



CRA-S-895-SB-2005 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRA-S-895-SB-2005 (O&M)**Reserved on:-21.01.2026****Pronounced on:- 22.01.2026****Uploaded on:-22.01.2026**

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced:*

operative part/full judgment

Gulshan Kumar

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Anshuman Dalal, Advocate for the petitioner.

Mr. Vaibhav Sharma, AAG Haryana

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MANDEEP PANNU J. (Oral)

1. This appeal is directed against the judgment of conviction dated 2.5.2005 and order of sentence dated 04.05.2005 passed by the learned Special Judge, Ambala, whereby the appellant was convicted under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 and sentenced accordingly.
2. The prosecution case, briefly stated, was that the appellant, while posted as Patwari, demanded and accepted a sum of Rs. 500/- from the complainant Ashwani Kumar (PW-10) for supplying copies of mutation and was allegedly caught red-handed in a trap laid by the Vigilance Bureau on 3.7.2002.
3. The appellant denied the allegations and took a consistent defence that the amount received by him related to legal fees for supply of copies, which had already been quantified and entered in the official record prior to the alleged trap and that no illegal gratification was ever demanded or accepted.



4. Learned counsel for State argued that there is no illegality in the impugned judgement of conviction and order of sentence. Case of prosecution stands proved on record by all prosecution witnesses. Ld. trial court has rightly appreciated the testimony of all witnesses and rightly discarded the defence version. Accused has not denied the acceptance of Rs.500/-. The defence set up by accused that this amount was accepted as legal fees is not substantiated by cogent evidence.

5. This Court has carefully gone through the entire evidence on record, including the documentary evidence as well as the statements of prosecution and defence witnesses and contentions of Ld. counsel for the appellant and State.

6. At the outset, it is necessary to observe that the core controversy in the present case is not the mere receipt of money, which stands admitted, but the nature of that receipt, namely, whether the amount of Rs.500/- represented illegal gratification or lawful remuneration.

7. The prosecution itself brought on record Roznamcha Rapat No. 491 dated 01.07.2002 (Ex.DA), which has been duly proved by PW-6 Rajinder Kumar, Patwari. As per this document, the mutation proceedings for which copies were sought had already been processed and the requisite charges had been quantified prior to the date of the alleged trap. The said rapat clearly records that the total legal fees payable for supply of copies came to Rs.480/-.

8. This document is an official record prepared in the ordinary course of business, much prior to the vigilance proceedings, and carries a strong presumption of correctness. Once this document is taken into consideration, the entire prosecution version regarding demand and acceptance of bribe becomes doubtful.

If the legal fees had already been assessed and entered on 01.07.2002, it becomes



difficult to comprehend why the appellant would demand illegal gratification on 03.07.2002 for work that already stood completed.

9. The learned trial court brushed aside this vital document by observing that such rapat could have been prepared later. This reasoning is wholly unsustainable. There is no evidence whatsoever to suggest interpolation, fabrication or ante-dating of Ex.DA. PW-6, who proved the document, was not discredited in cross-examination. The defence suggestion that Ex.DA was a manipulated document was never substantiated by the prosecution.

10. Further, PW-9 Tehsildar G.R. Rohil, an independent officer associated with the raid, categorically stated that the appellant had informed the raiding party that the amount received by him was towards legal fees for copies. This statement of PW-9 assumes great significance, as it emanates from a senior revenue officer with no apparent motive to falsely support the appellant.

11. The defence version also finds support from DW-1 Shri Joga Singh, Office Kanungo, who proved the official rates of fees chargeable for supply of copies and jamabandis. His testimony establishes that the amount of Rs.480/- was consistent with lawful charges. The learned trial court committed a serious error in discarding this defence evidence without adequate reasons.

12. The complainant PW-10 himself admitted in his cross-examination that he did not know the exact legal fees payable for obtaining copies. This admission weakens the prosecution case that the entire amount represented bribe.

13. The possibility that the complainant mistook lawful charges as illegal gratification cannot be ruled out. It is also noteworthy that the alleged demand of bribe is said to have been made in relation to supply of copies, whereas the record shows that the mutation had already been entered and processed prior to the



alleged date of demand. When the work stood completed, the question of demanding a bribe for the same becomes inherently improbable.

14. The learned trial court has heavily relied upon the recovery of tainted money and the phenolphthalein test. However, it is well settled that recovery alone is not determinative, particularly when the accused offers a plausible and probable explanation for the receipt of money. In the present case, the explanation offered by the appellant is not only plausible but is also supported by contemporaneous official records.

15. The presumption under Section 20 of the Prevention of Corruption Act is a rebuttable presumption. In the facts of the present case, the appellant has successfully rebutted the presumption by showing that the amount received corresponded to legal fees already assessed. Once such a probable defence is established, the burden shifts back upon the prosecution, which it has failed to discharge.

16. The contradictions pointed out by the defence regarding the place of occurrence and presence of the appellant in the Patwar Khana further add to the doubt. PW-10 and PW-11 are not consistent on material aspects. Though minor discrepancies can be ignored, contradictions which go to the root of the prosecution case cannot be lightly brushed aside.

17. Another important aspect is the sanction for the prosecution. The sanction order Ex.PB does not reflect due application of mind. The sanctioning authority has merely proved signatures without demonstrating that relevant material, including the defence of legal fees and the rapat Ex.DA, was considered. This infirmity further weakens the prosecution case.



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18. Criminal jurisprudence mandates that if two views are possible, the one favourable to the accused must be adopted. In the present case, not only is an alternative view possible, but the defence version appears more probable when tested on touchstone of documentary evidence and surrounding circumstances.

19. The learned trial court has approached the matter with a preconceived notion, placing undue emphasis on recovery while ignoring vital defence evidence and official records. The impugned judgment, therefore, suffers from serious legal infirmities and cannot be sustained.

20. In view of the above discussion, this Court is of the considered opinion that the prosecution has failed to prove beyond reasonable doubt that the amount of Rs.500/- accepted by the appellant was illegal gratification and not lawful remuneration. The appellant is entitled to the benefit of doubt.

21. Accordingly, the present appeal is allowed. The judgment of conviction dated 02.05.2005 and the order of sentence dated 04.05.2005 passed by the learned Special Judge, Ambala, are set aside. The appellant is acquitted of the charges framed against him under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988.

22. The bail bonds shall stand discharged. Fine, if any deposited, shall be refunded.

23. Pending application(s), if any, is/are disposed of.

January 22, 2026
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No