

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

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Judgment reserved on: 22.01.2014.

Judgment delivered on: 29.01.2014.

+ CRL.A. 50/2006

I.U.BABBAR

..... Appellant

Through: Mr.K.B.Andley, Sr. Adv. with
Mr.M Shamikh and Mr. Yunus
Mazik, Advocates.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr.P.K.Sharma, Standing
Counsel for the CBI along with
Mr. Bakul Jain and Mr. A.K.
Singh, Advs.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J.

1 The appellant is aggrieved by the impugned judgment and order of sentence dated 20.12.2005 and 21.12.2005 wherein he had been convicted under Section 7 and Section 13 (2) read with Section 13 (1)(d) of the Prevention of Corruption Act, 1988 (hereinafter referred to as the 'said Act') and had been sentenced to undergo RI for a period of 1 year and to pay a fine of Rs.1,000/- and in default of payment of fine to undergo SI for 2 months for the offence under Section 7 of the said Act.

For the offence under Section 13 (2) read with Section 13 (1)(d), the convict had been sentenced to undergo RI for a period of 1 year and to pay a fine of Rs.1,000/- and in default of payment of fine, to undergo SI for 2 months. The sentences were to run concurrently. Benefit of Section 428 of the Cr.PC had been granted to the convict.

2 The appellant before this Court was working as an additional public prosecutor in the Court of Additional Sessions Judge, Karkardooma Court at the time of the incident. The complainant Shahjahan Begum, a muslim lady was aggrieved by the acts of the appellant; he being the public prosecutor was conducting a murder trial qua the in-laws of her deceased daughter who were facing trial in FIR No. 114/2000, PS Khajuri Khas for having committed the murder of the daughter of the complainant. The allegations against the appellant were that he initially demanded a bribe of Rs.31,000/- from the complainant for conducting the case properly; it was negotiated down to Rs.21,000/- and since the complainant was financially unstable, she had agreed to pay the monthly installments of Rs.2,000/-. She however being aggrieved by his attitude was not ready to pay this amount. She accordingly narrated her grievance before the CBI and a complaint to

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the said effect (Ex.PW-1/A) was filed by her in the CBI office.

3 Further version of the complainant being that she had gone to the office of CBI along with her husband Mohd. Nizam (PW-2) to get this complaint registered. FIR (Ex.PW-9/A) proved through DSP Ajay Kumar (PW-9) was thereafter registered on this complaint.

4 Investigation was marked to PW-9. Pre-trap proceedings were organized. The shadow witness Ram Chander (PW-3) and S.C. Garg (PW-5), both independent witnesses were asked to join proceedings. 20 GC notes in the denomination of Rs.50/- each were coated with the phenolphthalein powder and each member of the raiding party was made to understand that when PW-1 would handover these notes to the appellant, the hand-washes of the person taking these notes when dipped into a solution, the phenolphthalein powder would react and the colour of the solution would turn pink; the shadow witness would give the pre-appointed signal. As per the complaint, the accused had to come to the house of the complainant to collect the bribe money along with four pillow covers. Accordingly on 27.02.2001 at 12:15 pm the trap team reached the house of the complainant. They waited till 01:30 pm. The accused however did not come to the house of the complainant. The

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complainant informed the raiding party that a message has been received from the accused asking her to come to his residence. Accordingly the pre-trap raiding team comprising of PW-1, PW-2, PW-3, PW-5 accompanied by PW-9 and the Investigating Officer Umesh Vashisht (PW-10) left for the house of the appellant. This was around 04:00-04:30 pm. They reached the house of the appellant where PW-1 along with PW-2 and PW-3 entered his house. As per the plan at about 05:30 pm, PW-3, the shadow witness gave the pre-appointed signal; pre-trap team entered the house. Accused was challenged for demanding a bribe. He became confused. On inquiry, the complainant and PW-3 confirmed that the bribe money had been demanded and accepted by the appellant and he had taken money in his right side and kept it in the right hand pant pocket. Accused was apprehended. PW-5 recovered the tainted money from the right side pant pocket of the accused and the numbers of the GC notes were found to tally with the numbers as mentioned in the handing over memo (Ex.PW-3/A). His right hand wash as also his right pant pocket wash were taken and sealed into air tight bottles. Pant of the accused was not sealed. Accused was arrested.

4) opined that the right side pant pocket wash of the accused had tested positive for sodium carbonate and phenolphthalein; however right hand wash of the accused tested negative.

6 Sanction for prosecuting the accused was obtained from G.L. Meena, the Joint Commissioner who vide Ex.PW-8/A had granted the sanction to prosecute the accused.

7 The prosecution in support of its case examined 10 witnesses. In the statement of the accused recorded under Section 313 of the Cr.PC he had pleaded innocence; his submission was that he has been falsely implicated in the present case for the reason that PW-1 was inimical towards him as interim bail has been granted to one of the co-accused in the case which was being hotly contested by PW-1 being the complainant as her daughter had been murdered in that incident.

8 In defence one witness was examined. He is Virender Singh (DW-1). He had proved a DD report to substantiate that the identity card of the appellant had been lost in September, 1991 and DD to this effect had been lodged; this was to substantiate his submission that the ID card of the appellant recovered from his personal search was incorrect.

However on a specific query put to the learned counsel for the appellant

that in this intervening period, the event having occurred in the year 1991 and the incident relating to the year 2001, it would be difficult to believe that a public servant i.e. the appellant would not have got a fresh ID card prepared in this gap of 10 years to which the learned counsel for the appellant even under instructions from the appellant has no answer. This defence has therefore not been projected any further. Another defence sought to be proved was through the judgment (Ex.DX) passed by the Court of a learned Additional Sessions Judge where PW-1 was the complainant and the accused persons were her brother-in-law and sister-in-law. There were allegations of rape which have been leveled by PW-1; those accused persons stood acquitted by the aforementioned judgment (Ex.DX). Complaint of the complainant (PW-1) had been disbelieved. Submission of the learned counsel for the appellant being that PW-1 is habitual in implicating persons on grounds of false pretext; her version having been dis-believed by a competent Court holding that she was not trust-worthy and had made material improvements reflects upon her character; in this case also, it is pointed out that with this background kept in mind, the testimony of PW-1 when viewed shows that it is full of contradictions and improvements. Reliance has been

placed upon III (2004) CCR 1 Sudhakar Hari Jadhav Vs. State of Maharashtra to substantiate a submission that in the absence of a fool-proof test to establish that the accused had accepted the trap money with his hands from the complainant would entitle him to a benefit of doubt and a consequent acquittal. This is especially so as to right hand wash of the appellant had tested negative.

9 Yet another argument propounded by the learned counsel for the appellant is based on the versions of other so called eye-witnesses. Submission being that PW-1, PW-2, PW-3 and PW-5 have all given variant versions on the place where the demand was made; PW-1 had initially stated that the demand was made by the accused in the kitchen when her husband was not present. She has resiled from her statement on the very next day when she has made a statement that her husband was present when the demand of bribe was made and accepted by the appellant. Such an unreliable witness cannot be relied upon. PW-5 has also admitted that he has appeared in other matters relating to the CBI. It is clearly a case of false implication. It is further pointed out that this Court does not have the territorial jurisdiction to deal with this case; submission being that this demand has been made even as per the

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version of the prosecution for the first time on 22.02.2001 at the house of the appellant which is in Ghaziabad; the money had also allegedly been paid in Ghaziabad on 27.02.2001; this Court does not have the territorial jurisdiction to deal with the matter. Lastly attention has been drawn to the sanction order. It is pointed out that the sanction order is clearly without any application of mind as although the CFSL had tested the right hand wash for phenolphthalein and sodium carbonate; yet the sanction order has not recorded this fact. Such a sanction is a bad sanction in the eye of law. On all counts, the appellant is entitled to a benefit of doubt and a consequent acquittal.

10 Submissions have been refuted by the learned counsel for the CBI. It is pointed out that there are no material improvements as has been sought to be pointed out by the learned counsel for the appellant. The minor variations in the versions of PW-1 and PW-2 which do not otherwise dent the version of the prosecution cannot be gone into. Submission being that it is settled law that the evidence of a TLO itself is also sufficient to nail a convict; in this case apart from PW-1 and PW-2, there are two independent witnesses PW-3 and PW-5 who have fully supported the case of the prosecution. Their versions have also been

corroborated by PW-9 & PW-10. Reliance has been placed upon (2010) 14 SCC 453 Narayan Vs. State of Karnataka as also (2011) 14 SCC 650 Satpal Vs. State of Punjab; submission being that the evidence of a witness has to be read as a whole and no particular portion can be extracted to read the evidence of a hostile witness; evidence of a witness has to be read in its entirety. Reliance has been placed upon (2009) 11 SCC 708 Krishan Ram Vs. State of Rajasthan; submission being that the presumption contained in Section 20 of the said Act has not been rebutted by the appellant either in his statement under Section 313 of the Cr.PC or by leading any evidence in defence; this presumption has been engrafted by the legislature in favour of the prosecution and in the absence of rebuttal it has to be read in favour of the prosecution. On no count, does the impugned judgment call for any interference.

11 Record has been perused. The submissions of the respective parties have also been appreciated.

12 The complainant is PW-1. It was on her complaint that the FIR was registered. She is the star witness of the prosecution. Her version on oath corroborates the complaint Ex.PW-1/A wherein on oath she had deposed that the appellant who was the additional public prosecutor in
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the trial of FIR No. 114/2000 wherein the accused persons were the in-laws of her deceased daughter and had been charge-sheeted for having committing her murder. She has deposed that the accused had demanded money from her for doing “pairavi” of the case diligently. The initial demand of Rs.31,000/- had been scaled down to Rs.21,000/-. This demand was made by the appellant. It had been agreed that the appellant would come to her house to collect the money. It was on 27.02.2001. Further deposition being that since the appellant did not reach their house, her husband visited the Court where he was informed by the accused that they should come to his house at Ghaziabad. On reaching his house, she had paid a sum of Rs.1,000/- and 3 pillow covers (which they manufactured) and had agreed to pay the balance in installments. Further part of her deposition being that her husband had accompanied her to the house of the appellant but this money was not paid to the accused in the presence of her husband; it was paid in the kitchen; the notes were in the denomination of Rs.50/-.

13 PW-1 was subjected to a lengthy cross-examination. She admitted that they had engaged two Advocates namely Mr. Jagmohan and Mr. S.K. Jain in FIR No. 114/2000 in which 11 PWs had already been

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examined by the time the complaint had been made. It was admitted that Mohd. Alam was granted interim bail because of the illness of his daughter. She denied the suggestion that because of interim bail which had been granted to Mohd. Alam, it had become a cause of annoyance to PW-1 qua the role of the appellant who had not opposed this interim bail. She denied the suggestion that she lodged a false report because of this grudge. She admitted that the CBI officials had accompanied her to the house of the accused. She further admitted that although in her complaint she had stated that Rs.2,000/- was agreed to be paid as installment; she has paid Rs.1,000/- as first installment but no query was put by the CBI on this count. She admitted that the bag containing the money was with her husband. Money was paid by her in presence of Ram Chander (PW-3) and her husband. She deposed that the earlier statement made by her in her examination-in-chief that the accused had taken money in the kitchen was not correct and this statement wherein her version was that the money was paid by her in presence of her husband and PW-3 is the correct version. She could not remember the time when the accused had reached house at Ghaziabad. She admitted that she had filed a complaint under Sections 376/342/392/34 of the IPC

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against her brother-in-law but she could not remember the Investigating Officer of the case. She reiterated that the GC notes recovered from the accused had tallied with the number of notes mentioned in the handing over memo.

14 PW-2 Mohd. Nizam was the husband of the complainant. He has deposed that the complaint (Ex.PW-1/A) was written by PW-12 and it was read over to him. He reiterated the deposition of PW-1 stating that a demand had been made by the appellant but when confronted with his statements (Ex.PW-2/DA and Ex.PW-2/DB), he admitted that it had not been recorded that the demand had been made specifically to him. He admitted that as per complaint lodged by his wife, PW-1 had agreed to pay Rs.2,000/- and four pillow covers although at the time of trap they had taken only Rs.1,000/-. They left for the house of the appellant at 04:30 pm and reached at his residence when he was not present but he reached back at about 06:30 pm; 3-4 persons were working in the house at that time.

15 The shadow witness Ram Chander was examined as PW-3. He had also accompanied the raiding party. He deposed on the same lines as PW-2 stating that the demand and acceptance was made in his presence.

Thereafter the appointed signal had been given by him. He had deposed that in pre-trap proceedings, 20 GC notes of Rs.50/- had been coated with phenolphthalein powder and a demonstration had been given by the CBI officials showing that when such notes are touched the hand wash of such a person when dipped into a solution of sodium carbonate, the phenolphthalein powder would react and the colour of the solution would turn pink. He reiterated that PW-1 had handed over money to the accused in his presence; the numbers of the GC notes were tallied with the numbers mentioned in the handing over memo. The hand washes of the appellant were taken in his presence and sealed in separate bottles. In his cross-examination, he admitted that the bottles contained white solution and the solution were intact. He was not informed by the CBI about the result of the FSL.

16 Suresh Chand Garg (PW-5) was the recovery witness. He was also a member of the pre-trap proceedings and had accompanied the raiding party to the house of the appellant. He deposed that the raiding party had initially reached the house of PW-1 as the appellant was to come there to take the money but when up to 1:30 pm the appellant did not reach, PW-1 informed the raiding party that the appellant had asked

PW-1 to reach his house. Accordingly, the raiding party left for the house of the accused located in Ghaziabad at 04:30 pm. He reiterated that PW-3 was the shadow witness. On his signal, the raiding party entered the house of the appellant where PW-10 challenged the appellant that he had taken the money. The money was thereafter recovered from the right hand pant pocket of the appellant by PW-5. The recovery memo is Ex.PW-2/A running into 6 pages bore his signatures in addition to the signatures of PW-2, PW-3, PW-9 and PW-10.

17 Trite it is to say that the testimony of the complainant if credible and trustworthy is by itself sufficient to nail an accused. So also if the testimony of the TLO is credible; that may also by itself be sufficient to convict a man.

18 The Apex Court in AIR 1998 SC 1474 State of U.P. Vs. Zakaullah in this context has held as under:-

“The most important evidence is that of PW-4 - Harendra Singh Sirohi, the Superintendent of Police who arranged the trap. We must mind the fact that he had no interest against the respondent. But the verve shown by him to bring his trap to a success is no ground to think that he had any animosity against the delinquent officer. He made arrangements to smear the phenolphthalein power on

the currency notes in order to satisfy himself that the public servant had in fact received the bribe and not that currency notes were just thrust into the pocket of an unwilling officer. Such a test is conducted for his conscientious satisfaction that he was proceeding against a real bribe taker and that an officer with integrity is not harassed unnecessarily.

The evidence of such a witness as PW4 can be acted on even without the help of any corroboration”

19 The highlight of the submission of the learned counsel for the appellant is that the testimony of PW-1 is at variance with the versions of other members of the raiding party. There is no doubt that in one part of her deposition, PW-1 has stated that after some discussion, money was paid by her to the appellant in the kitchen when her husband was not present. In a later part of her version, she has stated that this part of her statement is incorrect and the correct version was that the money had been paid to the appellant in presence of her husband (PW-2) and PW-3 was also present at that time. Vehement submission of the learned counsel for the appellant on this count being that such a witness is wholly untrustworthy; she has given different versions at different points of time; further testimony of this witness has held to be untrustworthy in the proceedings (Ex.DX) where she had foisted a false

case upon her brother-in-law under Section 376 of the IPC and the Sessions Judge had acquitted the appellants holding that this witness was an untrustworthy witness; submission being reiterated that this witness for all the aforesaid reasons cannot be relied upon.

20 Before adverting to this argument of the learned counsel for the appellant, it would be relevant to note that the offence relates to the year 2001; PW-1 had come into the witness box in January, 2004 i.e. 3 years after the incident. A witness cannot and is not expected to possess a photographic memory and to recall the details of an incident in the manner in which it is taken place; the mental faculties of each person differ; powers of absorption and memory retention of each person is also different. It may not always be possible for every person to accurately recall the details of the incident or the sequence of events in the manner which they have taken place. The entire deposition of the witness has to be viewed by the Court to draw a conclusion as to whether the witness is truthful and is giving an honest account of occurrence or is trying to build up a version which was actually not there.

21 PW-1 as noted supra was the mother of a victim; her daughter in (FIR No.114/2000) had been burnt by her in-laws and the trial in that

case was being conducted by the appellant. He had been designated as the Additional Public Prosecutor. Mohd. Alam one of the co-accused had been granted interim bail for a short period to look after his ailing daughter. The defence put forward that it was this interim order which had been granted in favour of Mohd. Alam and which not having been objected to by the prosecutor (the appellant) had become the cause of a grievance by PW-1 had led to this false implication. This defence of the appellant appears to be wholly imaginary and beyond comprehension. Orders granting or refusing interim bail are based largely on the verification report which is submitted by the State in terms of the averments made and the reasons given for seeking interim bail. The reasons obviously must have been spelt out by Mohd. Alam in his application which in all probability would have been verified by the State before the Court took it upon itself to grant interim bail to Mohd. Alam. The role of the prosecutor would be very little; once a report has come on record verifying the illness of the daughter of Mohd. Alam, objection or non-objection by the prosecutor at that stage would be of a little value. Thus this defence that because of the interim bail having been granted to Mohd. Alam, the appellant has been falsely implicated

by PW-1 is too far-fetched. It is unbelievable.

22 As noted supra, the details and recapitulation prowess of each witness may vary; PW-1 was understandably under an emotional strain and trauma on account of the unnatural death of her daughter. She was pursuing that trial. In this background, testimony of PW-1 viewed as a whole inspires full confidence. In fact the sequence of facts and narration of the incident evidence a hap-hazard narration; it is not as per sequence and at some stage PW-1 does appear to be confused. The testimony is in patches; at one stage, she discloses the incident in the Court and then she moves on to the house of the appellant in Ghaziabad and then again reverts back to her house. The sequence of events having taken place in a rapid succession, the witness apparently was not precise in detailing it. However, on all material points, she was clear and coherent. She has clearly and categorically stated that the appellant was demanding money for conducting the trial in the FIR No. 114/2000; the initial amount was Rs.31,000/- which had been scaled down to Rs.21,000/-. Thereafter she had agreed to pay Rs.2,000/- as she was financially tight. Since the complainant did not wish to pay this bribe to the appellant, she had made a complaint. The pre-trap proceedings were

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organized. The amount was to be paid at her house and the appellant was to come to their house but she received a telephonic call from the appellant asking her to come to his house at Ghaziabad. She along with the raiding party accordingly left for the house of the appellant at Ghaziabad where on the demand of the appellant Rs.1,000/- and three pillow covers were handed over to him. No doubt in the initial statement PW-1 had stated that this money was paid in the kitchen when her husband was not present but she corrected herself on the next day wherein she stated that this money was paid in presence of her husband and PW-3. This, to the mind of the Court, is not material contradiction; it is not material enough to discredit her otherwise worthy version. The witness has been honest and in fact it is more than normal and natural that while recounting the details of an incident, a witness may not be able to recount all of it in the same manner in which it has occurred. In fact this reinforces the submission of the learned public prosecutor that this witness is not a tutored witness. She has given a truthful version of the occurrence. She appears to be a wholly truthful witness.

23 Testimony of this witness has also been noted with caution. There is no doubt that in a complaint case wherein she had leveled allegations

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against her brother-in-law, in the judgment (Ex.DX), the appellants had been acquitted; the Court had noted that this witness is not truthful; the medical evidence had also not supported her version. The acquittal of brother-in-law of PW-1 in that case which was a family dispute has led the Court to be extra cautious in viewing her version in the present case. In this case, it is not the version of either side that the parties are related and there was an enmity angle. The defence sought to be set up by the appellant that he has been falsely implicated because of interim bail granted to one of the co-accused in FIR No. 114/2000 has already been answered; this could not have been reason for any grudge by PW-1 to falsely implicate the appellant.

24 Version of PW-1 has been fully corroborated by PW-2. He was the husband of the complainant. He had accompanied PW-1 to the house of the appellant where the demand was made by the appellant and the money was handed over to the appellant in presence of PW-2 and PW-3. Nothing could discredit his version. So also is the testimony of PW-3, who was the shadow witness. PW-3 was an independent witness. There was also no reason for him to give a false statement. He neither knew the complainant and nor the appellant and he having no stakes in the

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matter, it is clear that he has come out with the truth. PW-5 was the recovery witness. He had signed the recovery memo Ex.PW-2/A running into 6 pages. In fact all PW-1, PW-2 and PW-3 have also signed this document on each page. PW-5 had recovered the money from the right hand pant pocket of the appellant. He has categorically deposed that the numbers of the GC notes which were noted in the handing over memo (Ex.PW-3/A) in the pre-trap proceedings tallied with the recovered notes. Although a bald suggestion had been given to PW-5 that he was a stock witness as he admitted that he had joined CBI in other proceedings as well; this would not be sufficient to discredit his version. PW-9 and PW-10 are the other witnesses who have corroborated the oral testimonies of PW-1, PW-2, PW-3 and PW-5.

25 The scientific evidence is also in favour of the prosecution. PW-4 had examined the washes which had been sent to him for analysis and as per his report (Ex.D-8), the right pant pocket has tested positive result with sodium carbonate and phenolphthalein. There is no explanation by the appellant on this count. He is unable to answer as to how his pant pocket wash has turned pink. The submission of the learned counsel for the appellant on this score that the pant of the appellant was not sealed

does not advance his submission; admittedly the pant pocket wash had been seized and sealed in jars and as per PW-4, these articles when received in the CFSL had intact seals. The specimen seals had also been enclosed for the purpose of tallying. In fact no argument had been advanced on this score. As such even if the pant was not sealed, it does not detract from the fact that the right pant pocket wash of the appellant did contain phenolphthalein. This could be for no other reason but the fact that the appellant had put the GC notes (coated with phenolphthalein in pre-trap proceedings) in his right pant pocket which had led to this positive result.

26 It is true that the right hand wash of the appellant had given a negative result. Learned standing counsel for the CBI states that the FSL has examined his hand wash after almost a gap of 2 months i.e. on 26.04.2001 (as is evident from the date mentioned in the said report) and the possibility that phenolphthalein (if it is less than 5 mls) not being detected is also a submission which is not bereft of force.

27 The statement of the appellant under Section 313 of the Cr. PC is also very relevant. Answer to question No. 7 is that no demand or acceptance was made by him; the incident as narrated in the said

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question that pre-trap team had reached his residence has not been denied. So also is his answer to question No. 17 where a specific query had been put to him that his right pant pocket wash and hand wash to which his answer was that the pant did not belong to him. The incident as it has been described and detailed in this statement has not been denied. In fact in answer to the last question, the defence of the appellant is the same which has already been noted and rejected; defence being that PW-1 had grudge against him on account of interim bail which had been granted to one of the co-accused i.e. Mohd. Alam in FIR No. 114/2000.

28 The presumption under Section 20 of the said Act is also drawn in favour of the prosecution. The appellant has been unable to rebut it.

29 On merits, the prosecution on all scores, in view of the oral and documentary evidence, has been able to establish its case both under Section 7 and Section 13 (1)(d) of the said Act. Accused was admittedly a public servant at the time of the incident; he had agreed to accept and obtain an illegal gratification for doing favour/dis-favour i.e. favour to PW-1 in prosecuting the proceedings in FIR No. 114/2000 diligently.

He in his capacity as public servant has used illegal means to obtain a

pecuniary advantage for himself by accepting Rs.1,000/- and three pillow covers from PW-1. Ingredients of both the offences have been proved.

30 A mild argument has been advanced by the learned counsel for the appellant on the sanction (Ex.PW-8/A) which has been accorded by PW-8 for prosecution of the appellant; submission being that it being granted without application of mind and it has also not been signed by the Lt. Governor; G.L. Meena has signed it.

31 G.L. Meena had been authorized by the Lt. Governor to do so in his behalf. The complete facts of the case had been detailed and noted in the sanction order while granting the sanction order. There is no illegality or infirmity in the said sanction. It is a valid sanction.

32 Another mild argument advanced by the learned counsel for the appellant was based on the territorial jurisdiction of the Court; submission being that the money allegedly had been demanded and accepted by the appellant at his house in Ghaziabad; Delhi Courts would not have the jurisdiction. This submission is completely devoid of force.

Admittedly, the appellant was a public prosecutor posted in the Court of Additional Sessions Judge at Karkardooma. He had met PW-1 only in
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the course of these proceedings. Obviously these meetings were in the Court at Karkardooma which falls within Delhi jurisdiction. The negotiations for the bribe amount had been made here; it had been agreed that the first installment would be paid by PW-1 at her house; thereafter the money was paid in Ghaziabad. Part of the offence i.e. the negotiations and meetings between the appellant and PW-1 having taken place within the jurisdiction of the Karkardooma Courts, it is clear that the Delhi Courts did have the jurisdiction to entertain this FIR. Section 178 (2) of the Cr.PC enables the Court to deal with the offence where part of the offence is committed within its local limits.

33 On the point of sentence, as noted supra the minimum sentence prescribed under Section 7 of the said Act is 6 months. The minimum sentence prescribed under Section 13 (1)(d) read with Section 13 (2) is 1 year. The appellant has already been granted the minimum sentence. Both the sentences are to run concurrently. The Court has already taken a lenient view. Facts of the case may not justify a further lenient view.

34 The appellant in his capacity as a public prosecutor had abused his official position by demanding a bribe from the complainant who herself was in a traumatic state of mind and understandably so as her

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daughter had been a victim of an unnatural death. This illegal gratification had been demanded to successfully prosecute the case which was otherwise incumbent upon the prosecutor to have done so; being a part of his duty.

35 In this background, even on the point of sentence, this Court is not inclined to interfere.

36 Appeal is without any merit. Dismissed.

INDERMEET KAUR, J

JANUARY 29, 2014
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