

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO.92 OF 2013

BETWEEN:

SRI N CHANDRASEKAR
S/O SHAMANNA
AGED ABOUT 61 YEARS
SUB INSPECTOR OF POLICE
PARAPPANA AGRAHARA POLICE STATION
BANGALORE CITY
R/A NO.54/55, 2ND MAIN (N S PALYA)
BTM LAYOUT, 2ND STAGE, BANGALORE-76

...APPELLANT

(BY SRI. MOHAN KUMAR G., ADV.)

AND:

STATE BY POLICE INSPECTOR,
CITY DIVISION
KARNATAKA LOKAYUKTHA, BANGALORE.

...RESPONDENT

(BY SRI. VENKATESH S. ARABATTI, ADV.)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C PRAYING TO DATED 28.12.2012 PASSED BY THE SPL. JUDGE, PREVENTION OF CORRUPTION ACT, BANGALORE URBAN DISTRICT, BANGALORE CITY IN SPL.C.C.NO.188/2007 - CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 7 AND 13(1)(d) R/W SEC.13(2) OF PREVENTION OF CORRUPTION ACT.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 17.07.2026 AND COMING ON FOR "PRONOUNCEMENT OF ORDERS" THIS DAY, THE COURT, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

CAV JUDGMENT

The appellant/accused No.1-M. Chandrashekhar, has preferred this appeal against Judgment of conviction and order on sentence passed by the Special Judge, Bangalore Urban District, Bangalore City in Spl.CC.No.188 of 2007 dated 28th December, 2012 (for short "the trial Court").

2. For the sake of convenience, the parties herein are referred to with their status and rank before the trial Court.

3. Brief facts leading to this appeal are that, the Deputy Superintendent of Police, Karnataka Lokayukta, Bangalore, submitted charge-sheet against accused 1 and 2 Shri Chandrashekar and Shri Gangahanumaiah respectively, for commission of offence punishable under Sections 7, 13(1)(d) and Section 13(2) of Prevention of Corruption Act, 1988 (for short "the PC Act"). The gist of charge-sheet is as follows:

"ಈ ಪತ್ರದ ಕಾಲಂ ನಂ.೪ ರಲ್ಲಿ ನಮೂದಿಸಿರುವ ಆರೋಪಿ-೧ ರವರು ಸ್ವಾಕ್ಷಿ-೧ ರವರ ತಂದೆಗೆ ಸೇರಿದ ಜಮೀನಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಕೇಸಿನಲ್ಲಿ ಸಹಾಯ ಮಾಡಲು ರೂ.೫೦,೦೦೦/- ಗಳ ಲಂಚದ ಹಣ ಕೇಳಿ ಕೊನೆಗೆ ೨೦,೦೦೦/- ರೂ.ಗಳನ್ನು ತಂದು ಕೊಡಲೇಬೇಕೆಂದು ಒತ್ತಾಯ ಮಾಡಲಾಗಿತ್ತು.

ದಿನಾಂಕ ೨೩.೩.೨೦೦೭ ರಂದು ಮಧ್ಯಾಹ್ನ ಸುಮಾರು ೨.೩೦ ಗಂಟೆಯ ಸಮಯದಲ್ಲಿ ಪರಪ್ಪನ ಅಗ್ರಹಾರ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ಆರೋಪಿ-

೧ ಸಾಕ್ಷಿ-೧ ರವರಿಂದ ಲಂಚದ ಹಣ ರೂ.೨೦,೦೦೦/- ಗಳನ್ನು ಸಾಕ್ಷಿ-೨ ರವರ ಸಮ್ಮುಖದಲ್ಲಿ ಪಡೆದುಕೊಂಡು ಆರೋಪಿ-೨ ರವರ ಬಳಿ ನೀಡಿರುವುದು ದೃಢಪಟ್ಟಿರುತ್ತದೆ.

ಆರೋಪಿ-೧ ಮತ್ತು ಆರೋಪಿ-೨ ರವರುಗಳು ಟ್ರಾಪ್ ಬಲೆಯಲ್ಲಿ ಸಿಕ್ಕಿಬಿದ್ದು ಕಲಂ ೭, ೧೩(೧)(ಡಿ) ಜೊತೆಗೆ ೧೩(೨) ಲಂ.ನಿ. ಕಾಯ್ದೆ ೧೯೮೮ ರೀತ್ಯ ಅಪರಾಧ ಎಸಗಿರುತ್ತಾರೆ.

ಆದುದರಿಂದ ಆರೋಪಿ-೧ ಮತ್ತು ೨ ರವರುಗಳ ವಿರುದ್ಧ ಈ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿ."

4. After filing the charge-sheet, case was registered in Spl.CC.No.188 of 2007. Accused were enlarged on bail. Upon hearing on charges, the trial Court framed charges against accused No.1 for the offence specified under Section 13(1)(d) of PC Act which is punishable under section 13(2) of the said Act. The trial Court has framed the charges against accused No.2 for the offence punishable under Section 8 of PC Act. The charges were read over and explained to accused. Having understood the same, accused pleaded not guilty and claimed to be tried.

5. To prove the guilt of the accused, prosecution, in all, has examined six witnesses as PWs1 to 6, marked 30 documents as Exhibits P1 to P30 and 14 material objects as MO1 to MO14. On closure of prosecution side evidence, the

statement of the accused under Section 313 of Code of Criminal Procedure was recorded. After the full-fledged trial, and after hearing the arguments of both the parties, the trial Court, appreciating the oral and documentary evidence on record, held that the prosecution had succeeded in establishing the allegations against accused No.1. PW1-the complainant, was declared hostile during the course of her evidence. In her cross-examination, she resiled from certain portions of the prosecution case and denied several suggestions put to her. However, the trial Court has also recorded an elicitation from PW1 to the effect that "accused No.1 received the money but did tell the accused No.2 to hand over the same to Basavaraj". The trial Court nevertheless relied upon the evidence of PW1, the shadow witness, PW2, PW3 and PW6-Investigating Officer and came to the conclusion that the prosecution had established the demand and acceptance of illegal gratification by Accused No.1.

6. The trial Court further noticed that PW4-the Police Commissioner, and PW5-the DCP (Administration), had proved the sanction orders, viz, Ex.P24 in respect of Accused No.1 and Ex.P25 in respect of Accused No.2. The validity of the sanction was not seriously disputed before the trial Court. The trial Court

also took note of the chemical examination report, wherein phenolphthalein test was found to be positive in the hand-wash samples of both Accused 1 and 2, and treated the same as corroborative evidence regarding the trap and handling of the tainted currency.

7. On appreciation of the entire evidence, the trial Court held that the prosecution had proved that Accused No.1, being a public servant, had demanded Rs.50,000/- from the complainant and thereafter, scaled down the demand to Rs.30,000/-, and that on the date of the trap he demanded and accepted Rs.30,000/- as illegal gratification. Accordingly, Accused No.1 was convicted for the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of PC Act.

8. While considering the case of Accused No.2, the trial Court observed that the original complaint did not contain any allegation regarding demand or acceptance of illegal gratification by Accused No.2. The trial Court further observed that the evidence of the shadow witness did not contain any incriminating material against Accused No.2 except to the extent that Accused No.1 counted the money and handed over the same to Accused No.2. The trial Court specifically observed that Accused No.2 does not appear to have any knowledge

about the background of the case and, accordingly, acquitted Accused No.2.

9. Insofar as the sentence is concerned, the trial Court sentenced Accused No.1 to undergo rigorous imprisonment for nine months and to pay a fine of Rs.8,000/- for the offence punishable under Section 7 of the Prevention of Corruption Act, and to undergo rigorous imprisonment for fourteen months and to pay a fine of Rs.12,000/- for the offence punishable under Section 13(1)(d) read with Section 13(2) of the said Act. The substantive sentences were directed to run concurrently and the accused was given the benefit of set-off for the period already undergone in judicial custody.

10. The trial Court also noticed that Accused No.1 had retired from service and had pleaded ailment, which circumstances were considered while imposing the sentence and were not treated as circumstances affecting the finding of guilt. Aggrieved by the said judgment of conviction and sentence, Accused No.1 has preferred the present appeal.

Submissions on behalf of the Appellant:

11. Sri Mohan Kumar G., learned Counsel appearing for the appellant, would submit that the judgment of conviction

passed by the trial Court is contrary to the evidence on record and the settled principles governing prosecution under the Prevention of Corruption Act and, therefore, is liable to be set aside. Learned Counsel would contend that the appellant had neither demanded nor accepted any amount from the complainant as illegal gratification for himself. According to the learned Counsel, the appellant was not the competent officer dealing with the matter of the complainant and the evidence on record itself discloses that Police Inspector-Basavaraj was the officer concerned with the matter. It is submitted that Police Inspector-Basavaraj had contacted the complainant over phone and, during the course of such conversation, the complainant handed over the phone to the appellant. The said Police Inspector informed the appellant that the complainant had brought the amount and directed him to receive the same and hand it over to Gangahanumaiah. Acting upon such instruction, the appellant collected the amount from the complainant and immediately handed it over to Accused No.2-Gangahanumaiah. It is submitted that immediately thereafter, the Lokayukta Police entered the premises and took the appellant into custody. Learned Counsel would further submit that this very defence version was brought on record in the statement of the appellant recorded under Section 313 of the Code of Criminal

Procedure and, therefore, it cannot be characterised as an afterthought.

12. Learned Counsel would further contend that the mere recovery of tainted currency notes from the possession of the accused does not, by itself, constitute the offence alleged against the appellant. It is submitted that the complainant-PW1, in her cross-examination, admitted that the appellant had asked her to meet Police Inspector-Basavaraj in connection with the case and had informed her that Police Inspector-Basavaraj was investigating the matter. Learned Counsel would draw the attention of the Court to the further admission of PW1 that the appellant had handed over the amount to Accused No.2-Gangahanumaiah with a direction to hand over the same to Police Inspector-Basavaraj. According to the learned Counsel, this evidence assumes considerable significance, since it furnishes a reasonable and probable explanation for the appellant having received the amount and thereafter, handing it over to Accused No.2. It is therefore submitted that the prosecution has failed to establish that the appellant received the amount as illegal gratification for himself.

13. Learned Counsel would further submit that the very case of the complainant was that her father was working in the

canteen of MICO Factory and that he had been granted 25 guntas of land in Sy.No.54/1 of Doddanagamangala Village during the year 1950-51. According to the learned Counsel, if the prosecution case concerning the alleged demand was to be accepted, the statement of the complainant's father, who was the person directly connected with the property in question, was a material piece of evidence. However, the Investigating Officer neither examined the father of the complainant nor produced any material relating to his alleged interaction with the accused. It is therefore submitted that the evidence of the complainant, particularly regarding the genesis of the alleged demand, is not of such a nature as would inspire confidence in the absence of independent corroboration. Learned Counsel would contend that the complaint itself was concocted and created with a view to tarnish the reputation of the appellant. It is further submitted that no official work pertaining to the complainant, was pending before the appellant and, therefore, there was no occasion for him to demand or accept illegal gratification from her.

14. Learned Counsel would further submit that the name of the complainant's father does not find place in the FIR submitted before the Land Grabbing Court and that the trap

mahazar itself discloses that the appellant received the amount at the instance of Police Inspector-Basavaraj. According to the learned Counsel, the said Police Inspector-Basavaraj was a material witness to the prosecution case, particularly in view of the defence that the amount was received by the appellant pursuant to his instruction and was thereafter handed over to Accused No.2 for being delivered to him. However, the Investigating Officer has not examined Police Inspector-Basavaraj and has not offered any satisfactory explanation for his non-examination. Learned Counsel would therefore submit that the prosecution has withheld the very witness who could have thrown light upon the true nature and purpose of the payment. It is further contended that P.W.1 herself has stated that Accused No.1 received the money and handed it over to Police Inspector-Basavaraj. Thus, according to the learned Counsel, the prosecution evidence itself does not establish that the appellant accepted the money as illegal gratification for himself.

15. Learned Counsel would next submit that the evidence of the shadow witness-PW2 also does not establish the essential ingredient of demand. PW2 has admitted that Accused No.1 had asked the complainant to meet the Police Inspector

and that Accused No.1 received the amount and handed it over to Police Inspector-Basavaraj. Learned Counsel would therefore submit that the evidence of PW2, instead of corroborating the prosecution case regarding demand and acceptance by the appellant for himself, lends support to the defence version that the appellant was merely acting as an intermediary in handing over the amount to the Police Inspector. It is further submitted that, as per Ex.P9-trap mahazar, the alleged tainted amount was recovered from Accused No.2-Gangahanumaiah and no amount, whatsoever, was recovered from the possession of Accused No.1. The mere fact that the appellant handled the currency notes cannot, in the absence of satisfactory proof of demand and conscious acceptance as illegal gratification, sustain the conviction. Learned Counsel would therefore contend that the ingredients of Sections 7 and 13(1)(d) read with Section 13(2) of the PC Act have not been established beyond reasonable doubt.

16. Learned Counsel would further submit that the Investigating Officer did not collect the call details between the appellant and the complainant, notwithstanding the specific defence that Police Inspector-Basavaraj had contacted the complainant over phone and that the appellant received the

amount pursuant to the instructions conveyed during such communication. According to the learned Counsel, the call records would have constituted an important piece of objective evidence capable of either corroborating or disproving the defence version. The failure of the Investigating Officer to collect such material, coupled with the non-examination of Police Inspector-Basavaraj, creates a serious gap in the prosecution case.

17. Learned Counsel would further submit that Accused No.2, from whose possession the alleged tainted currency was recovered, has been acquitted by the trial Court and the State has not preferred any appeal against the said acquittal. According to the learned Counsel, when the trial Court itself found that the evidence was insufficient to establish the knowledge or culpable participation of Accused No.2 in the same transaction, the evidence relating to the continuous transaction ought to have been examined with the same degree of caution, while considering the case of Accused No.1.

18. Learned Counsel would further draw the attention of the Court to the evidence of PW1 regarding the identity of the persons allegedly involved. It is submitted that PW1 stated that Accused 1 and 2 were working at Parappana Agrahara Police

Station and that Accused No.2 had initially disclosed his name as Rajanna and subsequently, she came to know that his name was Gangahanumaiah. According to the learned Counsel, there is also a discrepancy as to how PW1 came to disclose the name of N. Chandrashekar, since the complaint refers to Rajanna and Police Officer-N. Chandrashekar as the staff members of Parappana Agrahara Police Station and PW1 has also deposed accordingly. Learned Counsel would submit that these aspects assume significance while assessing the reliability of the complainant's testimony and the manner in which the prosecution case was subsequently developed during investigation.

19. Learned Counsel would also submit that the Investigating Officer has not examined the father of the complainant, though he was a material person in relation to the alleged land transaction. Rajanna, who was referred to as a witness, was also not examined before the trial Court; and no material was collected by the Investigating Officer concerning the final report submitted by Police Inspector-Basavaraj in Crime No.36/2007 registered for the offence punishable under Section 192-A of the Karnataka Land Revenue Act. According to the learned Counsel, these omissions are not merely formal

in nature but go to the root of the prosecution case, particularly when the defence is that the appellant had no pending work with respect to complainant and that the money was received only at the instance of Police Inspector-Basavaraj.

20. Learned Counsel would further submit that the trial Court failed to appreciate the evidence in its proper perspective and proceeded principally on the basis of recovery and the phenolphthalein test without first recording a clear and independent finding regarding the demand of illegal gratification by the appellant and his conscious acceptance of the amount, as gratification, for himself. It is submitted that the settled position of law is that mere recovery of tainted currency is not sufficient to establish the offence in the absence of satisfactory proof of demand and acceptance.

21. In support of his submissions, learned Counsel has placed reliance upon the judgment of the Hon'ble Supreme Court in C.M. GIRISH BABU v. CBI reported in AIR 2009 SC 2022, wherein the Hon'ble Supreme Court considered the distinction between demand, acceptance and recovery and held, in the facts of that case, that mere recovery of money by itself would not be sufficient in the absence of substantive evidence regarding demand and acceptance. Learned Counsel has also

relied upon decision in the case of B. JAYARAJ v. State of Andhra Pradesh, (2014) 13 SCC 55, to contend that recovery of tainted currency, in the absence of proof of the foundational fact of demand, cannot by itself establish the offence under Section 7 of the Prevention of Corruption Act.

22. Learned Counsel has further relied upon the decision in P. SATYANARAYANA MURTHY v. DISTRICT INSPECTOR OF POLICE, STATE OF ANDHRA PRADESH (2015)10 SCC 152, wherein the Hon'ble Supreme Court reiterated that proof of demand of illegal gratification is the gravamen of the offence and that mere acceptance or recovery, dehors proof of demand, would not be sufficient to establish the guilt of the accused. It is therefore contended that, in the present case, where the complainant has been declared hostile, where there is an elicitation suggesting that the amount was to be handed over to Police Inspector-Basavaraj, where the amount was ultimately recovered from Accused No.2 and where the Investigating Officer has failed to examine Police Inspector-Basavaraj or collect the relevant call detail records, the prosecution has failed to establish the essential ingredients of the offences beyond reasonable doubt.

23. Learned Counsel would further submit that the entire prosecution case has its genesis in the alleged proceedings relating to the land bearing Sy.No.54/1 of Doddanagamangala Village and the alleged action taken pursuant to the complaint before the concerned authorities. However, the prosecution has failed to bring before the Court the material officer who was actually concerned with the said proceedings, in particular, Police Inspector-Basavaraj, who, according to the evidence of PW1 and the defence version, was the person concerned with the investigation and at whose instance the appellant allegedly received the amount. The said material evidence, has neither been examined nor made a party to the proceedings. Learned Counsel would submit that the non-examination of Police Inspector-Basavaraj assumes considerable significance because the specific case of the appellant is that he did not demand the amount and that he received the amount only pursuant to the instructions of the said Police Inspector and thereafter handed it over to Accused No.2 for being given to the Police Inspector. When the prosecution itself relies upon a transaction in which the appellant is alleged to have acted as an intermediary, the person to whom the amount was allegedly intended to be delivered, was a material witness, and his non-examination creates a serious lacuna in the prosecution case.

24. Learned Counsel would submit that Ex.P22 is the FIR dated 31.01.2007 registered under Section 192-A of the Karnataka Land Revenue Act, wherein Chikkabettiah K.B., the Tahsildar, is the complainant. The said Tahsildar, being the person connected with the proceedings relating to the land in question, was a material witness to establish the nature of the proceedings and the role of the appellant therein. However, he has not been examined by the prosecution. It is therefore contended that the prosecution has failed to establish that any official work relating to the complainant was pending with the appellant so as to furnish the basis for the alleged demand.

25. Learned Counsel would further submit that PW1, the complainant, was declared hostile, and material admissions elicited from her, support the defence that the appellant had received the amount and handed it over to Accused No.2 with instructions to give it to Police Inspector-Basavaraj. The said Inspector, who according to the defence, was the person concerned with the matter, has also not been examined. Thus, the prosecution has failed to displace the defence explanation regarding the purpose for which the appellant received the amount.

26. Learned Counsel would further submit that Accused No.2 was acquitted by the trial Court on the very same transaction, holding that the complaint contained no allegation of demand or acceptance against him and that the evidence only showed that A1 handed over the money to A2, without establishing the background to the knowledge of A2. It is contended that the same evidence must be appreciated consistently in the case of A1 also. Mere handing over and subsequent recovery of the money from A2, cannot, without independent proof of demand by A1, establish that A1 had accepted the amount as illegal gratification for himself.

27. Learned Counsel would therefore submit that, in view of the hostile testimony of PW1, non-examination of the Tahsildar who was the complainant in Ex.P22, non-examination of Police Inspector-Basavaraj, and the acquittal of A2 on the connected evidence, the prosecution has failed to prove the essential ingredient of demand of illegal gratification by A1. The recovery of tainted currency and positive phenolphthalein test may establish handling of the currency, but cannot by themselves establish demand and conscious acceptance as illegal gratification. Hence, the conviction recorded against the appellant is unsustainable.

28. Learned Counsel would further submit that the evidence of PW1-complainant and the alleged person from whom the demand was made and money was received, does not remain consistent with the prosecution case. PW1 was declared hostile and, in the course of cross-examination, material admissions were elicited which support the defence version. In particular, the evidence attributed to PW1 that the appellant had asked her to meet Police Inspector-Basavaraj, that the Inspector was dealing with the matter, and that the appellant received the amount and directed Accused No.2 to hand over the same to Police Inspector-Basavaraj, creates a reasonable doubt as to whether the amount was in fact demanded and accepted by the appellant as illegal gratification for himself. Learned Counsel would, therefore, submit that the trial Court ought not to have selectively relied upon only those portions of the evidence of PW1 which supported the prosecution while overlooking the material portions which introduced a completely different explanation for the movement and destination of the money.

29. Learned Counsel would submit that the fact that PW1 was declared hostile, becomes all the more significant in the present case because there is no independent witness to the

alleged initial demand. The shadow witness-PW2 was not shown to have been present when the alleged earlier demand was made and, therefore, could not independently corroborate the genesis of the prosecution case. The subsequent trap evidence may establish the handling and recovery of the currency, but it cannot retrospectively establish the earlier demand. Learned Counsel would contend that once the principal witness to the alleged demand does not consistently support the prosecution and material admissions are brought on record in favour of the appellant, the prosecution was required to produce strong and independent corroborative evidence. Such evidence is conspicuously absent.

30. Learned Counsel would further submit that the learned trial Court itself adopted a different standard while appreciating the very same transaction insofar as Accused No.2 is concerned. The trial Court noticed that the complaint did not disclose any demand or acceptance by Accused No.2 and that the shadow witness had stated only that Accused No.1 counted the money and handed it over to Accused No.2. The trial Court further found that Accused No.2 did not appear to have knowledge of the background of the case and accordingly acquitted him. Learned Counsel would contend that if the

evidence that Accused No.1 counted the money and handed it over to Accused No.2 was insufficient to establish the guilty knowledge of Accused No.2, the same evidence could not, without further independent corroboration, be treated as conclusively establishing that Accused No.1 himself had demanded and accepted the money as illegal gratification. The prosecution was required to establish the distinct ingredients of demand and conscious acceptance against Accused No.1 by reliable evidence.

31. Learned Counsel would also submit that the non-examination of Police Inspector-Basavaraj, non-examination of the Tahsildar, non-examination of the father of the complainant, non-examination of Rajanna, non-collection of the relevant call details and the hostile testimony of PW1, when considered cumulatively, create serious and reasonable doubt regarding the prosecution version. These are not isolated omissions, but relate directly to the genesis of the alleged demand, the authority of the appellant, the purpose of the payment and the ultimate destination of the money. The prosecution cannot be permitted to seek conviction merely on the basis of recovery when the material witnesses who could

have explained the circumstances surrounding the payment have not been brought before the Court.

32. Learned Counsel, would therefore, submit that the prosecution has, at the highest, proved that the tainted currency was brought to the police station and that it was subsequently recovered from Accused No.2. The positive phenolphthalein test may establish contact with the currency, but it does not establish the purpose for which the money was received. The essential question whether the appellant demanded the money as illegal gratification and consciously accepted it, as such remains unproved. Learned Counsel would submit that the trial Court has proceeded from recovery to demand and acceptance without first establishing the foundational facts required under the Prevention of Corruption Act.

33. Learned Counsel would further contend that the statutory presumption under Section 20 of the Prevention of Corruption Act cannot be used to cure the fundamental deficiency in the prosecution evidence. Unless the prosecution first proves the foundational fact of demand and acceptance/obtainment of illegal gratification, the burden cannot be shifted upon the accused. He would submit that

mere recovery of tainted currency, without satisfactory proof of demand and acceptance, is insufficient to sustain a conviction. On these grounds, learned Counsel would submit that the trial Court has failed to appreciate the material contradictions, omissions and admissions in the evidence of PW1; has failed to attach due significance to her having been declared hostile; has failed to consider the non-examination of Police Inspector-Basavaraj and the Tahsildar and the evidentiary significance of Ex.P22; and has erroneously treated the recovery of the tainted currency and the phenolphthalein test as sufficient proof of demand and acceptance. Learned Counsel, would therefore, submit that the prosecution has failed to establish the guilt of the appellant beyond reasonable doubt and that the impugned judgment of conviction and sentence is liable to be set aside and the appellant is entitled to be acquitted.

Submissions on behalf of the Respondent-State:

34. Per contra, Sri Venkatesh S. Arabatti, learned Counsel appearing for the respondent-State, would submit that the learned Trial Court has appreciated the entire oral and documentary evidence in its proper perspective and in accordance with law and that no ground is made out for interference with the well-reasoned judgment of conviction and

order of sentence and the findings recorded by the learned Trial Court are based on proper appreciation of evidence and that the appeal is devoid of merit and is liable to be dismissed.

35. I have given my anxious consideration to the submissions advanced by the learned counsel appearing for the parties. In view of the rival submissions and the evidence on record, the following points arise for consideration:

- (i) Whether the judgment of conviction and order of sentence passed by the learned Trial Court call for interference by this Court?
- (ii) What order?

36. My answer to the above points are:

Point No.1 : in the Affirmative;

Point No.2: as per final order.

37. At the outset, it is necessary to bear in mind the settled principles governing a prosecution for illegal gratification. Corruption by a public servant is undoubtedly a serious offence and strikes at the integrity of public administration. The Courts are required to deal with such offences with due seriousness. At the same time, the seriousness of the allegation cannot substitute proof of the

ingredients of the offence. The prosecution must establish the ingredients of the offence beyond reasonable doubt, and the accused cannot be convicted merely because a trap was arranged and currency was subsequently recovered.

38. In *B. JAYARAJ (supra)*, the Hon'ble Supreme Court held that mere possession and recovery of currency notes, in the absence of proof of demand, would not establish the offence. The Supreme Court has consistently treated demand as the foundational requirement. The same principle was reiterated in *P. SATYANARAYANA MURTHY (supra)*, where demand was described as the gravamen of the offence, the Supreme Court has also reiterated that recovery must follow proof of demand and voluntary acceptance; mere recovery cannot substitute proof of those facts.

39. The Constitution Bench in *NEERAJ DUTTA v. STATE (GOVERNMENT OF NCT OF DELHI)* reported in (2023) 4 SCC 731, has further clarified the legal position regarding proof of demand and acceptance. Demand and acceptance/obtainment are facts in issue which must be established by the prosecution. They may be proved by direct evidence or, in an appropriate case, by circumstantial evidence; however, the foundational facts cannot be dispensed with.

40. The recent pronouncement of the Hon'ble Supreme Court in STATE OF UTTAR PRADESH v. A.K. GABA etc. rendered in Criminal Appeals No.3383-3385 of 2025 decided on 27.05.2026 has once again reiterated that demand of bribe money is *sine qua non* for conviction under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act and that mere recovery of tainted money, dehors from the circumstances of the alleged payment, cannot by itself sustain conviction.

41. Keeping the above principles in view, it is material to observe the statement recorded under Section 313 of CrPC. While recording 313 statement of accused No.1 under Section 313 of Cr.PC, to question 139, he has answered as under:

"Accused No.1 Cr.No.36/07 u/s 447 :ಬೆಕ್ಕಬೆಟ್ಟಯ್ಯ ತಹಶೀಲ್ ಕಂಪ್ಲೆಂಟ್ ಕೊಟ್ಟಿದ್ದು 16 Accused. N.S. ನಾರಾಯಣರಾವ್ ಫಿರ್ಯಾದಿ ಅಪ್ಪ 2ನೇ ಆರೋಪಿ - ಪಿರ್ಯಾದಿಗೂ ಸತ್ಯನಾರಾಯಣರಾವ್ ಸಂಬಂಧವಿಲ್ಲ. ನಾನು FIR ಹಾಕಿದ್ದು ಒಂದೆ - Self bond ಮೇಲೆ ಸಹಿ ಮಾಡಿಸಿಕೊಂಡು ಕಳಿಸಿದೆ. ನಾನು ಫಿರ್ಯಾದಿಯನ್ನು ಕರೀಲಿಲ್ಲ. ಟ್ರಾಪ್ ದಿನವೇ ನೋಡಿದ್ದು ಇನ್ನೆ ಕ್ಷೇತ್ರ ಹ್ಯಾಂಡಲ್ ಮಾಡ್ತಾ ಇದ್ದು. 24.2.2007 ವರೆಗೂ. ಇನ್ಸ್‌ಪೆಕ್ಟರ್ S.K ಬಸವರಾಜ್ ಹೇಳಿದ ಮೇಲೆ ಹಣ ಫಿರ್ಯಾದಿಯಿಂದ ತಗೊಂಡು ಆರೋಪಿ 2ರವರ ಕೈಯಲ್ಲಿ ಕೊಟ್ಟೆ."

Similarly, with regard to question No.28, the accused No.1 has answered as under:

"ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಫೋನ್ ಮಾಡಿದ್ದು. ತಿರಗ ಅವಳ ನಂಬರ್‌ಗೆ ಫೋನ್ ಮಾಡಿದ್ದು."

Further, to question No.28 he has answered as under:

"ಅವಳು ಫೋನ್ ನನ್ನ ಕೈಲಿ ಕೊಟ್ಟು ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಯಾರು ಬಂದಿದ್ದಾರೆ ಅಂದು. ನಾನು ಗಂಗಹನುಮಯ್ಯ ಅಂದೆ. ಆಗ ಇನ್ಸ್‌ಪೆಕ್ಟರ್ S.K. ಬಸವರಾಜ್ ಪೋನಿನಲ್ಲಿ ಹೇಳಿದ್ದು. ಫಿರ್ಯಾದಿ ಏನು (ದುಡ್ಡು) ಕೊಡ್ತಾರೆ ಅದನ್ನು ತಗೊಂಡು ಗಂಗಹನುಮಯ್ಯನ ಕೈಲಿ ಕೊಡು ಅಂದು ಮತ್ತು ಹೋಗಿ ನೈಟ್ ಗೆ ಬಾ ಅಂದು."

Accused No.2, to question No.28, has answered as under:

"ನಾನು ಕೆಲಸದ ಮೇಲಿದ್ದಾಗ ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಚಂದ್ರಶೇಖರ್ ಭೇಂಬರ್‌ಗೆ ಕರೆದ್ದು. ನಾನು ಹೋದೆ ಹಣದ ಕಟ್ಟು ನನ್ನ ಕೈಲಿ ಕೊಟ್ಟು ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಬಸವರಾಜ್ ಕೈಲಿ ಕೊಡಬೇಕು ಅಂದು ನಾನು ಯಾವ ಹಣ ಅಂತ ಕೇಳವಷ್ಟರಲ್ಲಿ ಲೋಕಾಯುಕ್ತ ಪೋಲೀಸರು ಬಂದು. ಯಾವ ಹಣ ಅಂತ ಗೊತ್ತಿಲ್ಲಾ ಮೇಲಾಧಿಕಾರಿಯ ಆದೇಶ ಪಾಲನೆ ಮಾಡಿದ್ದೇನೆ."

To question No.139, accused No.2 has answered as under:

"ಫಿರ್ಯಾದಿ ಅಥವಾ ಅವರ ತಂದೆ ಗೊತ್ತಿಲ್ಲಾ ಮೇಲಾಧಿಕಾರಿ ಸಬ್‌ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಆರೋಪಿ-1 ಕರೆದ ಮೇರೆಗೆ ಅವರ ಭೇಂಬರ್‌ಗೆ ಹೋದೆ. ಅವರು ಕೊಟ್ಟಂತ ಹಣ PF ಹಣ ಇರಬೇಕು ಅಂತ ತಗೊಂಡೆ."

42. On a plain reading of 313 Cr.PC statements of both accused, it can be said that the trial Court acquitted Accused No.2 on the ground that the complaint did not allege any

demand or acceptance by him and that the evidence only established that Accused No.1 handed over the money to him. The trial Court further found that Accused No.2 did not appear to have knowledge of the background of the case. The acquittal of Accused No.2, by itself, cannot be a ground for acquitting Accused No.1, since the criminal liability of each accused has to be determined on the evidence against him. However, the reasoning adopted by the Trial Court in appreciating the very same transaction cannot be ignored while considering the case of Accused No.1. If the evidence that A1 handed over the money to A2 does not establish the A2's guilty knowledge, the same evidence cannot, without further reliable corroboration, establish that A1 had initially accepted the money as illegal gratification for himself.

43. The evidence of PW1 assumes primary importance. PW1 is the complainant and the person from whom the appellant is alleged to have demanded and received the gratification. However, PW1 was declared hostile by the prosecution. The fact that she was treated as hostile does not mean that her entire testimony has to be discarded. Nevertheless, the Court is required to examine with care which

portion of her evidence is reliable and whether the material allegation of demand is independently corroborated.

44. Significantly, material elicitation in the cross-examination of PW1 indicates that the appellant received the money but directed that the same be handed over to Police Inspector-Basavaraj. This circumstance assumes significance because it provides a different explanation for the appellant's receipt of the money from the complainant. The prosecution was therefore required to establish, by reliable evidence, that notwithstanding this version, the appellant had demanded and accepted the amount as illegal gratification for himself.

45. The prosecution has not examined Police Inspector-Basavaraj, though his role assumes significance from the evidence of PW1 and the defence version. The prosecution has also not produced the relevant call details which, according to the defence, would have thrown light upon the communication between the complainant, the appellant and the said Inspector. These omissions assume significance not in isolation, but when considered along with the hostile testimony of PW1 and the absence of independent evidence establishing the actual demand.

46. Another important circumstance is Ex.P22. It is the FIR dated 31.01.2007 registered under Section 192-A of the Karnataka Land Revenue Act, wherein Chikkabettiah K.B., Tahsildar, is shown as the complainant. The said document relates to the very background proceedings concerning the land which form the genesis of the prosecution case.

47. The Tahsildar, therefore, was a material witness to establish the nature of the proceedings, the circumstances in which the police came to be involved and, more importantly, the role and competence of the appellant in relation to those proceedings. However, the Tahsildar has not been examined by the prosecution. There is also no satisfactory material establishing that any official favour concerning the complainant was pending before the appellant which he was competent to perform or withhold.

48. This circumstance assumes importance because the prosecution alleges a demand of Rs.50,000/-, subsequently reduced to Rs.30,000/-, as gratification for an official favour. In such circumstances, proof of the official work for which the gratification was allegedly demanded becomes a relevant circumstance in appreciating whether the alleged demand was in fact made. Ex.P22, instead of conclusively establishing the

appellant's role in the matter, requires the prosecution to explain why the Tahsildar, who was the complainant in that very FIR, was not examined.

49. It is not in dispute that the tainted currency was ultimately recovered from Accused No.2 and not from the person of the appellant. The chemical examination also disclosed phenolphthalein test in the relevant hand-wash samples. These circumstances establish the handling of the treated currency during the trap. But the question before this Court is not merely whether the currency changed hands. The crucial question is whether the appellant demanded and voluntarily accepted the currency as illegal gratification.

Recovery and demand are distinct facts:

50. A positive phenolphthalein test demonstrates contact with the treated currency; it does not disclose the conversation between the complainant and the appellant, the purpose for which the amount was received, or whether the appellant accepted it as gratification for himself. Thus, in the absence of reliable proof of demand, recovery cannot by itself sustain the conviction. The Supreme Court has expressly reaffirmed this distinction.

51. The prosecution cannot seek to overcome this deficiency merely by invoking Section 20 of the Prevention of Corruption Act. The statutory presumption does not dispense with proof of the foundational facts. The prosecution has undoubtedly established that a trap was arranged, that treated currency was entrusted to the complainant, that the currency was handled during the trap and that the same was recovered from Accused No.2. But proof of trap and recovery is not proof of demand. The prosecution was required to travel the further distance of establishing that the appellant demanded illegal gratification and voluntarily accepted the amount as such gratification. On the evidence available, that essential link remains doubtful.

52. The trial Court, in my considered view, placed substantial reliance upon the recovery and the evidence relating to the trap without adequately separating the distinct requirements of demand, acceptance and recovery. The trial Court also did not adequately consider the effect of PW1 having been declared hostile, the material elicitation regarding Police Inspector-Basavaraj, the non-examination of the Tahsildar who was the complainant in Ex.P22, and the fact that the tainted currency was recovered from A2.

53. In view of the aforesaid discussion, this Court is of the considered opinion that the prosecution has failed to prove beyond reasonable doubt the foundational ingredient of demand of illegal gratification by the appellant. Resultantly, Point No.1 is answered in the Affirmative, holding that the judgment of conviction and order of sentence passed by the trial Court are liable to be set aside.

ORDER

- i. Criminal Appeal is allowed.
- ii. The judgment of conviction and order on sentence dated 28-12-2012 passed by the learned Special Judge, Bangalore Urban District, Bangalore City in Special Case No.188/2017 convicting the appellant/Accused No.1 for the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, is hereby set aside;
- iii. The appellant/Accused No.1 is hereby acquitted of the aforesaid offences;

- iv. The bail bond, if any, executed by the appellant shall stand cancelled;
- v. The fine amount, if deposited by the appellant pursuant to the impugned judgment, shall be refunded to him in accordance with law;
- vi. The records of the Trial Court shall be transmitted forthwith to the concerned Court along with a copy of this judgment.

**Sd/-
(G BASAVARAJA)
JUDGE**

Inn