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

Reserved on: 31.08.2026
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\# **CNR No. DLHC010404852026**

\+ **CRL.REV.P. 511/2026 & CRL.M.A. 26598/2026, CRL.M.A. 26599/2026, CRL.M.A. 26600/2026**

MADHUR KAUSHAL .....Petitioner

Through: Mr. Mohit Mathur, Sr. Adv. Mr. Vikram Singh Panwar, Mr. Suyush Sinha, Mr. Vignesh, Mr. Neeraj Maurya, Advs.

versus

CBI .....Respondent

Through: Mr. Premtosh K. Mishra, SPP for CBI with Mr. Anubhav Upadhyay, Mr. Ashutosh Tiwari, Mr. Krish Bhatia, Advs.

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present criminal revision petition has been filed by the Revisionist, Madhur Kaushal**,** under Section 438 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter, the "BNSS") (corresponding to Sections 397 read with 401 of the Code of Criminal Procedure, 1973), seeking setting aside of the order on charge dated 24.01.2026 passed by the learned Special Judge (PC Act), CBI-02, Rouse Avenue Court Complex, New Delhi, in ***CC No. 56/2021,*** titled ***CBI v.***

Madhur Kaushal & Ors., as well as the charges framed pursuant thereto on 13.02.2026 for the substantive offence punishable under Section 7 of the Prevention of Corruption Act, 1988 and offences punishable under Section 120B of the Indian Penal Code, 1860 (hereinafter, the "IPC") read with Sections 7, 8, 9 and 10 of the Prevention of Corruption Act, 1988 (hereinafter, the "PC Act").

The brief facts of the case, as emerging from the impugned order, are as follows:

2. On the basis of source information, the instant case was registered on 17.01.2021. The prosecution case, in essence, is that A-1 Madhur Kaushal, a public servant, allegedly obtained a bribe of Rs.10 lakhs from A-3 Pawan Baid, Director of A-4 M/s ABCI Infrastructures Pvt. Ltd., in consideration of extending undue favour in relation to the clearance of bills pertaining to railway contractual works. It is alleged that, out of the said amount, Rs.10,000/- was deducted towards hawala commission and the remaining Rs.9.90 lakhs was routed through hawala channels to A-2 Avdhesh Kumar Kaushal, brother of A-1, who allegedly acted as an intermediary for receiving the bribe amount on behalf of A-1.

3. At the relevant time, A-1 was posted as Junior Engineer/Inspector of Works with the Indian Railways at Jogighopa, District Bongaigaon, Assam. A-4 was executing railway contracts relating to tunnelling works, which were under the supervision of A-1. Under Contract Agreement Nos. CON/NJ/2637 dated 09.11.2020 and CON/NJ/2641 dated 18.11.2020, A-1 was entrusted with the task of supervising the works and recording measurements.

4. The prosecution alleges that, on the basis of measurements recorded

by A-1, bills amounting to approximately Rs.6.5 crores were raised in favour of A-4. It is alleged that A-1 demanded and obtained Rs.10 lakhs from A-3 in lieu of recording the measurements and facilitating the processing of the bills, with the amount being routed through A-2 after deduction of the alleged hawala commission.

5. A-1 and A-2 were arrested on 17.02.2021. On the same day, at the instance of A-2, recovery of Rs.4.40 lakhs in cash and a deposit slip evidencing deposit of Rs.4.90 lakhs in the bank account of his firm was effected. The prosecution also relies upon intercepted telephonic conversations between the accused persons and other individuals, which are stated to corroborate the alleged bribe transaction.

6. In particular, the prosecution relies upon certain intercepted calls between LW-1 Ravi Kumar, an employee of A-4, and A-3 Pawan Baid, wherein reference is allegedly made to the payment of the bribe amount and deduction of the hawala commission.

7. The learned Trial Court, vide order on charge dated 24.01.2026, observed as under. The relevant portion thereof is reproduced below:

> *"It was next argued that there is no incriminating evidence against A-1 Madhur Kaushal in reference to criminal conspiracy. Criminal conspiracy is never hatched in the open. The requisite elements of conspiracy are to be inferred from the circumstances on record, including the statements of prosecution witness. It is my view that there is enough material on record to show that accused persons had conspired with each other to commit the offences proscribed under sections 7, 8, 9 and 10 of PC Act, 1988.*
>
> *The discharge application of A-3 Pawan Baid and A-4 M/s ABCI Infrastructures Pvt. Ltd. under*

sections 227 and 239 of CrPC (sections 250 and 262 of BNSS) is turned down. Likewise, the discharge application of A-1 Madhur Kaushal under section 250 of BNSS, 2023 (section 227 of CrPC) is also turned down.In view of the above:

➢ ***A-1 Madhur Kaushal*** *is liable to be charged for: (i) offence punishable under section 7 of PC Act, 1988, and (ii) offence(s) punishable under section 120B of IPC read with sections 7, 8, 9 and 10 of PC Act, 1988.*

➢ ***A-2 Avdhesh Kumar Kaushal*** *is liable to be charged for offence(s) punishable under section 120B of IPC read with sections 7, 8, 9 and 10 of PC Act, 1988.*

➢ ***A-3 Pawan Baid*** *is liable to be charged for: (i) offence punishable under section 8 of PC Act, 1988, (ii) offence punishable under section 10 of PC Act, 1988, and (iii) offence(s) punishable under section 120B of IPC read with sections 7, 8, 9 and 10 of PC Act, 1988.*

➢ ***A-4 M/s ABCI Infrastructures Pvt. Ltd.*** *(through its Director A-3 Pawan Baid) is liable to be charged for: (i) offence punishable under section 9 of PC Act, 1988, and (ii) offence(s) punishable under section 120B of IPC read with sections 7, 8, 9 and 10 of PC Act, 1988.*

➢ *It is ordered accordingly.*

53. A-1 Madhur Kaushal, A-2 Avdhesh Kumar Kaushal and A-3 Pawan Baid *shall physically appear before the Court on* ***13.02.2026*** *for the purpose of framing of formal charge(s).”*

8. Vide order dated 13.02.2026, the learned Trial Court framed charges against the petitioner. The relevant portion of the order, insofar as it relates to the petitioner, is reproduced hereinbelow:

"13.02.2026
CHARGE

1. *I, M.P. Singh, Special Judge (PC Act), CBI-02, Rouse Avenue Court Complex, New Delhi do hereby charge you **accused no.1 Madhur Kaushal**, s/o Late Akhilesh Kumar Kaushal as follows:*

   ***Firstly,** sometime between June, 2020 to 16/17 January, 2021, you were posted as JE/Works/Con in Jogighopa, District Bongaigaon, Assam and/or Inspector of Works (IOW) at Jogighopa, District Bongaigaon, Assam in the Indian Railways and as such being a public servant, you were authorized/competent to make supervisions and recording of measurements of the projects undertaken by M/s ABCI Infrastructures Pvt. Ltd. (A-4) and in the said capacity you raised a demand for an undue advantage/bribe of Rs. 10 lakhs from A-3 Pawan Baid, Director of M/s ABCI Infrastructures Pvt. Ltd. (A-4). You thus committed an offence punishable under Section 7 of PC Act 1988 and within the cognizance of this Court.*

   ***Secondly,** during the aforesaid period, you and the other three accused in this case, agreed to do an illegal act, i.e. to demand bribe of Rs. 10 lakhs from A-3 Pawan Baid, Director of M/s ABCI Infrastructures Pvt. Ltd. (A-4) and pursuant thereto on 16/17 January, 2021 in Kanpur, there was acceptance of the said demanded bribe amount of Rs. 9.90 lakhs (after deduction of hawala commission) on your behalf and under your instructions by your brother namely; Avdhesh Kumar Kaushal (A-2) in Kanpur and you thereby committed an offence punishable under section 120B of IPC read with sections 7, 8, 9 and 10 of PC Act, 1988 and within the cognizance of this Court.*

AND I hereby direct that you be tried on the said charge(s) by this Court.
(M. P. Singh)
Special Judge (PC Act) CBI-02
RADC/New Delhi/13.02.2026
*The charge is read over and explained to **accused no.1 Madhur Kaushal** as follows in vernacular, and is questioned as under:-*
***Q.** Have you understood the above charge?*
***A.** Yes.*
***Q.** Whether you plead guilty or claim the trial?*
***A.** I plead not guilty and claim trial."*

9. Aggrieved by the aforesaid orders, the petitioner has approached this Court by way of the present revision petition.

Submissions On Behalf Of The Petitioner

10. Learned Senior Counsel appearing for the Petitioner submits that the impugned order is liable to be interfered with on the very ground recognised by the Hon'ble Supreme Court as warranting exercise of jurisdiction. Reliance is placed on **Amit Kapoor v. Ramesh Chander, *(2012) 9 SCC 460***, wherein this Hon'ble Court has recognised that interference is warranted where there exists an express legal bar to the very initiation, institution or continuance of criminal proceedings, such a bar being intended to afford specific protection to the accused.

11. It is submitted that Section 17A of the Prevention of Corruption Act, 1988 is precisely such a statutory bar. Learned Senior Counsel relies upon ***Yashwant Sinha v. CBI*, (2020) 2 SCC 338,** wherein the Hon'ble Supreme Court, in paragraph 117, categorically held that, in the absence of the requisite previous approval, there could be neither an inquiry or enquiry nor an investigation. In paragraph 118, the Hon'ble Court further

held that Section 17A constitutes a bar to any inquiry, enquiry or investigation.

12. Learned senior counsel for the petitioner submits that the impugned order, as well as the charges framed pursuant thereto, are unsustainable in law and are liable to be set aside. It is submitted that the learned Trial Court has failed to appreciate that the entire proceedings against the petitioner are vitiated for want of the mandatory prior approval contemplated under Section 17A of the Prevention of Corruption Act, 1988 ("PC Act"). The present RC was registered on 17.01.2021, i.e. after the introduction of Section 17A, and therefore, no enquiry, inquiry or investigation concerning the petitioner, a public servant, could have been undertaken without obtaining the requisite prior approval from the competent authority.

13. Learned senior counsel for the petitioner submits that the petitioner was neither named as an accused in RC No. AC1 2021 A0001 dated 17.01.2021 nor was he alleged to be in conspiracy with any of the public servants named therein. It is submitted that during the course of investigation, the petitioner was subsequently implicated and a separate charge-sheet came to be filed against him, without registering any fresh RC. According to learned counsel, once an entirely distinct offence concerning a different public servant came to light during investigation, the CBI was required to register a fresh RC and, before commencing any enquiry, inquiry or investigation against the petitioner, obtain the approval mandated under Section 17A of the PC Act. It is contended that the failure to do so cannot be permitted to defeat the statutory safeguard contained in Section 17A.

14. Learned senior counsel for the petitioner submits that the preliminary enquiry in respect of unknown persons may not, by itself, be barred under Section 17A of the PC Act; however, the same cannot be used as a means to circumvent the mandatory requirement of prior approval once the identity of the public servant and the alleged acts forming the subject matter of the prosecution are known. It is submitted that the CBI deliberately continued with the investigation under the original RC, instead of registering a fresh RC and seeking the requisite approval, thereby rendering the investigation against the petitioner contrary to the statutory mandate.

15. Learned senior counsel for the petitioner further submits that the learned Trial Court has erred in holding that Section 17A has no application where the allegation is of obtaining undue advantage by a public servant in connection with the performance of his public duties. It is submitted that the said finding is contrary to the Standard Operating Procedure No. 428/07/2021-AVD.IV(B) dated 03.09.2021 issued by the Department of Personnel and Training, Government of India, which specifically contemplates examination of information relating to the alleged deriving of undue advantage by a public servant and, where such information is disclosed, placing the matter before the appropriate authority for seeking previous approval under Section 17A of the PC Act.

16. Learned senior counsel for the petitioner contends that, even on the prosecution's own case, the alleged gratification is connected with the petitioner's official functions. It is alleged that, in relation to two construction projects being executed by A-4 company, the petitioner, in discharge of his official duties as Junior Engineer, recorded measurements

of the work executed and recommended the same for preparation of bills and payment. The allegation is that the petitioner received Rs.9.90 lakhs in consideration thereof. It is, therefore, submitted that the alleged act is directly connected with the discharge of the petitioner's official functions and falls squarely within the scope of Section 17A of the PC Act. The investigation undertaken without the requisite prior approval is consequently illegal.

17. Learned senior counsel for the petitioner submits that the prosecution has also failed to place any material establishing the essential ingredient of demand of illegal gratification by the petitioner. It is submitted that, despite interception of several mobile numbers, there is not a single conversation between the petitioner and A-3, the alleged bribe-giver, or any of his employees, which records or even refers to any demand made by the petitioner. The learned Trial Court, according to counsel, has merely presumed a demand on the basis of the statement of one witness regarding an alleged telephonic conversation in which the petitioner is said to have referred to his "monetary needs". It is contended that the witness himself does not state that the petitioner demanded any bribe or that the money was sought as consideration for any official act.

18. Learned senior counsel for the petitioner submits that a mere request for money, even if assumed, cannot by itself constitute a demand for gratification within the meaning of Section 7 of the PC Act. The demand must be shown to be for an undue advantage or gratification other than legal remuneration and must have a nexus with the performance or non-performance of a public duty. It is submitted that there is no material to establish any such nexus in the present case. The measurements in

question had already been completed in December 2020, whereas the alleged payment is stated to have been made only on 15.01.2021. There is, therefore, no material to show that the alleged payment was a reward for recording favourable measurements or that the petitioner had extended any undue advantage to A-3 or A-4.

19. Learned senior counsel for the petitioner further submits that none of the witnesses from the North Frontier Railway has alleged that the petitioner recorded incorrect measurements or otherwise acted improperly in the discharge of his official duties. It is submitted that, even according to the prosecution, the petitioner, being a Junior Engineer, was not competent to release payment to the contractor. The process involved recording of measurements by the Junior Engineer, preparation and verification of the bill measurement book by the Assistant Engineer, test checks by the Deputy Chief Engineer, scrutiny by the technical and bill sections, and thereafter approval and payment. Thus, the petitioner had neither the authority nor the power to extend the alleged undue advantage to A-3 or A-4.

20. Learned counsel for the petitioner submits that there is also no recovery of any bribe amount from the petitioner or at his instance. The prosecution case rests, inter alia, upon the alleged recovery of Rs.4.40 lakhs from one Jitender Soni, a jeweller, on the basis of the disclosure of A-2. However, no statement of Jitender Soni has been recorded to establish when or from whom he received the money or to connect the alleged amount with the petitioner. It is submitted that the disclosure statement of a co-accused cannot, by itself, establish that the money was received by A-2 on the instructions of the petitioner.

21. It is submitted that there is, in fact, no material to establish that A-2 received the alleged amount on behalf of or at the instance of the petitioner. Even the statement of A-2 does not state that he received the money on the petitioner's instructions. Further, the alleged amount remained with A-2 and was utilised by him until its seizure, and there was no attempt on his part to hand over or transfer the same to the petitioner. The learned Trial Court, therefore, erred in presuming that A-2 acted as a conduit for the petitioner.

22. He further submits that the prosecution's own witness, LW-10, a Supervisor with M/s ABCI Infrastructures Pvt. Ltd., has stated that his role was to calculate commissions on the directions of A-3 Pawan Baid and has furnished a list of Railway officials who were allegedly paid commissions. Significantly, the petitioner's name does not find mention in the said list. It is submitted that, in the absence of any material showing that the petitioner received any money or recorded any incorrect measurement, the prosecution case against him is wholly speculative.

23. Learned senior counsel for the petitioner further submits that the reliance placed by the learned Trial Court upon the intercepted telephone conversations is misplaced. The call transcripts neither mention the petitioner by name nor contain any conversation between the petitioner and the alleged bribe-giver. The reference to an "RW" in the transcripts, according to counsel, cannot be linked to the petitioner in the absence of any supporting material. There is also no conversation demonstrating any demand for gratification on behalf of the petitioner.

24. Learned senior counsel for the petitioner submits that the interception itself was not conducted in accordance with the mandatory

requirements of Rule 419A of the Indian Telegraph Rules. It is contended that the learned Trial Court failed to consider the judgments relied upon by the petitioner, including ***Vinit Kumar v. CBI*** **2019 SCC OnLine Bom 3155,** ***Jatinder Pal Singh v. CBI*****, 2022 SCC OnLine Del 135** ***Sukhwinder Singh v. CBI*** **, 2023 SCC OnLine Del 3617,** ***KLD Nagashree v. Union of India*** **AIR 2007 (1) APLJ 1HC / MANU/AP/0819/2006 and** ***P. Kishore v. Union of India*** **2025 SCC OnLine Mad 3053,** which, according to the petitioner, lay down that intercepted communications not placed before the Review Committee in accordance with Rule 419A cannot be relied upon against an accused. The reliance placed by the learned Trial Court upon ***Akashdeep Chouhan v. State (NCT of Delhi) Crl. MC No. 204 of 2020*** is stated to be misplaced, as the said decision proceeded on a finding that the interception therein was legal, whereas the present case involves admitted non-compliance with the applicable requirements.

25. Learned senior counsel for the petitioner lastly submits that, at the stage of framing of charge, although the Court is not required to conduct a detailed appreciation of evidence, the material on record must disclose a strong or prima facie case giving rise to a reasonable suspicion that the accused has committed the offence. In the present case, according to learned counsel, the material relied upon by the prosecution does not establish demand, acceptance or receipt of any undue advantage by the petitioner, nor does it establish any nexus between the alleged payment and the discharge of his official duties. The charges framed against the petitioner are therefore liable to be set aside.

26. Learned Senior Counsel appearing for the Petitioner places reliance

on the following judgments:

- ***Anju Chaudhary v. State of U.P., (2013) 6 SCC 384***
- ***CBI v. Dilip Kumar Lahiri, 2013 SCC OnLine Cal 3373***
- ***Neeraj Dutta v. State NCT of Delhi, (2023) 4 SCC 731***
- ***Ramkishan Mithanlal Sharma v. State of Bombay, (1954) 2 SCC 516***

Submissions On Behalf Of The Respondent

27. Learned SPP for the respondent submits that the impugned order dated 24.01.2026 is a well-reasoned order dealing with all the contentions raised by the petitioner, and charges were accordingly framed on 13.02.2026. It is submitted that the revisional jurisdiction of this Court is limited and interference is warranted only in cases of patent illegality, jurisdictional error or manifest error of law. At the stage of framing of charge, the Court is only required to see whether a prima facie case or grave suspicion is made out and cannot conduct a mini-trial. Reliance is placed upon ***Amit Kapoor v. Ramesh Chander*, (2012) 9 SCC 460, *Union of India v. Prafulla Kumar Samal* (1979) 3 SCC 4** and ***State of Rajasthan v. Ashok Kumar Kashyap* (2021) 11 SCC 191.**

28. Learned SPP for the respondent submits that the charge-sheet, statements of the prosecution witnesses and the intercepted call conversations disclose sufficient material against the petitioner. It is submitted that the petitioner, while posted as Inspector of Works/Junior Engineer at Jogighopa, was supervising the work of A-4 company and, on the basis of his measurements, bills of approximately Rs.3.13 crores and Rs.3.44 crores were prepared.

29. Learned SPP for the respondent submits that LW-1 Ravi Kumar stated that the petitioner had called him regarding his monetary needs,

which was conveyed to A-3 Pawan Baid. It is submitted that, in the intercepted conversation dated 15.01.2021, A-3 directed that Rs.10 lakhs, after deduction of hawala commission, be delivered at Kanpur for delivery to the petitioner. The petitioner thereafter contacted LW-1 regarding the communication from Pawan concerning Kanpur, which further connects him with the transaction.

30. Learned SPP submits that A-2 Avdhesh Kumar Kaushal also disclosed that the petitioner had instructed him to provide the number of a ten-rupee note, pursuant to which Rs.9.90 lakhs was released to A-2 at Kanpur. It is submitted that the chain of the transaction stands corroborated by the statements of the witnesses, recovery of Rs.4.40 lakhs at the instance of A-2 and seizure of the deposit slip relating to Rs.4.90 lakhs. Sanction under Section 19 of the PC Act was also subsequently obtained.

31. Learned SPP submits that Section 17A of the PC Act applies only where the alleged offence is relatable to a recommendation made or decision taken by a public servant in discharge of his official functions. A demand or obtaining of illegal gratification is itself the alleged criminal act and cannot be equated with such recommendation or decision.

32. He further submits that the issue is covered by ***Anil Daima v. State of Rajasthan*, 2026 SCC OnLine SC 807**, wherein the Hon'ble Supreme Court held that Section 17A cannot be applied to cases involving demand of illegal gratification. It is submitted that the present case concerns demand and obtaining of undue advantage through A-2 and not any recommendation or decision of the petitioner.

33. Learned SPP submits that the SOP dated 03.09.2021 also supports

the respondent's case, as it requires the alleged offence to be relatable to a specific recommendation or decision of the public servant. Where no such recommendation or decision exists, the requirement of prior approval under Section 17A does not arise. It is further submitted that the SOP, being an executive instruction, cannot enlarge the statutory scope of Section 17A.

34. It is submitted that, in any event, Section 17A governs the investigating agency and does not oust the jurisdiction of the Special Court. An irregularity in investigation does not vitiate the proceedings unless failure of justice is demonstrated. Reliance is placed upon ***H.N. Rishbud v. State of* Delhi *AIR 1955 SC 196* and *Union of India v. Prakash P. Hinduja* (*2003) 6 SCC 195.***

35. He submits that the RC dated 17.01.2021 disclosed different sets of accused public servants and their respective transactions, and four separate cases arose from the investigation. The evidence against the petitioner surfaced during the course of investigation and, therefore, there was no requirement to register a fresh RC.

36. Learned SPP submits that a second FIR in respect of the same occurrence would itself be impermissible in law in view of ***T.T. Antony v. State of Kerala (2001) 6 SCC 181***. The filing of separate charge-sheets concerning distinct sets of accused and transactions, therefore, cannot render the proceedings against the petitioner illegal.

37. Learned SPP submits that there is no inconsistency in the designation of the petitioner as Inspector of Works and Junior Engineer, as both descriptions relate to his posting at Jogighopa, and LW-1 has consistently identified him by name and designation. It is further

submitted that the designation is not an ingredient of the offence under Section 7 of the PC Act.

38. He submits that *Yashwant Sinha v. CBI*, (2020) 2 SCC 338, does not hold that Section 17A approval is mandatory in every case except a spot arrest. The said judgment, according to learned counsel, does not deal with a case of demand and receipt of bribe unconnected with any recommendation or decision and stands explained by subsequent decisions including ***CBI v.* Santosh *Karnani*** 2023 SCC OnLine SC 427 and ***Anil Daima (supra)*.**

39. It is submitted that the relevant period of the offence is June 2020 to 17.01.2021 and, therefore, Section 7 of the PC Act as amended in 2018 applies. It is submitted that an attempt to obtain undue advantage itself constitutes an offence and the advantage may be obtained directly or through a third party. Demand can also be established through circumstantial evidence. Reliance is placed upon ***Neeraj Dutta v. State (Govt. of NCT of Delhi), (2023) 4 SCC 731.***

Findings and Analysis

40. This Court has heard learned counsel for the parties at length and perused the material on record, including the impugned order dated 24.01.2026, the charge-sheet, the statements of witnesses relied upon, and the case law cited from the Bar.

41. At the outset, it is necessary to reiterate the settled parameters within which revisional jurisdiction under Section 438 read with Section 442 of the BNSS (corresponding to Sections 397/401 of the CrPC) operates qua an order on charge. It is well settled that at the stage of framing of charge, the Court is required to sift the material only to the

extent of determining whether a prima facie case exists, giving rise to grave suspicion against the accused; it is neither required, nor entitled, to weigh the evidence as if conducting a mini-trial or to enter into a meticulous evaluation of its credibility, sufficiency or probative value. Reference in this regard may usefully be made to ***Union of India v. Prafulla Kumar Samal, (1979) 3 SCC 4, and Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460.***

42. Revisional interference is warranted only where the charge is founded on no material at all, or where the order suffers from patent illegality, jurisdictional error, or manifest arbitrariness. Several of the contentions urged on behalf of the petitioner — the absence of a direct conversation between the petitioner and A-3, the omission of the petitioner's name from the list furnished by LW-10, the interval between the recording of measurements and the alleged payment — go to the weight and sufficiency of the evidence and are, in the considered view of this Court, matters appropriately left for trial. This Court declines to enter upon that exercise at the present stage.

43. The principal legal contention advanced on behalf of the petitioner is that the entire investigation is vitiated for want of prior approval under Section 17A of the PC Act. This contention, being a pure question of law going to the very foundation of the prosecution, merits closer examination.

44. Section 17A of the Prevention of Corruption Act, 1988 (hereinafter, the "PC Act") reads as under:

> *"(1)No police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to*

have been committed by a public servant under this Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties, without the previous approval-

(a)in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of the Union, of that Government;

(b)in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of a State, of that Government;

(c)in the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed:

Provided that no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person:

Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month.]"

45. Section 17A, in terms, protects a public servant from enquiry, inquiry or investigation into any offence alleged to have been committed by him, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties. The provision is thus attracted only where the act complained of is itself a recommendation or decision, that is, where the very exercise of official discretion is sought to be criminalised. It is not a provision of general application to every act that merely occurs in the course of, or in proximity to, the discharge of official duty.

46. In the present case, the prosecution case, as reflected in the charge-

sheet and the material relied upon by it, is not that the petitioner has committed an offence merely because he recorded measurements or took a decision regarding a bill. The allegation is that he demanded an undue advantage of Rs.10 lakhs in connection with the discharge of his official functions and that the amount was allegedly received on his behalf through A-2.Thus, the alleged criminality is founded upon the demand and obtaining of illegal gratification and not upon the correctness, propriety or bona fides of any particular recommendation or decision made by the petitioner. The recording of measurements and the processing/facilitation of bills constitute the alleged official context or occasion in which the gratification was demanded. They do not, on the prosecution case, constitute the criminal act for which the petitioner has been charged.

47. This view finds support in ***Anil Daima v. State of Rajasthan, 2026 SCC OnLine SC 807***, cited by learned counsel for the respondent, which holds that Section 17A cannot be invoked in cases involving demand and acceptance of illegal gratification. The reliance placed by the petitioner on ***Yashwant Sinha v. CBI, (2020) 2 SCC 338***, does not assist him, that decision not being concerned with a case of demand and receipt of bribe dissociated from any recommendation or decision, and having been explained in subsequent decisions, including ***Anil Daima(supra).***

48. The reliance placed by the petitioner upon the SOP dated 03.09.2021 issued by the Department of Personnel and Training does not alter this conclusion. An administrative SOP, being in the nature of an executive instruction issued for internal guidance, cannot enlarge the scope of a statutory provision or override its plain terms. To the extent the

SOP is sought to be read as extending Section 17A to every case of alleged undue advantage connected with official duty, such a reading would run counter to the statutory language itself and cannot be accepted.

49. It may further be noted that, even assuming there were any infirmity in the investigation on this score, it is well settled that a defect or irregularity in investigation, howsoever serious, does not by itself vitiate the trial or the charge, unless a failure of justice has occasioned thereby , a matter which the petitioner has not been able to demonstrate at this stage. Reference may be made to ***H.N. Rishbud v. State of Delhi, AIR 1955 SC 196, and State v. Prakash P. Hinduja, (2003) 6 SCC 19***5. For the foregoing reasons, the contention founded on Section 17A of the PC Act is rejected.

50. The submission that a fresh RC ought to have been registered upon the petitioner's implication does not survive independent scrutiny once the Section 17A contention fails. The original RC dated 17.01.2021 disclosed a wider conspiracy involving multiple public servants and contractors, of which the petitioner's alleged role forms one strand, uncovered in the course of investigation. Registration of a second FIR/RC in respect of the same occurrence would, in fact, be impermissible in law, as held in ***T.T. Antony v. State of Kerala, (2001) 6 SCC 181.*** The filing of a separate charge-sheet against the petitioner, arising from the same investigation, discloses no illegality.

51. Insofar as the petitioner contends that no material exists to establish demand, acceptance or nexus, it is well settled, following the Constitution Bench decision in ***Neeraj Dutta v. State (Govt. of NCT of Delhi), (2023) 4 SCC 731***, that demand and acceptance of illegal gratification may be

proved by circumstantial evidence in the absence of direct or primary evidence, provided the facts and circumstances proved give rise to the necessary inference. On a prima facie reading of the material, the statement of LW-1 regarding the petitioner's reference to his monetary needs and the consequent conversation between LW-1 and A-3; the intercepted conversation of 15.01.2021 regarding delivery of the amount at Kanpur; the disclosure of A-2 regarding communication of the currency-note identifier and subsequent release of Rs.9.90 lakhs to him; and the recovery of Rs.4.40 lakhs together with the deposit slip for Rs.4.90 lakhs , this Court is satisfied that a coherent chain of circumstances has been placed on record sufficient to raise grave suspicion warranting trial. Whether this material, on a full appreciation of evidence, in fact establishes the charge beyond reasonable doubt is a matter for trial and is expressly left open.

52. The objection regarding non-compliance with Rule 419A of the Indian Telegraph Rules, 1951, goes to the admissibility of the intercepted material and not to the existence of a prima facie case, particularly where the prosecution case does not rest solely upon the intercepts but is also founded upon witness statements, disclosure statements and recoveries. This question is more appropriately addressed by the learned Trial Court at the stage the said evidence is formally tendered and objected to, and is accordingly left open for determination at trial. No final view is expressed thereon.

53. The submission regarding inconsistent description of the petitioner as "Inspector of Works" and "Junior Engineer" does not advance the petitioner's case. Designation is not an ingredient of the offence under

Section 7 of the PC Act, and LW-1 has consistently identified the petitioner by name in connection with the transaction; the variation in nomenclature, both descriptions relating to the same posting at Jogighopa, occasions no prejudice.

54. In view of the foregoing discussion, this Court finds no patent illegality, jurisdictional error or manifest infirmity in the impugned order dated 24.01.2026 or in the charges framed pursuant thereto on 13.02.2026, warranting interference in the exercise of revisional jurisdiction. The material on record discloses a prima facie case giving rise to grave suspicion sufficient to put the petitioner to trial, and the questions of admissibility of the intercepted conversations and the ultimate sufficiency of the evidence are left open for adjudication before the learned Trial Court.

Conclusion

55. The present revision petition is, accordingly, dismissed. Pending application(s), if any, also stand disposed of in the above terms.

56. All observations made herein are confined to the disposal of the present petition and shall not be construed as an expression of opinion on the merits of the case, which shall be decided by the learned Trial Court uninfluenced thereby.

57. A copy of this judgment be sent to the learned Trial Court for information.

MADHU JAIN
(JUDGE)

SEPTEMBER 15, 2026/*RM*