on identification is far from satisfactory. PW-2 Bahadur Singh remained uncertain and was only able to describe the accused as being "similar" or "may be the same", whereas PW-7 Ram Dayal did not support the prosecution on the aspect of identification at all. In such circumstances, a serious doubt arises as to whether the Appellants were, in fact, the persons who demanded and accepted the alleged illegal gratification. Such doubt strikes at the very foundation of the prosecution's case and must necessarily operate to the benefit of the appellants. It becomes all the more relevant when it is reflected in evidence that two more persons were sitting in the Toll Booth, who were those persons is anybody's guess. However, one thing is certain that a 'Beldar'/Toll Tax Peon cannot be entrusted with the responsibility of issuing Toll Tax Receipt. There must be and seemingly there were more responsible officials entrusted with the job of issuance of Toll Tax Receipts, who were present there.

The ACB seems to have acted in haste as they straightaway took action on the source information in a casual manner. The ACB should have verified the source information and a more structured and systematic raid should have been carried out where demand and acceptance can be ascertained with the involvement of panch witness/ raiding officials at the time when such demand was actually made and illegal gratification was accepted instead of acting post facto. This inherent weakness ultimately manifested itself in a weak case.

As such, in view of the discussion in the foregoing paragraphs, it emerges that the evidence on record about the complicity of the Appellants is weak and not convincing enough. Their identity is also shrouded in the mist of doubt on account of the shaky testimony of the prime witnesses that is the drivers, except one Abdul Haq. Then again an alternative route has been shown to exist through which the Toll Tax Barrier can be bypassed. In such circumstances, another dimension of doubt and suspicion seeps in the case of prosecution that those drivers who were found without Toll Tax Receipt by the ACB team, could have used that alternative route and when they found themselves caught by ACB team, they cooked up a story to save their skin. It can be visualised that the drivers when stopped had all the reasons to become apprehensive that some action would be initiated against them, so they blamed the Toll Tax Staff, that is, the Appellants, who incidentally were not empowered to issue tax receipts, though could have collected the money and let go of the drivers. In that eventuality, where was the responsible officials of the Toll Tax Barrier, what they were doing and what kind of supervision and control was there? A Toll Tax Barrier on a

State border cannot be left at the mercy of Toll Tax Peon/daily-rated Beldar without any supervision so as to give them a free hand to do whatever they liked. The Senior Officers should have been examined on these aspects. In view of these facts and circumstances and taking into account the case in it's entirely, it is unsafe to hold the Appellants guilty. As a result, they are given the benefit of doubt and acquitted. Their appeals accordingly, stand allowed.

Bail bonds stand discharged and pending application(s), if any, stand disposed off together with the appeals.

VIMAL KUMAR YADAV, J.

JULY 16, 2026/*bj/ps/ij*