

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CrIA (AS) No.17/2023

**Reserved on: 16.07.2026
Pronounced on: 30 .07.2026
Uploaded on: 30 .07.2026**

*Whether the operative part or
Full judgment is pronounced: **Full***

Union Territory of Jammu and Kashmir

Through Senior Superintendent of Police,
Anti Corruption Bureau, Jammu.

.....Appellant(s)

Through: Mr. Raman Sharma, AAG with
Ms. Jagmeet Kour, Advocate.
Ms. Saliqa Sheikh, Advocate.

Vs

Manzoor Hussain S/O Fazal Hussain

R/O Taran Wali Buffliaz

Tehsil Surankote, District Poonch

The then ASI, P/S Mahore.

..... Respondent(s)

Through: Mr. Mazher Ali Khan, Advocate.

CORAM: HON'BLE MR. JUSTICE MA CHOWDHARY, JUDGE

JUDGMENT

01. This Criminal Acquittal Appeal has been preferred by Appellant-UT of J&K, against judgment dated 28.09.2020 ('impugned judgment') passed by learned Special Judge Anti Corruption Udhampur ('trial Court') in **File No.06/Challan/12/Ch. Anti Corruption** titled 'State V. Manzoor Hussain', whereby the trial court dismissed the case and acquitted the

respondent herein as accused of the charges under Sections 5(1)(d) of J&K PC Act Svt. 2006 and Section 161 RPC.

02. Having been aggrieved of the acquittal, the appellant-UT of J&K after obtaining sanction to file appeal vide Govt. Order No. 1390-LD(ACQ) of 2009 dated 07.07.2009 preferred this appeal, assailing the impugned judgment on the following grounds:

- a) That the learned trial court has not appreciated the evidence produced and relied upon by the prosecution during trial in its correct perspective, instead, laid much emphasis on minor discrepancies/technicalities and overlooked the incriminating evidence against the accused and such acquittal of accused person is not legally justifiable, which has resulted in grave injustice;*
- b) That it is an admitted position of law, that demand/acceptance/recovery are foundational fundamentals of a trap case which are sine qua non to conviction and said essential ingredients stands proved by the shadow witness in this deposition before the trial court clearly and without any doubt and the same was corroborated by the other evidence including the circumstantial one and were sufficient in the ordinary course of nature to entail conviction;*
- c) That the science oriented evidence like positive hand/pocket wash coupled with FSL opinion has lend much credence to the factum of handling of bribe amount by the accused in the capacity of a public servant;*
- d) That non examination of any of the listed witnesses regarding the fact in issue which has been provided by other witnesses examined by the prosecution would not pave the way for acquittal of the accused, as it is beaten law that the quality of witnesses not the quantity matters.*
- e) That examination of the sanctioning authority as pointed out by the impugned order is not necessary, as the sanction order itself is a*

legally admissible document as per the law of evidence;

- f) That once acceptance of bribe amount is established by prosecution, it becomes expedient and obligatory for trial court to draw presumption against accused person u/s 4 of PC Act Svt. 2006; and*
- g) That the trial court has magnified the discrepancies and laid much emphasis on flimsy ground which otherwise do not touch the root of the case and has thus omitted to appreciate the incriminating evidence both oral/documentary in its right perspective which has ultimately resulted in miscarriage of justice.*

03. Brief facts, shorn of unnecessary details, are that on 29.09.2009, a written complaint was lodged by the complainant namely Pushminder Singh S/O Ishri Singh R/O Tulli Morha, Dabottle, Block Chhasana, Tehsil Mahore, district Reasi, with Police Station Vigilance Organization, (Now ACB) Jammu alleging that there was a long running land dispute between Krishan Singh, Harnam Singh, Prem Singh sons of Suram Chand R/O Thiloo Tehsil Mahore, on one hand against Rashpal Singh S/O Naseeb Singh, Lal Singh, Kamal Singh & Naseeb Singh sons Jagat Ram on the other side; that on 29.05.2009, Rashpal Singh forcibly demolished the house of Krishan Singh, Harnam Singh and Prem Singh in their absence, who were telephonically informed of the incident by their family members; that upon this Krishan Singh filed an application before learned Judicial Magistrate (Sub Judge) Reasi, who directed SHO Police Station Mahore for taking action u/s 156 CrPC; that said application was assigned to ASI Manzoor Hussain (respondent herein) for conducting enquiry into the matter; that said enquiry concluded that the land in question stands in the name of Krishan Singh and Harnam Singh; that on being not agreed

with the outcome of the enquiry, Rashpal Singh and others implicated Sham Singh and Sandeep Singh in a false criminal case u/s 376 RPC registered at Police Station Mahore and the investigation in the said case was also entrusted to ASI Manzoor Hussain; that the complainant was called in the police station in order to settle the matter with Harnam Singh and Krishan Singh, wherein ASI Manzoor Hussain demanded Rs. 40,000/- from them, which was finally reduced to Rs.30,000/- and accordingly, on 11.09.2009, the complainant along with others went to police station and paid Rs.25,000/- to the respondent and it was decided that rest of amount i.e. Rs. 5,000/- will be paid to him later on but the respondent started harassing the complainant and others with the threat that if the same is not paid at the earliest, he will implicate them in a false case; that the complainant finally approached Vigilance Organization, Jammu and requested to take legal action against the respondent.

04. On the basis of the aforesaid written complaint, a case vide FIR No. 23/2009 u/s 5(2) of the Prevention of Corruption Act, 2006 read with Section 161 RPC was registered in the Vigilance Organization Police Station, Jammu and the investigation was handed over to Inspector Ahmed Din of VOJ (Now ACB). A trap was laid and the respondent caught in it; that the respondent upon his arrest was granted bail by the Court on 05.10.2009; that during the course of investigation, prosecution witnesses were examined and their statements recorded u/s 161 CrPC; that statement of material witnesses were recorded u/s 164-A CrPC; that hand wash/pocket wash of the respondent was got resealed from the office of Executive Magistrate Ist Class Jammu and sent to FSL Jammu

for chemical analysis and the report obtained from FSL confirmed the presence of material with which the notes were laced; that on the basis of oral and documentary evidence collected during the course of investigation besides sanction for prosecution against the respondent, criminal challan was presented against the respondent for commission of offences punishable U/Ss 5(1)(d) r/w 5(2) J&K PC Act 2006 and Section 161 RPC in the court of Special Judge, Anti Corruption, Jammu for trial; that the respondent was charged for commission of offences under Sections 5(1)(d) of PC Act and 161 RPC and after conclusion of trial, the trial court acquitted the respondent vide impugned judgment dated 28.09.2020. Aggrieved of the aforesaid acquittal, the instant criminal acquittal appeal has been filed before this court.

05. Mr. Raman Sharma, learned AAG argued that trial court has passed not only an erroneous but illegal judgment, while mis-appreciating the evidence brought on record, though the appellant while prosecuting the respondents had brought on record sufficient oral and documentary evidence, which established the commission of the offences of charges by the respondent/accused and prayed that the impugned judgment dated 20.08.2002 passed by the court of learned Special Judge Anti Corruption Udhampur, whereby the respondent has been acquitted of the charges under Sections 5(1)(d) of J&K PC Act Svt. 2006 and Section 161 RPC, be set-aside and respondent be convicted of the proved charges.
06. He further argued that proof of demand and acceptance of illegal gratification by a public servant, as a fact in issue, by the prosecution is a 'sine qua non' in order to establish the guilt of the accused public servant

u/s 7 & 13(1)(d) (i) & (ii) of the Act; that testimony of a witness in a criminal trial cannot be discarded merely because of minor contradictions or omissions, only contradictions in material particulars and not minor contradictions can be a ground to discredit the testimony of the witnesses. In support of his contentions, learned AAG has relied upon judgment of the Supreme Court in ‘Narayan Chetanram Choudhary & Anr V. State of Maharashtra’ reported as **(2000) 8 SCC 457** and ‘ Neeraj Dutta V. State (Govt. of NCT of Delhi) reported as **(2023) 4 SCC 731**.

07. Learned counsel for the respondent, on the other hand, argued that the learned trial court has passed a well reasoned judgment and which does not brook any interference; that the prerequisites for an offences under Section 5(1)(d) r/w 5(2) of the Prevention of Corruption Act, Svt. 2006 is at the initiate stage and demand at the time of trap which is completely missing, in view of the fact that the prosecution witnesses Nos. 8, 9 and 12, who were witnesses to the initial demand allegedly made by the respondent have turned hostile.
08. He further argued that the presence and the meeting of the respondent and the complainant is shrouded with doubts because the very exchange of bribe money is doubtful; that the reason for lodging FIR and launching prosecution against the respondent was to take revenge as respondent was investigating a criminal case under Section 376 IPC registered against a close relative of the complainant, who is having a civil dispute, in which respondent had submitted a report unfavourable to the close relatives of the complainant. In support of his submissions, he has relied upon decision of

this court in ‘P N Dogra v. CBI Jammu’ reported as **2009 (1) JKJ 384**, wherein, it has been held that recovery of tainted money vis-à-vis evidence of demand and payment, presumption of gratification cannot be raised once demand of the bribe is clouded with doubt, rather not supported by the prosecution witnesses cited to that extent.

09. Heard learned counsel for the parties, perused the record and considered.
10. After registration of the case, a trap team comprising of some police officers and two independent witnesses was constituted and after following the standard operating procedure with regard to personal search of the complainant, shadow witnesses and search of trap team members, a trap was laid at 1730 hrs at Mahore where the amount was received by respondent, from the complainant, which was later recovered from the back pocket of his pant and on wash of his hands and the pant back pocket, the solution turned pink, showing the positive result, as such, a charge-sheet was laid against him with the Trial Court.
11. The Trial Court, after framing charge against respondent examined 17 prosecution witnesses out of cited 21 prosecution witnesses. Almost all the witnesses of the trap team, including independent witnesses and the other formal witnesses, had supported the prosecution story and proved that during the trap, an amount of Rs.5,000/- was recovered from the respondent/accused in their presence. However, the demand of the bribe money is a fact, which is under doubt, as none of the witnesses except the complainant has stated that the respondent/accused had demanded bribe money from him.

12. Complainant, in his statement, stated that on 11.09.2009, the respondent/accused had summoned both sides to Police Station Mahore in the rape case registered at the instance of wife of Rashpal Singh and that respondent/accused had called Lal Singh, Santokh Singh and Baldev Singh separately and told them to pay him an amount of Rs.40,000/-, which amount was later settled for Rs.30,000/- and that Rs.25,000/- was paid and the balance of Rs.5,000/- was demanded by him; thereafter, Master Harnam Singh told that the accused was repeatedly demanding Rs.5,000/-, whereupon, he submitted a complaint to the Vigilance Organization Jammu that the demand of bribe was made by the respondent-accused to Lal Singh, Santokh Singh and Baldev Singh and lastly to Master Harnam Singh.
13. PW-8 Santokh Singh, PW-9 Mohinder Singh @ Lal Singh and PW-12 Baldev Singh did not support the prosecution story and were declared hostile; the other person Harnam Singh was not examined by the prosecution so as to substantiate the ingredient of demand of bribe by the respondent-accused. As PW-8 Santokh Singh, PW-9 Mohinder Singh @ Lal Singh and PW-12 Baldev Singh did not support the prosecution story and turned hostile and also non examination of Harnam Singh would show that this factum of demand of bribe could not be proved during trial.
14. The Trial Court has also rightly raised suspicion with regard to veracity of the trap as well, in view of split versions, in that the charge against the accused, it was alleged that upon arriving of the trap team at Mahore, its members had taken suitable positions around the pre-fixed shop of Kewal Singh where the transaction of the bribe money had to take place; the

complainant and the shadow witnesses proceeded towards the shop of Kewal Singh and that after 15 minutes, the shadow witness gave pre-fixed signal, whereas, this fact has taken a U-turn in the evidence where the shadow witness PW-2 had stated in his examination that after reaching there, the complainant had left him at Kewal Tea Stall and went away and then after a while, brought along with him a person in civil clothes and sat at the tea stall, as against this version of PW-2, the trap members who are PW-3 V P Singh, PW-17 Devinder Singh and PW-15 Manjeet Singh, Inspectors in their examination stated that the complainant and shadow witness i.e. PW-2 had gone at Kewal Tea Stall and after 10/15 minutes, the shadow witness had signaled them to rush to nab the accused, and, that by every stretch of reference and meaning, they testified that the shadow witness PWs-2 & 4, and the complainant went nowhere except being right inside the Kewal Teal Stall, where they also rushed in just after 15 minutes on receiving signal from PW-2.

15. By their statements, one can come to this belief that the respondent accused was already present inside the tea stall around which their eyes were all focused from their respective positions and that PWs 2&4 simply went inside and the bribe giving and taking took place, PW-2 gave them signal and trap team rushed in to nab the accused but, on the other hand, PW-2 had testified that after leaving him at the Kewal Tea Stall, the complainant had left to return after a little while accompanied by the accused; PW-4 had stated that the accused had arrived at tea stall before and was standing outside and they reached later so much so PW-13 Dy. SP Atul Sharma as

TLO, who had positioned all trap team members outside tea stall in his statement in the court, stated that after 15 minutes time interval, the accused had arrived at tea stall. The court has also observed that it was very curious that PW-2 who was a shadow witness to be with the complainant had not whispered about any phone call having been made by the complainant to the accused asking him to come at tea stall and adding to this confusion about the different versions as to how accused came to be in the tea stall of Kewal, the complainant, in his cross examination, had also taken a different stand in his examination-in-chief by stating that it was not by phone call that he had called the accused to come to Kewal Tea Stall but in fact he had gone to police station to bring the accused from there along with him. Thus, it becomes a matter of serious suspense as to whom to be believed for the almost four versions as to how accused and PW-4 came to be in so called tea stall and that sets up a doubt in the case which the prosecution evidence failed to reconcile.

16. The Trial Court has also noted the infirmities in the exhibits such as pent wash or pocket wash, labeling of the various exhibits, finding it odd to overcome such a glaring factual flaw in the case. The Trial Court has also noted and rightly so that Kewal Singh, owner of the Kewal Tea Stall, where the complainant and the accused were alleged to be sitting and that the bribe giving and taking had taken place in his presence was not called, rather given up by the prosecution; in the light of the doubt as to the actual sequence of events alleged to have taken place at his Tea Stall, the evidence of said Kewal Singh would have corroborative value. Moreover,

none from the opposite Wani Studio was named as any prosecution witness. In the aforesaid backdrop of the evidence, this Court comes to the conclusion that the Trial Court has passed the impugned judgment in a reasoned manner, discussing all aspects of the case lucidly.

17. The Apex Court in a case titled ‘Dileepbhai Nanubhai Sanghani V. State of Gujarat & Anr’ reported as **2025 LiveLaw (SC) 273** held that constitution bench of the Apex Court in ‘Neeraj Dutta v. State (Govt. of NCT Delhi)’ reported as **(2023) 4 SCC 731** held that proof of demand (or an offer) and acceptance of illegal gratification by a public servant as a fact in issue, in a criminal proceeding is a, *sine qua non*, to establish the guilt of the accused public servant under Sections 7 and 13 of the Act; that unless proof is offered to the satisfaction of the Court that there is a demand and acceptance of illegal gratification, the statutory presumption would not arise. All the prosecution witnesses who had been named by the complainant from whom the initial demand of bribe was made had turned hostile, as noticed above, and did not support the prosecution story during their examination before the court.
18. The Apex Court even earlier in a case of ‘State of Maharashtra V. Dhyaneshwar Laxman Rao Wankheda’ reported as **(2009) 15 SCC 200** has held as under:

“16. Indisputably, the demand of illegal gratification is a sine qua non for constitution of an offence under the provisions of the Act. For arriving at the conclusion as to whether all the ingredients of an offence viz. demand, acceptance and recovery of the amount of illegal gratification have been satisfied or not, the court must take into consideration the facts and circumstances brought on the record in

their entirety. For the said purpose, indisputably, the presumptive evidence, as is laid down in Section 20 of the Act, must also be taken into consideration but then in respect thereof, it is trite, the standard of burden of proof on the accused vis-a-vis the standard of burden of proof on the prosecution would differ. Before, however, the accused is called upon to explain as to how the amount in question was found in his possession, the foundational facts must be established by the prosecution. Even while invoking the provisions of [Section 20](#) of the Act, the court is required to consider the explanation offered by the accused, if any, only on the touchstone of preponderance of probability and not on the touchstone of proof beyond all reasonable doubt.

.....

21. Even in a case where the burden is on the accused, it is well known, the prosecution must prove the foundational facts. (See [Noor Aga V. State of Punjab](#) and [Jayendra Vishnu Thakur V. State of Maharashtra](#).)

22. It is also a well-settled principle of law that where it is possible to have both the views, one in favour of the prosecution and the other in favour of the accused, the latter should prevail. (See [Dilip V. State of M.P.](#) and [Gagan Kanojia V. State of Punjab](#).) Later in [State of Punjab Vs. Madan Mohanlal Verma](#) reported in (2013) 14 SCC 153, para 7 is extracted below:

"7. The law on the issue is well settled that demand of illegal gratification is sine qua non for constituting an offence under the 1988 Act. Mere recovery of tainted money is not sufficient to convict the accused when substantive evidence in the case is not reliable, unless there is evidence to prove payment of bribe or to show that the money was taken voluntarily as a bribe. Mere receipt of the amount by the accused is not sufficient to fasten guilt, in the absence of

any evidence with regard to demand and acceptance of the amount as illegal gratification.

Hence, the burden rests on the accused to displace the statutory presumption raised under [Section 20](#) of the 1988 Act, by bringing on record evidence, either direct or circumstantial, to establish with reasonable probability, that the money was accepted by him, other than as a motive or reward as referred to in [Section 7](#) of the 1988 Act. While invoking the provisions of [Section 20](#) of the Act, the court is required to consider the explanation offered by the accused, if any, only on the touchstone of preponderance of probability and not on the touchstone of proof beyond all reasonable doubt.

However, before the accused is called upon to explain how the amount in question was found in his possession, the foundational facts must be established by the prosecution. The complainant is an interested and partisan witness concerned with the success of the trap and his evidence must be tested in the same way as that of any other interested witness. In a proper case, the court may look for independent corroboration before convicting the accused person. (vide [Ram Prakash Arora Vs. State of Punjab](#) 91972) 3 SCC 652, [T. Subramaniam Vs. State of TamilNadu](#) (2006) 1 SCC 401, [State of Kerala Vs. C.P.Rao](#) (2011) 6 SCC 450 and [Mukut Bihari Vs. State of Rajasthan](#) (2012) 11 SCC 642.

19. In view of aforesaid authoritative law laid down by the Apex Court and in absence of any incriminating prosecution evidence so as to substantiate the fact of demand of bribe, no presumption can be drawn against the respondent/accused so as to record his conviction.
20. Having regard to the discussion made hereinabove and aforestated reasons, the acquittal appeal filed by the appellant is found to be without any merit and substance. The impugned order has been passed perfectly in

consonance with legal parameters in the backdrop of the prosecution evidence and does not call for interference by this court invoking appellate jurisdiction. The judgment is, thus, upheld. The bail and personal bonds, furnished by the respondent, if any, during the pendency of this appeal are ordered to be discharged.

21. CrlA(AS) No.17/2023 is, accordingly, **dismissed** along with connected application(s).

(MA CHOWDHARY)
JUDGE

JAMMU
30.07.2026
Raj Kumar

Whether the order is reportable: Yes/No