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

% *Judgment reserved on: 11.03.2026*
Judgment pronounced on: 02.07.2026
Judgment uploaded on: 02.07.2026

\+ **CRL.A. 273/2007**

SANJEEV SHARMA .....Appellant

Through: Mr. N. Prabhakar, Advocate

versus

THE STATE OF NCT OF DELHI .....Respondent

Through: Mr. Manoj Pant, APP for the State

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

J U D G M E N T

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DR. SWARANA KANTA SHARMA, J

1. By way of the present appeal, the appellant assails his conviction in CC no. 16/2000, arising out of FIR no. 13/1998 registered at Police Station Anti-Corruption Branch, Delhi, for offences punishable under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 [hereafter '*PC Act*'] read with Section 120B of the Indian Penal Code, 1860 [hereafter '*IPC*'].

2. In view thereof, the appellant seeks setting aside of the judgment of conviction dated 23.04.2007 and the order on sentence dated 24.04.2007 passed by the learned Special Judge, Tis Hazari Courts, Delhi [hereafter '*Trial Court*'], whereby he was convicted for offences under Sections 7 and 13(2) of the PC Act. By the said order on sentence, the appellant was sentenced to undergo rigorous imprisonment for a period of one and a half years and to pay a fine of ₹1,500/- for the offence under Section 7 of the PC Act, and rigorous imprisonment for a period of two years along with a fine of ₹2,000/- for the offence under Section 13(2) of the PC Act. Both the sentences were directed to run consecutively.

3. Aggrieved thereby, the appellant had preferred the present appeal, which was admitted *vide* order dated 01.05.2007 and the sentence awarded to the appellant was suspended *vide* order dated 04.06.2007.

FACTUAL BACKGROUND

4. The prosecution case originates from a complaint dated

08.05.1998 lodged by the complainant Saleem Khan before the Anti-Corruption Branch. In the said complaint, the complainant had alleged that he had applied for issuance of a Central OBC Certificate in the office of the SDM, Seelampur on 04.02.1998 and he had been informed that the certificate would be prepared within one month. However, despite lapse of more than three months, the certificate had not been issued to him. According to the complainant, the appellant herein, who was posted in the SDM office, had been delaying the matter on one pretext or another and was demanding ₹100/- for processing the certificate. It was further alleged that the appellant had informed him that he would visit his residence between 2:00 p.m. and 2:30 p.m. on 08.05.1998 for conducting the inquiry and for collecting the bribe. The complainant, therefore, requested that appropriate action be taken against the appellant. Acting upon the said complaint, the concerned officers of the Anti-Corruption Branch carried out pre-raid proceedings and thereafter conducted the raid, following which the appellant Sanjeev Sharma and co-accused Kanhiya Singh Negi were arrested, and upon completion of post-raid proceedings and investigation, chargesheet was filed against them.

5. It was the case of the prosecution that the appellant Sanjeev Sharma, who was employed as a Bailiff in the office of the SDM, Seelampur, and co-accused Kanhiya Singh Negi, who was working as a Farash in the same office, had entered into a criminal conspiracy during the period between 04.02.1998 and 08.05.1998 to obtain illegal gratification from the complainant for conducting the inquiry

required for issuance of an OBC Certificate. It was alleged that, pursuant to the said conspiracy, the appellant had demanded ₹100/- from the complainant in the presence of co-accused Kanhiya Singh Negi as a motive or reward for facilitating issuance of the certificate and had also accepted the said amount by abusing his position as a public servant, and obtained a pecuniary advantage through corrupt/ illegal means.

6. Charges were accordingly framed against the appellant and co-accused Kanhiya Singh for offences under Sections 7 and 13(2) of the PC Act read with Section 120B of the IPC, to which they pleaded not guilty and claimed trial. During the pendency of trial, co-accused Kanhiya Singh Negi passed away on 25.11.2006 and the proceedings against him stood abated. During trial, the prosecution examined 14 witnesses to prove its case, which included the complainant, the panch witness, the officers of raiding team, etc. After the prosecution evidence was concluded, the statement of the appellant was recorded under Section 313 of the Cr.P.C., wherein he denied the allegations levelled against him and claimed innocence.

7. Upon conclusion of the trial, the learned Trial Court, by way of the impugned judgment and order on sentence, convicted the appellant for the offences under Section 7 and 13(2) of the PC Act.

SUBMISSIONS BEFORE THE COURT

A. On behalf of the Appellant

8. The learned counsel appearing for the appellant argues that the

prosecution case suffers from serious inconsistencies and does not inspire confidence. It is contended that the testimony of the complainant (PW-6) is unreliable and contains material improvements. It is submitted that in the complaint (Ex. PW-6/A), the complainant had merely alleged that the appellant had demanded ₹100/- from him, without specifying when such demand had been made. However, while deposing before the Court, he stated that the appellant had initially demanded ₹200/- and that the amount was later negotiated down to ₹100/-, a fact which did not find mention in the original complaint. It is argued that though the learned Trial Court treated this as an immaterial discrepancy, the same goes to the root of the prosecution case. It is further submitted that during cross-examination, when confronted with the official records Ex. PW-5/A to Ex. PW-5/D produced by PW-5, which showed that the inquiry regarding the complainant's application had been assigned to the appellant only on 08.05.1998, the complainant changed his version and stated that the demand had been made by the appellant on 08.05.1998 at about 11:00 a.m. in the office. At the same time, the complainant also stated that his statement was recorded in the office of the Anti-Corruption Branch between 11:00 a.m. and 11:30 a.m. on the same day, which makes his version doubtful.

9. It is further argued that the panch witness (PW-10) cannot be treated as an independent witness. The learned counsel submits that PW-10 admitted that he had earlier acted as a panch witness for the Anti-Corruption Branch on two or three occasions. It is also pointed

out that he admitted that both his department and the Anti-Corruption Branch functioned under the control of the Vigilance Department and that promotions in his department required vigilance clearance. Attention is also drawn to his admission that before entering the witness box, the police had shown him his previous statement Ex. PW-10/DA. It is further argued that the presence of PW-10 in the Anti-Corruption Branch office since about 9:15 a.m., even before the complainant had allegedly lodged his complaint between 11:00 a.m. and 11:30 a.m., raises a serious doubt regarding the fairness of the proceedings and suggests that the trap was pre-arranged.

10. The learned counsel also points out contradictions regarding the recovery of the tainted currency note. It is submitted that according to the complainant (PW-6), the tainted note of ₹100/- was recovered by the panch witness at the instance of the Raid Officer (PW-11). However, the panch witness stated that the currency note was recovered by the Raid Officer himself. It is further argued that PW-11 deposed that he had recovered the tainted currency note from the shirt pocket of the appellant, whereas the seizure memo Ex. PW-6/B, prepared by PW-11 himself, records that the recovery was effected by the panch witness. Therefore, it is argued that this discrepancy regarding the very recovery of the tainted money creates a serious doubt about the prosecution case and the same has been wrongly ignored by the learned Trial Court.

11. It is also argued that there are material contradictions regarding the place where the alleged demand and acceptance of bribe took

place. The complainant, in his statement to the police, had stated that the demand and payment were made inside his house. However, in his examination-in-chief, he stated that the demand and acceptance took place outside the house near a scooter. On the other hand, the panch witness consistently stated, both in Court and in his statement to the police, that the transaction had taken place inside the room. It is submitted that the prosecution has thus failed to establish with certainty even the place where the alleged demand and acceptance occurred.

12. The learned counsel further argues that the handling of the wash samples creates a serious doubt regarding the integrity of the investigation. Though four bottles containing the right-hand wash and shirt-pocket wash samples, i.e. RHW-1, RHW-2, LSPW-1 and LSPW-2, were prepared to establish that the appellant had handled the tainted currency note and kept it in his shirt pocket, the prosecution has failed to explain the manner in which these samples were preserved. It is pointed out that PW-7 admitted that only RHW-2 and LSPW-2 were deposited in the Malkhana on 08.05.1998. The remaining two bottles, i.e. RHW-1 and LSPW-1, were not deposited in the Malkhana and instead, they were handed over by another Inspector present in raiding team i.e. PW-13 (the Investigating Officer), to PW-14, the then ACP, as if his office were the Malkhana. It is argued that PW-14 retained these bottles in his personal custody and handed them over after about one month, on 08.06.1998, to PW-1 for being sent to the Forensic Science Laboratory, Chandigarh.

13. The learned counsel appearing for the appellant further argues that the learned Trial Court has arrived at its findings by ignoring material documentary evidence on record and by relying upon assumptions not borne out from the evidence. It is contended that the prosecution record itself establishes that the appellant was entrusted with the task of conducting inquiry into the complainant's application for issuance of an OBC Certificate only on 08.05.1998, i.e. the very date on which the complaint was lodged. In this regard, reliance is placed upon Ex. PW-5/B, being the OBC Centre Register, Ex. PW-5/C, being the Peon Book, and Ex. PW-5/D, which, according to the learned counsel, clearly show that the complainant's application dated 04.02.1998 had initially been assigned to another bailiff, J.L. Bhati, and was forwarded to the appellant for processing only on 08.05.1998. It is thus argued that the complainant could not have approached the appellant or been subjected to any demand of illegal gratification by him prior to 08.05.1998. Despite these documents being part of the prosecution evidence, the learned Trial Court failed to consider them and instead recorded a finding that the appellant had been dealing with the application since February 1998. It is contended that this finding is unsupported by the record and is based merely on an assumption that the appellant could have demanded money even before the work had been entrusted to him.

14. It is further argued that the learned Trial Court has also erred in observing that the complaint Ex. PW-6/A records the time of filing as 1:20 p.m. The learned counsel submits that a bare reading of the

complaint shows that it contains only the date and not the time of filing. According to him, the time of 1:20 p.m. pertains to the commencement of the pre-raid proceedings and not to the filing of the complaint itself. It is contended that this finding was recorded by the learned Trial Court to overcome the defence argument that the complainant's version regarding the demand having been made at about 11:00 a.m. on 08.05.1998 could not be reconciled with his statement that he was present in the office of the Anti-Corruption Branch between 11:00 a.m. and 11:30 a.m. on the same day. The learned counsel argues that there was no basis for the learned Trial Court to infer that the complaint had been filed at 1:20 p.m. It is also argued that the learned Trial Court has also failed to consider that there was a cutting or alteration in the number of the currency note recorded in the seizure memo Ex. PW-6/B. According to him, this circumstance raises a doubt as to whether the currency note allegedly recovered from the appellant was the same note that had been noted during the pre-raid proceedings.

15. On the strength of the aforesaid submissions, the learned counsel appearing for the appellant argues that the prosecution has failed to prove the essential ingredients of demand, acceptance and recovery of illegal gratification beyond reasonable doubt. It is, therefore, prayed that the impugned judgment of conviction and order on sentence be set aside and the appellant be acquitted.

B. On behalf of the State

16. The learned APP appearing for the State, on the other hand, argues that the prosecution has successfully proved all the foundational facts necessary to establish the offences under Sections 7 and 13(2) of the PC Act beyond reasonable doubt. It is argued that the prosecution has proved the lodging of the complaint by PW-6, the pre-raid proceedings, the demand of illegal gratification by the appellant, the acceptance of the tainted currency note, its recovery from the appellant, the positive wash reports and the valid sanction for prosecution.

17. The learned APP for the State submits that the testimony of the complainant, PW-6 Saleem Khan, clearly establishes the prosecution case. It is argued that PW-6 proved the complaint Ex. PW-6/A and fully supported the prosecution regarding the pre-trap proceedings, the trap proceedings and the subsequent recovery. It is stated that PW-6 consistently maintained that the appellant had demanded illegal gratification and was apprehended while accepting the tainted currency note. It is further argued that although certain discrepancies emerged during his testimony, the same were minor in nature and attributable to the long passage of time between the incident and his deposition. The witness was not declared hostile on any material aspect and his cross-examination failed to discredit the foundational facts proved by him.

18. It is further argued that the testimony of the panch witness,

PW-10 Jitender Prasad Sharma, also lends substantial corroboration to the version of the complainant. It is argued that PW-10 was associated with the pre-raid proceedings, remained present during the trap and witnessed the post-raid proceedings, and that he has specifically deposed regarding the demand and acceptance of the bribe amount by the appellant and that the appellant had received the tainted money with his right hand. He also supported the prosecution case regarding the recovery of the tainted currency note from the appellant and the conduct of hand-wash and shirt-pocket wash proceedings. Thus, his testimony independently corroborates the prosecution case on all material particulars.

19. Reliance is also placed upon the testimony of PW-11, Inspector P.S. Patwal, who acted as the Raid Officer. It is submitted that PW-11 has proved the pre-raid report Ex. PW-6/G, the application of phenolphthalein powder on the currency note, the instructions given to the panch witness and the conduct of the trap proceedings. He has deposed that after receiving the predetermined signal from the panch witness, he had entered the complainant's house and recovered the tainted currency note of ₹100/- from the shirt pocket of the appellant. He has further proved the seizure memos, the post-raid report Ex. PW-6/H and the *rukka* Ex. PW-11/A. Thus, his testimony fully supports the prosecution version regarding demand, acceptance and recovery of the bribe amount.

20. The learned APP for the State also relies upon the testimony of PW-13 A.K. Saxena, who was a member of the raiding team and the

Investigating Officer. It is submitted that PW-13 has proved the site plan, seizure of the scooter and official records, arrest and personal search memos of the accused persons and other steps taken during the course of investigation. It is further argued that the scientific evidence also supports the prosecution. The CFSL report dated 06.08.1998 confirmed the presence of phenolphthalein as well as sodium and carbonate ions in the hand-wash and shirt-pocket wash samples. The learned APP submits that this scientific evidence provides strong corroboration to the ocular testimony of the complainant, panch witness and members of the raiding team.

21. The learned APP also points out that the appellant in his statement under Section 313 of Cr.P.C. has merely denied the allegations and claimed to have been falsely implicated. However, he has failed to furnish any plausible explanation as to how the tainted currency note came to be recovered from the pocket of his shirt. It is submitted that no defence evidence was led by the appellant to probabilise his defence or to rebut the prosecution case.

22. On the basis of the aforesaid evidence, the learned APP contends that the prosecution has successfully established the demand, acceptance and recovery of illegal gratification beyond reasonable doubt. It is therefore argued that the learned Trial Court has rightly appreciated the evidence on record and correctly convicted the appellant for the offences under Sections 7 and 13(2) of the PC Act. Accordingly, it is prayed that the present appeal be dismissed.

ANALYSIS & FINDINGS

23. To recapitulate, the prosecution case, in brief, is that the appellant, while working as a bailiff in the office of the SDM, Seelampur, Delhi, had demanded and accepted a bribe of ₹100/- from the complainant for rendering a favourable inquiry report in connection with the issuance of an OBC Certificate to the complainant. It is the prosecution's case that while accepting the said amount, the appellant was apprehended by a raiding team of the Anti-Corruption Branch and the tainted currency note of ₹100/- was recovered from the pocket of his shirt.

24. In support of its case, the prosecution has examined 14 witnesses. Among them, the most material witnesses are PW-6 Salim Khan, the complainant, and PW-10 Jitendra Prasad Sharma, the panch witness. Other significant witnesses include PW-11 P.S. Patwal, the Raid Officer, and PW-13 A.K. Saxena, the Investigating Officer. PW-2 Firoz Alam and PW-4 Jamal are stated to be the eye-witnesses who, according to the prosecution, were present at the complainant's house at the relevant time since they had been called there for verification of the complainant's application. PW-3 G.S. Saxena, the sanctioning authority, proved the sanction orders, while PW-5 Thanachan, who was posted as Head Clerk in the office of the SDM, Seelampur, proved the relevant official records pertaining to the complainant's application.

25. To adjudicate as to whether the prosecution has been able to

establish the foundational facts – i.e., demand of illegal gratification by the accused, its acceptance, and its recovery from the accused – beyond reasonable doubt, on the basis of the evidence brought on record, it is essential to examine the testimonies of the witnesses as recorded by the learned Trial Court.

A. Whether the demand and acceptance of illegal gratification by the appellant has been proved beyond reasonable doubt by the prosecution?

26. This Court notes that **PW-2** Firoz Alam, who was admittedly present at the complainant's house at the relevant time, has not supported the prosecution case regarding demand or acceptance of bribe by the appellant. He has rather deposed that the complainant Salim, who was his neighbour, had called him to his house on the pretext that a bailiff from the SDM office had come there for conducting an inquiry. According to PW-2, both the appellant Sanjiv and co-accused Kanahiya were present at the complainant's house and inquiries were conducted regarding the complainant's application. In his cross-examination, PW-2 has specifically stated that the inquiry was conducted by the appellant Sanjiv Sharma, who had also filled up the necessary form, whereas co-accused Kanahiya Singh had merely accompanied him and had not performed any role in the inquiry process. *Significantly*, despite being present at the spot, PW-2 did not depose that any demand for bribe was made by the appellant or that any money was accepted by him. His testimony, therefore, does not support the prosecution case, in any manner, on

the crucial aspects of demand or acceptance of illegal gratification.

27. **PW-4** Jamal Khan, another neighbour of the complainant and a witness who claims to have been present near the spot, has deposed that on the day of the incident, he had seen the appellant and co-accused Kanahiya sitting in the complainant's house and that after entering the house, he had noticed that Firoz Alam (PW-2) was also present. He had heard 'some conversation' regarding 'money' between the complainant and the accused persons. However, during cross-examination, PW-4 has stated that he had also disclosed this fact of hearing conversation regarding 'money' to the police when his statement was recorded during the investigation. However, when confronted with his statement Ex. PW-4/DA which was recorded during investigation by the I.O., it emerged that no such fact had been recorded therein. This Court therefore finds that PW-4, who is an independent witness, and who claims to have overheard some conversation relating to money between the complainant and the accused persons, had not mentioned this important fact in his statement recorded during investigation by the I.O. In these circumstances, it is difficult to understand the very purpose of recording the statement of PW-4 during investigation, since he did not state anything regarding demand or acceptance of bribe and also did not mention that he had overheard any conversation regarding money between the complainant and the accused persons. Therefore, to hold that this improvement, which is the most crucial part of the evidence of this witness when examined by the learned Trial Court,

has not made the case of the prosecution suspicious, would be against the principles of law.

28. Further, even the aforenoted version of PW-4 is not corroborated by the testimony of the complainant himself. Though PW-4 has stated that he had heard 'some conversation' regarding 'money' between the complainant and the accused persons inside the house, PW-6 (the complainant), whose testimony shall be discussed in detail in the succeeding paragraphs, has deposed in his cross-examination that the word 'money' was never used in the conversation between him and the accused. PW-6 has also stated that the demand was made by the appellant outside the house near the two-wheeler scooter which was parked outside his house. Thus, the statement of PW-4 that he had overheard talks regarding money between the complainant and the accused persons inside the house, which admittedly was not mentioned by him in his statement recorded during investigation, is not corroborated by the complainant's testimony.

29. Moreover, even the panch witness Jitendra Prasad Sharma (PW-10) has deposed in his cross-examination that till the time PW-2 Firoz Alam and PW-4 Jamal were present inside the house, neither any demand was made by the accused nor had any transaction taken place. He has further stated that the demand of bribe and its acceptance had taken place only after both these witnesses had left the house. Therefore, the version of PW-4 is also not corroborated by the testimony of the panch witness.

30. Therefore, in the opinion of this Court, the testimony of PW-4 does not lend any support to the prosecution case regarding the demand of bribe, as both the complainant (PW-6) and the panch witness (PW-10) have deposed contrary to the version of PW-4.

31. It would now be apposite to examine the testimony of the star witness of the prosecution, i.e. **PW-6** Salim Khan, the complainant himself. PW-6 has deposed that he had applied for an OBC Certificate in the year 1998 *vide* application Ex. PW-2/B and that the appellant Sanjeev Sharma was dealing with his application who used to postpone the issuance of the certificate. He has further deposed that one day, the appellant had asked him to pay ₹200/- for verification purpose. However, on his request, he had agreed to accept ₹100/- instead of ₹200/-. He has also stated that on 08.05.1998, the appellant had informed him that he would visit his house at about 2:00 p.m. for making the necessary inquiries. According to the complainant, since he was not willing to pay the bribe amount demanded, he had lodged the complaint in question with the Anti-Corruption Branch. He has also stated that he did not remember the name of the witness in whose presence the complaint was recorded at the office of the Anti-Corruption Branch. PW-6 has thereafter deposed regarding the pre-trap proceedings. He has stated that at about 2:30 p.m., the accused persons had come to his house and that the appellant had asked him to arrange two witnesses for the purpose of inquiry, whereupon he had called Firoz and Jamal. According to him, the appellant had checked their documents and,

after making the necessary inquiries and obtaining their signatures, had asked them to leave. He has further deposed that when he had asked the appellant in how many days his certificate would be ready, the appellant had told him that it would take about 15-20 days. However, when he told the appellant that he urgently needed the certificate, the appellant had asked him to do the work which he had earlier told him about, whereupon the certificate would be ready within 2-3 days. He has further stated that thereafter the accused persons had come outside the house, near the spot where the scooter was parked, and on the asking of the appellant, he had handed over the GC note to him. According to the complainant, the appellant had accepted the note in his right hand and had kept it in the pocket of his shirt. Thereafter, the panch witness had given the pre-appointed signal to the raiding party, whereafter the accused(s) were apprehended. PW-6 has further deposed that at the instance of the Raid Officer (PW-11), the panch witness had taken out the tainted currency note from the pocket of the appellant. Thereafter, the hand wash and shirt-pocket wash proceedings were conducted and the relevant exhibits were sealed.

32. However, several striking contradictions have emerged ***during the cross-examination of PW-6***. The complainant has stated that he did not remember the exact date on which he had applied for the OBC Certificate and could only tell that it was sometime in February or March 1998. He has further stated that he had met the appellant about seven or eight times during that period. Significantly, when

confronted with his original complaint Ex. PW-6/A, it emerged that he had not mentioned in the said complaint that the appellant had initially demanded ₹200/- and had later agreed to accept ₹100/- at his request. Further, during his cross-examination, the complainant has stated that the demand was made by the appellant on 08.05.1998 at about 11:00 a.m., i.e. on the day of the raid itself. This fact had not been mentioned either in the complaint Ex. PW-6/A or in his examination-in-chief before the Trial Court. What is even more surprising is that the complainant has also stated in his cross-examination that he had visited the office of the Anti-Corruption Branch and had met the ACP, where his statement was recorded at about 11:00 a.m. or 11:30 a.m. on 08.05.1998.

33. Therefore, in this Court's opinion, the story of the complainant regarding demand of bribe by the appellant is itself not clear. Some notable contradictions and improvements which can be culled out from the evidence of the complainant are as under:

(i) In the original complaint Ex. PW-6/A, the complainant had merely stated that the appellant was not issuing the OBC Certificate for the last three months and was demanding ₹100/- from him. However, he had not mentioned any details regarding the date, month or time when such demand had allegedly been made. There are also no independent witnesses to support the allegation that any such demand had been made by the appellant.

(ii) Thereafter, a notable improvement was made by the complainant in his examination-in-chief, wherein he deposed that the appellant had initially demanded ₹200/- and that the amount was later reduced to ₹100/- at his request. This fact was never mentioned in the original complaint Ex. PW-6/A. There is also nothing on record to show that the complainant had ever disclosed this fact either to the raiding team or to the Investigating Officer.

(iii) Another improvement was made by the complainant during his cross-examination when, for the first time, he stated that the demand had been made by the appellant on 08.05.1998 at about 11:00 a.m., i.e. on the day of the raid itself, in his office. However, this fact had not been mentioned either in the complaint Ex. PW-6/A or in his examination-in-chief before the Trial Court. What is more surprising is that, in the same cross-examination, the complainant also stated that he had visited the office of the Anti-Corruption Branch and that his statement had been recorded there at about 11:00 a.m. or 11:30 a.m. on 08.05.1998. Thus, it is not clear as to whether at 11:00-11:30 a.m. on 08.05.1998, the complainant was present with the appellant in his office where the alleged demand of ₹100/- was made, or he was present at the office of the Anti-Corruption Branch where his statement was being recorded. Needless to say, he could not have been present at both the places at the same time. Also, as a matter of fact, there are no

independent witnesses to support the allegation that any demand was made by the appellant either on the morning of 08.05.1998 or on any day prior thereto.

(iv) There is no electronic evidence whatsoever on record, such as any voice recording, to corroborate the allegation of demand of bribe by the appellant.

(v) There is also no clarity in the prosecution case regarding the place where the demand was made at the time of the raid. The complainant has stated that the demand was made by the appellant after they had come out of his house and were standing near the scooter. On the other hand, the panch witness (PW-10) has stated in his cross-examination that the demand of bribe and its acceptance, i.e. the transaction, had taken place inside the house. Thus, the complainant and the panch witness are contradicting each other regarding the place where the transaction, i.e. alleged demand and acceptance of bribe, had taken place.

(vi) There is also no clarity as to how, or in what manner, the demand of bribe was made by the accused at the time of the raid. The complainant (PW-6) has deposed that after the inquiry relating to OBC certificate was completed, when he had asked the appellant as to when the certificate would be issued, the appellant had told him to do the work which he had earlier told him about. On the other hand, the panch witness

(PW-10) has stated in his examination-in-chief that the complainant had requested the appellant for early issuance of the OBC Certificate and the appellant had specifically stated that for that purpose the complainant would have to pay ₹100/-. However, during his cross-examination, the panch witness (PW-10) was confronted with his statement recorded during investigation, wherein he had not stated that the appellant had asked the complainant to pay ₹100/-. Rather, his statement recorded during investigation was that the appellant had told the complainant, "*Jo kaam tumhe kaha hai usse kar do*". Thus, the manner in which the appellant had allegedly demanded the bribe amount, as stated by PW-10 in his statement recorded during investigation and in his testimony before the Court, is itself contradictory. The testimonies of PW-6 and PW-10 on this aspect are also contradictory. It is also relevant to note that though PW-4 Jamal had, for the first time in his examination-in-chief, stated that he had heard some talks regarding "money" between the complainant and the accused persons, the complainant himself has specifically denied that any such talks regarding money had taken place between him and the appellant. The panch witness has stated that the entire transaction had taken place after PW-2 and PW-4 had left the house. As already discussed in the preceding paragraphs, the testimony of PW-4 on this aspect does not find support either from the complainant or from the panch witness. Therefore, the

prosecution has not been able to prove beyond reasonable doubt as to how the demand of bribe was allegedly made by the accused at the time of the raid.

34. Another crucial aspect of the case emerges from the documents with which the complainant was confronted during his cross-examination. These documents had been brought on record through **PW-5** Thanachan, who was posted as Head Clerk in the office of the SDM, Seelampur. At this stage, it would be appropriate to briefly refer to his testimony.

35. PW-5 has deposed in his examination-in-chief that on 04.02.1998, he had received an application from Salim Khan (the complainant herein) for grant of an OBC Certificate. He had entered the said application at serial no. 08 in the OBC Centre Register for the year 1998 and had put the relevant number on the application. He has further stated that on 08.05.1998, the said application was entered in the Peon Book and was marked to bailiff Sanjeev Sharma, i.e. the present accused, for conducting the inquiry. He has also stated that on 08.05.1998, both Sanjeev Sharma and Kanhaiya Singh had reported for duty in the morning at the office of the SDM, Seelampur. PW-5 proved on record the relevant entries from the OBC Centre Register, the Peon Book and the counterfoil relating to the OBC Certificate, which were exhibited as Ex. PW-5/B, Ex. PW-5/C and Ex. PW-5/D respectively.

36. Thus, it is a matter of record that the assertion made by the

complainant during his cross-examination, that the appellant had demanded money from him on 08.05.1998 at about 11:00 a.m. i.e. on the day of raid, was made for the first time only after he had been confronted by the learned defense counsel with the documents proved by PW-5, which revealed that the application in question had been marked to the appellant on 08.05.1998 itself, and not prior thereto. The complainant also admitted in his cross-examination that these documents, particularly Ex. PW-5/C, had not been shown to him by the Investigating Officer during investigation. At the same time, it is also material to note that PW-13 AK Saxena, the Investigating officer of the case, admitted in his cross-examination that he did not even consider it necessary to conduct any investigation with respect to when the application filed by the complainant for grant of OBC certificate was assigned to the accused for conducting inquiries.

37. In the opinion of this Court, the testimony of PW-5 and the documents proved by him are of significant importance since they reveal that the complainant's application for grant of an OBC Certificate was marked to the appellant for conducting inquiry for the first time on 08.05.1998, i.e. the very day on which the complaint was lodged and the appellant was arrested. Therefore, if the prosecution witness PW-5 himself has deposed that the application was assigned to the appellant only on 08.05.1998, this Court finds it difficult to understand as to how the appellant could have demanded any bribe from the complainant for conducting the inquiry, on any date prior to 08.05.1998, when the task of conducting such inquiry

had not even been entrusted to him.

38. This Court also finds the testimony of the complainant to be doubtful on this aspect. Strangely, despite the documents proved by PW-5 showing that the complainant's application had been marked to the appellant only on 08.05.1998, the complainant continued to depose in his cross-examination that he had applied for the OBC Certificate about 2-3 months prior to the lodging of the complaint and that during this period he had met the appellant about seven or eight times. Notably, the complainant has not specified any date or month when these meetings had allegedly taken place. It is also not clear from the record as to how there could have been any occasion for the complainant to repeatedly meet the appellant in connection with the inquiry on his application, when admittedly the application itself had not been marked to the appellant till 08.05.1998, i.e. the very day on which the complaint was lodged, the raid was conducted and the accused persons were arrested.

39. Therefore, in these circumstances, there is substance in the argument advanced by the learned counsel for the appellant that there was no occasion for the complainant to know in advance that the present appellant would be dealing with his application. For that matter, even the appellant himself could not have known beforehand that the application would be assigned to him, particularly when he was not the only bailiff posted in the office and the inquiry could have been marked to any other bailiff as well.

40. The findings recorded by the learned Trial Court with respect to the demand of bribe and its proof are also noteworthy. In paragraph 25 of the impugned judgment, the learned Trial Court has observed as under:

> "25. The primary challenge to the aforesaid prosecution case by the defence is on the ground that when application for verification was marked to the accused on 8.5.1998 i.e. on the day of the trap, then the story of initial demand of bribe by the accused stands falsified. I am of the considered view that it would be innocuous to presume that the occasion to demand bribe would only arise when the concerned public servant is actually seized with the matter i.e. when he receives the application for verification. It is so said because there is clear evidence of the Complainant (PW-6) to the effect that application Ex.PW2/B (bearing endorsement dated 4.2.1998) was given by the complainant about 15-20 days i.e. on 4.2.1998 (as per complaint Ex.PW6/A) prior to it being marked to the accused for verification and during this 15-20 days, complainant had been inquiring from the accused about his application. Therefore, it cannot be said that there was no occasion for the accused to have demanded any bribe from the complainant because the OBC certificate could have been issued only after a verification report was made by the accused."

41. At the outset, it may be noted that the observations made in the aforesaid paragraph, from where the findings in the impugned judgment commence, are themselves not clear, and it is difficult to ascertain what the learned Trial Court intended to hold. However, what is apparent is that the learned Trial Court has accepted the version of the complainant (PW-6) to the effect that the application was pending with the accused about 15-20 days prior to 08.05.1998. While holding so, however, the learned Trial Court has relied only on testimony of the complainant and has completely ignored the

testimony of PW-5, who was the official witness from the concerned SDM Office and had categorically deposed that the application was marked to the appellant for inquiry only on 08.05.1998.

42. It is also apparent from a reading of the impugned judgment that the learned Trial Court has completely overlooked Ex. PW-5/C, i.e. the relevant entry in the Peon Book, which shows that the application was marked to the appellant on 08.05.1998 itself. Rather, in paragraph 25, the learned Trial Court has relied upon what the complainant stated regarding the period for which the application had allegedly remained pending with the appellant. It is unclear as to how the testimony of the complainant could be solely relied upon regarding the date on which the application was marked by the SDM Office to the appellant, while the testimony of PW-5, the concerned official from the SDM Office who had produced the relevant records and categorically deposed regarding the date of marking of the application, has been ignored.

43. Furthermore, in paragraph 26 of the impugned judgment, the learned Trial Court has taken note of the discrepancy in the testimony of the complainant, that he had made no mention of the alleged initial demand of ₹200/- in his complaint, though he later stated so in his examination-in-chief. However, the learned Trial Court has held that this "so-called improvement" was not material. This Court however does not agree with this finding of the learned Trial Court since the aforesaid discrepancy is material in nature. This Court notes even while taking note of this material contradiction, the learned Trial

Court has chosen to rely upon the testimony of the complainant (PW-6).

44. Further, in the very next paragraph, i.e. paragraph 27 of the impugned judgment, while adjudicating as to when and where the bribe was demanded and accepted at the time of the raid, the learned Trial Court has outrightly disbelieved the complainant's version, that the transaction had taken place outside his house and near the scooter. The learned Trial Court has observed that the complainant has tried to "give a twist to the prosecution case" and that he was attempting to "improve upon his version", and has accordingly held that the entire transaction had taken place inside the house and not outside, as stated by the complainant. Thus, for certain aspects of the case, the learned Trial Court has treated the complainant's testimony itself as reliable despite absence of any independent corroboration and there being contradictions in his version, whereas for the issue relating to the place/spot of demand and acceptance of bribe, the Trial Court has held that the complainant was trying to give a twist to the prosecution case. What is, however, not discussed in the impugned judgment is as to why the complainant would give such a twist to the prosecution case in the first place. If the complainant could improve upon or twist his version regarding the place where the demand and acceptance had taken place, there is no discussion as to why his testimony on the other aspects, particularly regarding the demand of bribe by the appellant, should be accepted without any corroboration, despite the contradictions and improvements already noticed in his testimony.

45. Be that as it may, the evidence on record leaves several questions unanswered. The prosecution case is not clear and fails to prove as to when the demand of bribe was made by the appellant, how it was made, where it was made, on how many occasions it was made, and what was the occasion for the appellant to have made any such demand on earlier occasions when, according to the official records produced by PW-5, the application had not even been assigned to him for inquiry prior to 08.05.1998 i.e. on the day when trap was laid by the investigating agency. All these circumstances make the prosecution case regarding demand of bribe highly doubtful.

46. In these circumstances, following observations of the Hon'ble Supreme Court in case of ***State of Lokayuktha Police v. C.B. Nagaraj:*** *2025 SCC OnLine SC 1175* are noteworthy:

> "**25.** It is pertinent to note that till 05.02.2007, when the Respondent had conducted the physical/spot inspection, there is not even a whisper of there being any demand of bribe. Moreover, when the Complainant went back to the Respondent's office at 5:30 PM with the money, the prosecution case itself as per the deposition of its witnesses makes it clear that the Respondent had informed the Complainant that he had already forwarded the concerned file. Thus, if the same is accepted, there was no occasion for the Complainant to go ahead with paying the amount, which he claims to be in the nature of bribe demanded by the Respondent, after the work for which the bribe was purportedly sought, had already been done. **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 was 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. In the case at hand, when the initial demand itself is suspicious, even if the two other components - of payment and recovery can be held to have been proved, the chain would not be complete**. A penal law has to be strictly construed [*Md. Rahim Ali* v.

> *State of Assam*, 2024 SCC OnLine SC 1695 @ Paragraph 45 and *Jay Kishan* v. *State of U.P.*, 2025 SCC OnLine SC 296 @ Paragraph 24]. While we will advert to the presumption under Section 20 of the Act hereinafter, there is no cavil that while a reverse onus under specific statute can be placed on an accused, even then, there cannot be a presumption which casts an uncalled for onus on the accused. *Chandrasha* (supra) would not apply as demand has not been proven."
>
> (emphasis added)

47. In ***Paritala Sudhakar v. State of Telangana:*** *2025 SCC OnLine SC 1072*, it was observed as under:

> **21.** As far as the submission of the State is that the presumption under Section 20 of the Act, as it then was, would operate against the Appellant is concerned, our analysis *supra* would indicate that the factum of demand, in the backdrop of an element of *animus* between the Appellant and complainant, is not proved. In such circumstances, the presumption under Section 20 of the Act would not militate against the Appellant, in terms of the pronouncement in *Om Parkash* v. *State of Haryana*, (2006) 2 SCC 250:
>
> > '***22.*** *In view of the aforementioned discrepancies in the prosecution case, we are of the opinion that the defence story set up by the appellant cannot be said to be wholly improbable. Furthermore, it is not a case where the burden of proof was on the accused in terms of Section 20 of the Act. Even otherwise, where demand has not been proved, Section 20 will also have no application.* (Union of India *v.* Purnandu Biswas *[(2005) 12 SCC 576 : (2005) 8 Scale 246] and* T. Subramanian *v.* State of T.N. *[(2006) 1 SCC 401 : (2006) 1 Scale 116])*'
> >
> > (emphasis supplied)"

48. Therefore, for the reasons recorded in preceding discussion, in the opinion of this Court, the prosecution has failed to prove beyond reasonable doubt even the basic foundational fact of demand of illegal gratification by the appellant.

B. Whether the recovery of the tainted currency note from the appellant has been proved beyond reasonable doubt by the prosecution?

49. The next important question arising from the record of the case is – who had recovered the tainted GC note of ₹100/- from the shirt pocket of the appellant Sanjeev Sharma at the time of the raid?

50. The learned Trial Court, in paragraphs 28 and 29 of the impugned judgment, has held that the tainted currency note was recovered by the panch witness (PW-10). The relevant findings in this regard are reproduced below:

> "28. When panch witness (PW-10) states that the recovery of bribe money was affected by the Raid Officer (PW-11) and the Raid Officer (PW-11) states that the bribe money was recovered from the accused by the Panch witness (PW-10) at his instance, then what should be done is the moot question?
>
> 29. I am constantly reminded of the observations made in judgment reported in AIR 1998 SC 1474 (State of UP Vs Zakalluah) to the effect that the evidence of trap officer can be relied upon even without corroboration if it inspires confidence. In the face of the above-said authoritative pronouncement of the Hon'ble Apex Court, the answer is obvious i.e. what the raid officer deposes is correct, if there is no fundamental defect or lacuna in his deposition and if the reliability of the deposition the raid officer is beyond challenge. The categoric version of the Raid Officer (PW-11) is that at his instance, Panch Witness (PW-10) has recovered the bribe money from the accused and this stands corroborated from the evidence of complainant (PW-6) as well as from the post-raid report Ex.PW6/H. Thus the recovery of the bribe money from the accused by panch witness (PW10) cannot be doubted for any reason whatsoever."

51. From the above observations, it is clear that the learned Trial Court has proceeded on the basis that there were three pieces of evidence supporting the conclusion that the tainted currency note had

been recovered by the panch witness, and only one piece of evidence to the contrary. In other words, the learned Trial Court has held that the complainant, the Raid Officer and the seizure memo (post-raid proceedings) support the story that the panch witness had recovered the tainted currency note, whereas only the panch witness had stated that the recovery was effected by the Raid Officer.

52. However, this Court is constrained to observe that the aforesaid observations, and the conclusion drawn therefrom by the learned Trial Court, are apparently contrary to the evidence available on record.

53. As a matter of fact, PW-11, the Raid Officer, has never stated anywhere in his testimony that panch witness had recovered the tainted GC note from the appellant. Rather, he has consistently stated that it was he himself who had recovered the said note from the shirt pocket of the appellant. In his examination-in-chief, PW-11 has specifically deposed that he had taken the search of the accused and had recovered the GC note of ₹100/- from the shirt pocket of the accused. Even in his cross-examination, he has categorically stated that the panch witness had not recovered the note from the shirt pocket of the accused.

54. Therefore, the learned Trial Court has clearly misread the testimony of PW-11 and has incorrectly observed that PW-11 had deposed that the panch witness had recovered the tainted currency note. The subsequent reliance placed by the learned Trial Court on

the observations of the Hon'ble Supreme Court regarding the evidentiary value of the testimony of a Raid Officer is also of no assistance, since the very premise on which such reliance has been placed is contrary to the evidence on record.

55. This Court further notes that the complainant (PW-6), both in his examination-in-chief and in his cross-examination, has consistently deposed that at the instance of the Raid Officer, it was the panch witness (PW-10) who had recovered the GC note from the shirt pocket of the appellant.

56. However, the panch witness (PW-10), both in his examination-in-chief and cross-examination, has taken a completely different stand. According to him, it was not he but the Raid Officer (PW-11) who had recovered the tainted currency note from the shirt pocket of the appellant.

57. The case becomes even more complicated and doubtful when one examines the seizure memo Ex. PW-6/B. The said seizure memo records that the tainted currency note had been recovered by the panch witness from the shirt pocket of the appellant. Therefore, the documentary record prepared at the spot supports the version of the complainant.

58. Thus, on one hand, the complainant (PW-6) and the seizure memo Ex. PW-6/B state that the panch witness (PW-10) had recovered the tainted currency note from the shirt pocket of the appellant. On the other hand, the panch witness (PW-10) himself and

the Raid Officer (PW-11) state that it was the Raid Officer (PW-11) who had recovered the note from the shirt pocket of the appellant.

59. Another peculiar aspect of the case is that the seizure memo Ex. PW-6/B records that the recovery was effected by the panch witness, was prepared by none other than PW-11 himself. Yet, when PW-11 entered the witness box, he stated in his examination-in-chief as well as in his cross-examination that it was he who had recovered the tainted currency note and not the panch witness. Therefore, the documentary record prepared by PW-11 and his oral testimony before the Court are themselves contradictory.

60. In this Court's opinion, this is not a minor discrepancy regarding some minute detail of the raid. The issue here is as to who actually recovered the tainted currency note from the shirt pocket of the appellant. On this aspect, the prosecution has put forward two entirely different versions. One version is given by the complainant and is reflected in the seizure memo. The other version is given by the panch witness and the Raid Officer. Both versions cannot be correct at the same time.

61. Thus, the complainant and the seizure memo support one version, whereas the panch witness and the Raid Officer support another. In that sense, it is a case of two pieces of evidence against two contrary pieces of evidence. In this Court's view, just as the prosecution witnesses have not been able to give a clear and consistent version regarding when the demand of bribe was made by

the appellant, where it was made and how it was made, they have also failed to give a clear and consistent version regarding the recovery of the tainted currency note from the appellant at the time of raid.

62. Therefore, this Court is of the opinion that the recovery of the tainted currency note from the appellant has also not been proved by the prosecution beyond reasonable doubt.

C. Conclusion

63. The evidence brought on record by the prosecution leaves this Court with several unanswered questions and serious doubts regarding the very genesis of the prosecution case.

64. In the considered opinion of this Court, the prosecution case suffers from material contradictions and improvements on the most important aspects of the case, such as, when the demand was made, how it was made, where it was made, and even who had recovered the tainted currency note from the appellant. In a prosecution under the Prevention of Corruption Act, proof of demand of illegal gratification is the *sine qua non* for recording a conviction. Even recovery of tainted money by itself cannot lead to conviction unless the demand and voluntary acceptance of the illegal gratification are first proved beyond reasonable doubt. In the present case, the prosecution has failed to establish the demand of bribe beyond reasonable doubt and even the recovery of the tainted currency note does not inspire confidence. Needless to say, an accusation of

corruption against a government servant is a serious matter and has to be taken seriously by the investigating agency also.

65. Therefore, on an overall circumspection of the facts and circumstances of the case, the evidence on record and for the reasons recorded in the above discussion, this Court finds that the guilt of the appellant has not been proved beyond reasonable doubt. Having found so, this is a case where the benefit of doubt was required to be given to the appellant.

66. Accordingly, the impugned judgment of conviction dated 23.04.2007 and order on sentence dated 24.04.2007 are set aside. The appellant is acquitted of all the charges in the present case. Bail bond stands cancelled, surety stands discharged.

67. The appeal is allowed in above terms and disposed of.

68. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 02, 2026/A/zp
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