

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

Judgment Reserved on: November 16, 2017

% *Judgment Delivered on: November 23, 2017*

+ **CRL.A. 172/2011**

KEDAR SINGH

..... Appellant

Through: Mr.Murari Tiwari, Mr.Rahul
Kumar & Mr.Devesh Gupta,
Advocates with appellant in
person

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr.Kewal Singh Ahuja, APP
for the State

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

JUDGMENT

1. Challenge in this appeal is to the judgment dated 24th December, 2010 and order on sentence dated 15th January, 2011 whereby the appellant, who was posted as Sub-Inspector at PS Bawana, has been convicted for committing offence punishable under Section 7 & 13(1)(d) of the PC Act and sentenced to undergo RI for one year with fine of ₹10,000/- and in default of payment of fine, to under SI for a period of one month.

2. Briefly stating the prosecution case is that on 5th February, 2004 the complainant Ranbir Singh contacted Anti Corruption Branch and informed about the ongoing dispute between him and his neighbour Nafe Singh and his family over a piece of land. A quarrel started between them when the complainant tried to raise the construction on

that disputed land but was stopped by Nafe Singh and his family and the PCR call was also made by Nafe Singh and his family which ultimately culminated into registration of FIR No.411/2003 under Sections 341/323/34 IPC against Ranbir Singh and his family.

3. The grievance of the complainant before Anti Corruption Branch was that for making a kalandra against the parties, the appellant SI Kedar Singh, who was Investigating Officer of case FIR No.411/2003, was demanding bribe of ₹5000/- for payment of which the complainant was asked to visit SI Kedar Singh on 5th February, 2004 at 6.00 pm. As he did not want to give the bribe though he had told SI Kedar Singh that he would give ₹1000/-. He sought legal action against SI Kedar Singh for demanding the bribe.

4. On the basis of above complaint Ex.PW2/A which was recorded in the presence of panch witness Sh.Anil Kumar, a trap was laid and the appellant was allegedly apprehended while receiving the bribe of ₹1000/-. Case FIR No.3/2004 Ex.PW13/B was registered against the appellant for committing the offences punishable under Section 7 & 13 of Prevention of Corruption Act. After completion of investigation and obtaining the sanction, the appellant was sent to face trial for the offences complained of.

5. The appellant pleaded not guilty to the charges framed. The prosecution examined 16 witnesses in all to prove its case. In the statement recorded under Section 313 CrPC, the appellant denied the accusations leveled against him. His plea of defence before the Trial Court was as under:

“..... I am innocent and never demanded or accepted any bribe from the complainant. It is submitted that a quarrel took place on 27.12.2003, between the complainant and his family members on one side and Smt.Nirmala and her family members on other side. On PCR call, vide DD Entry no.3 dt.27.12.2003, I went to the spot and came to know that injured Smt.Nirmala has been taken to M.B.Hospital, Poonthkhurd. I reached there and collected MLC of Nirmala and recorded her statement. When I went to police station to get the case registered, both the parties came to police station and requested not to register FIR as both parties are neighbours for 2-3 days. I brought this fact to the notice of SHO and both the parties were produced before him. This fact was also mentioned in DD no.9-A on the same date.

No party came to me between 27.12.2003 upto 30.12.2003 and on 30.12.2003 Smt.Nirmala alongwith her brother Mahesh came and requested that no compromise has been taken so asked me to get the case registered. I got registered FIR no.411/03 u/s 323/341/34 IPC and on 2.1.2004, complainant, his wife Dalpati and his sons Ajit and Jitender were arrested and released on bail.

On 9.1.2004, I got the result of MLC and prepared challan u/s 325/341/34 IPC and forwarded to ACP. After this, both the parties made a complainant against each other. The complaint made by the complainant Ranbir was marked to me and complaint of Sube Singh was made to one ASI Bine der Kumar. Complainant wanted to get the other party arrested and became annoyed with me as I had not arrested the other party on his request. On 4.2.2004, the application/complaint marked to ASI Bijender was given to me by the SHO and on the same day, I prepared the kalandaras against both the parties u/s 107/150 Cr.P.C. and made an entry in DD register.

On the day of trap, I was falsely implicated in this case with the connivance of the police officers. I at once protested and

requested not to arrest me as I have not demanded or accepted any bribe.”

6. After conclusion of trial, the learned Trial Court convicted the appellant for committing the offence punishable under Section 7 & 13 (1)(d) of PC Act and sentenced him in the manner stated above.

7. Mr. Murari Tiwari, learned counsel for the appellant/convict has submitted that the appellant/convict was the Investigating Officer in case FIR No.411/03 under Section 341/323/34 IPC wherein the complainant herein Ranbir Singh and his family members were named as accused. Appellant/convict SI Kedar Singh had collected MLC of injured Nirmala Devi and on the basis of her statement, FIR No.411/2003 was registered against Ranbir Singh - the complainant (PW-2) and his family members at PS Bawana. The appellant investigated and recorded the statement of the witnesses and arrested the complainant Ranbir Singh and his family members. Since the offences were bailable, the complainant Ranbir Singh and his family members were released on police bail immediately. The Complainant was insisting and pressurizing the appellant to lodge a criminal case against Nafe Singh and his family members as well. After the investigation as the appellant didn't find any reason to register an FIR against Nafe Singh and his family, the Complainant Ranbir Singh made a false complaint in Anti Corruption Branch. Learned counsel for the appellant has submitted that despite being arrested and released on bail in the said F.I.R., the complainant (PW-2) and his family kept on quarrelling with the opposite party. Both the parties were breaching the peace of the locality. On 04.02.2004 vide DD entry no. 10A a

Kalandara u/s 107/150 Cr.P.C. was filed before the Special Executive Magistrate, North West, Jahangir Puri, Delhi. The Appellant kept on performing his duties diligently. The complainant had lodged several complaints against the appellant before higher authorities just for the reason that the appellant was not following the instructions of the complainant to implicate his opponents. When the complainant (PW-2) came to know about the said kalandra was initiated against both the parties then he became more violent and decided to seek a revenge to the appellant.

8. Learned counsel for the appellant submitted that the IO of case FIR No.411/03, who is the appellant before this Court, has been conducting the investigation in a fair manner in accordance with the provisions of the law. If he had prepared the kalandra much prior to the alleged demand of bribe, there was no occasion of making any demand from the complainant for making the kalandra.

9. Learned counsel for the appellant has submitted that the panch witness PW-9 Anil Kumar has not supported the case of the prosecution on material aspect i.e. the demand and acceptance of the bribe. Since there is no evidence that the appellant at any point of time demanded or accepted any bribe from the complainant or the prosecution having failed to lead any evidence so as to prove demand and acceptance of bribe and recovery of tainted money from his pocket, his conviction for the offence under Section 7 & 13(1)(d) of the POC Act could not have been based on the sole statement of the complainant who had a grudge against the appellant/convict - the

Investigating Officer in case FIR No.411/03 which was registered against him (PW-2).

10. Learned counsel for the appellant has relied upon Mukhtiar Singh (deceased) Through his LR. vs. State of Punjab (2017) 8 SCC 136 in support of his submissions.

11. Mr.Kewal Singh Ahuja, learned APP for the State has contended that in this case, the recovery of tainted money has been proved not only by the complainant PW-2 Ranbir Singh but also by PW-10 - the raiding officer. The factum of tainted money being received by the appellant has been fully corroborated by the report of the hand wash solution, hence there is no illegality in the impugned judgment and the appeal may be dismissed.

12. I have considered the rival contentions and carefully gone through the record.

13. At the trial, the prosecution has examined 16 witnesses and also relied upon various documents. Learned Special Judge held the version of the complainant reliable and came to the conclusion that the appellant demanded the illegal gratification from the complainant and accepted the bribe of ₹1,000/- on 5th February, 2004 as per demand. The clinching question is that whether the prosecution has proved that appellant demanded the bribe of ₹5,000/- from the complainant for preparing kalandra and accepted ₹1,000/- as bribe from the complainant on 5th February, 2004 in his office.

14. Before proceeding to embark upon the testimony of the material prosecution witnesses, it is relevant to note that prior to lodging of complaint against the convict in Anti Corruption Branch there was a

long litigation between the complainant who was a Court employee and the opposite party i.e. Nafe Singh for decades. This fact is proved from Ex.PW-5/A i.e. order dated 19th July, 1999 passed by the Court of Sub Divisional Magistrate (Narela), Alipur in case No.76/SDM(N)/96/77 between Ranbir Singh – 1st party versus Lala & Ors – 2nd Party (Lala is father of Nafe Singh).

15. With a view to appreciate the rival contentions and the evidence produced by the prosecution, it is necessary to refer to the statement of PW-2 Sh.Ranbir Singh – the complainant, PW-9 Sh.Anil Kumar – panch witness and PW-10 Sh.Sunder Dev – the raiding officer.

16. PW-2 Ranbir Singh - the complainant has deposed about his quarrel with his neighbour Nafe Singh and his family who allegedly came to the spot to stop the construction being raised by PW-2 Ranbir Singh and rejection of their demand to seek a passage through the plot by PW-2 Ranbir Singh. As per version of PW-2, somebody from the side of Nafe Singh called PCR and SI Kedar Singh from PS Bawana (appellant herein), reached the spot and initiated the proceedings. In respect of the incident dated 27th December, 2003 FIR No.411/2003 under Section 341/323/34 IPC was registered on 30th December, 2003 against the petitioner on the basis of the statement made by the injured Nirmala Devi, daughter of Nafe Singh. The grievance of PW-2 Ranbir Singh was that he also made a statement against Nafe Singh and his family but no action was taken against them and that the appellant Kedar Singh asked him to leave assuring that he will prepare kalandra against Nafe Singh and his family members. Despite that, he did not initiate any kalandara and on his insisting for a legal action

against Nafe Singh and family, the appellant demanded bribe of ₹5,000/-. The sequence of events on the day of trap from the time of his visit to the police station to pay the bribe has been stated by PW-2 as under:-

“.....At about 5:45 PM myself and panch witness reached the P.S. and other members of raiding party took their suitable positions. Immediately thereafter we reached the room of SI Kedar Singh accused situated on the first floor. Accused was sitting in his room. I wished the accused and enquired as to whether he had initiating any action against Naphe Singh and his family. The accused asked as to whether I had brought the bribe money and I told him that I had brought the bribe money. I took out the tainted GC notes from the left pocket of my shirt and handed over to the accused which he accepted with his right hand and thereafter transferred the GC notes in his left hand and kept tainted amount in the left pocket of his pant. Thereafter the accused started telling me about my case and meanwhile the panch witness came out of the room of the accused and gave the pre determined signal by moving his right twice on his head. Thereafter members of raiding party immediately came there. The panch witness told the Inspector that the accused had accepted the illegal gratification from me. The Inspector disclosed his identity to the accused and challenged him by telling that he had accepted the bribe money of ₹1,000/- from me. The RO told the accused that he was to be searched and if he wanted he could take the search of the RO and members of raiding party but the accused declined the offer. Inspector asked the panch witness to recover the tainted amount from the person of accused and thereafter panch witness took out two GC notes of 500/- each from the left pocket of the pant of accused. The panch witness tallied the numbers of GC notes with the numbers recorded in the pre raid report and found the numbers to be the same. The RO seized the GC notes vide seizure memo Ex.PW-2/C.

17. In cross-examination the complainant has stated that the demand was made on 4th February, 2004 at 7:00 PM. He was confronted with his statement Ex.PW-2/DA wherein there was no mention that the accused demanded the bribe. PW-2 has admitted that other police officers were in the adjacent room where the convict Kedar Singh was present and that the raiding team remained at the spot upto 8-8:30 PM. He has denied the suggestion that on refusal of the convict to oblige him by falsely implicating the other party, he nurtured a grudge against the convict and despite any demand or acceptance of money by him, he (PW-2) made a false complaint.

18. PW-2 Ranbir Singh admitted that in case FIR No.411/03 while releasing him on police bail, no bribe was demanded by the convict from him. **The consideration for which bribe was demanded by the convict from the complainant PW-2 Ranbir Singh in his own words is “accused demanded bribe that kalandra under Section 107/150 Cr.P.C. would be made against both the parties. As per PW-2 Ranbir Singh, for the first time, bribe was demanded on 4th February, 2004 at 7.00 pm.**

19. PW-9 Anil Kumar, the panch witness has not fully supported the prosecution case. He stated that he was directed by his department to perform duty as panch witness in Anti Corruption Branch and at about 10:00 AM he reached the Anti Corruption Branch. At about 2:00 PM, the complainant Ranbir Singh came and got recorded his statement Ex.PW-2/A, which was also signed by him. Thereafter pre-trap proceedings were conducted and at about 4:00 PM he along with the members of the raiding party and the complainant left the Anti

Corruption Branch in the Government vehicle and reached Police Station Bawana at 5:40 PM. After parking the vehicle, members of the raiding party remained in the vehicle and he along with the complainant entered the police station, reached the first floor and entered the room of the convict Kedar Singh who was present in his room. **He along with the complainant sat on the bench in the room. The complainant asked about kalandra from the convict and he told that he had filed the same in the Court.** The complainant thereafter took out the GC notes from the pocket of his shirt and extended towards the accused who took the same with his right hand and kept in the left pocket of his pant with his left hand. He gave the pre-appointed signal and when the raiding team came, the convict took out the note from his pocket and threw on the table and thereafter he tallied the number and post-trap proceedings were conducted. As this witness did not fully support the case of the prosecution, he was cross-examined by the State but he denied that the GC notes of ₹1,000 bribe money were recovered by him from the left pocket of the pant of the convict. In his cross-examination by defence counsel, he admitted that he had been panch witness in three cases. He stated that when he reached Anti Corruption Branch in the morning, complainant was already sitting there. He has also stated that except the conversation that when the complainant asked about kalandra the accused informed that it had been filed in the Court. No other conversation took place in his presence between the complainant and the accused. He had admitted that when he was asked to take search of the pant of the convict, he did not find the GC notes in the

pocket of the convict. He has also stated that they came to the Anti Corruption Branch and remained there till 1:00 AM (midnight). This panch witness did not state about any demand of bribe being made in his presence.

20. PW-10 the Raiding Officer is Inspector Sunder Dev. **He has stated that the complainant came to Anti Corruption Branch on 5th February, 2004 at 2:40 PM and made statement Ex.PW-2/A in connection with the demand of ₹5,000/- by SI Kedar Singh and demand reduced to ₹1,000/- by SI Kedar Singh.** After recording the statement, he conducted the pre-trap proceedings and thereafter the raiding officer left for PS Bawana at about 4:30 PM and reached there at 5:40 PM. At about 5:40 PM the complainant and the panch witness reached the first floor of the building and at 5:55 PM he received pre-assigned signal from the panch witness. When he reached the room of the convict the panch witness told them that after accepting the bribe from the complainant i.e. right hand the convict had kept the same in the left pocket of the shirt with the left hand. **Thereafter, at his instance, panch witness recovered GC notes from the left pocket of the pant of the convict and after tallying the number, the same were seized vide seizure memo Ex.PW-2/C and post-trap proceedings were conducted.** In his cross-examination he stated that they left Anti Corruption Branch at 4:30 PM and that he was standing near the staircase on the ground floor. He could not recollect the position taken by the other members of the raiding party. He stated that he did not call the SHO to the spot, nor recorded his statement. No police official collected at

the spot and he returned along with the complainant and the panch witness from the spot.

21. The issue that arises is whether merely by recovery of the treated notes from the table in the room of the appellant, as stated by PW-9 – the recovery witness, the Prosecution has been able to prove the offences under Sections 7 and 13(1)(d) read with 13(2) PC Act. In the case Meena (Smt) w/o Balwant Hemke vs. State of Maharashtra 2000 (5) SCC 21 the three Judge bench of the Hon'ble Supreme Court held :

'11. The learned Judge in the High Court seems to have mechanically affixed his approval to the findings recorded by the trial Judge by profusely extracting such findings. Mere recovery of the currency note of Rs. 20 denomination, and that too lying on the pad on the table, by itself cannot be held to be proper or sufficient proof of the acceptance of the bribe, in the peculiar circumstances of this case which lend also credence to the case of the appellant that it fell on the table in the process of the appellant pushing it away with her hands when attempted to be thrust into her hands by PW 1. The results of phenolphthalein test, viewed in the context that the appellant could have also come into contact with the currency note when she pushed it away with her hands cannot by itself be considered to be of any relevance to prove that the appellant really accepted the bribe amount. With such perfunctory nature of materials and the prevaricating type of evidence of PW 1 and PW 3, who seem to have a strong prejudice against the appellant, it would be not only unsafe but dangerous to rest conviction upon their testimony. PW 1, if really was keen on getting the copy of the record urgently, could have made an urgent application to have them delivered within 3 days instead of making an ordinary application and going on such an errand, which makes it even reasonable to assume that the trio of PW 1, PW 3 and Jagdish Bokade were attempting to weave a

web around the appellant to somehow get her into trouble and victimise her.'

26. In Banarasi Dass Vs. State of Haryana (2010) 4 SCC 450 the Hon'ble Supreme Court held as under:

'19. The above findings recorded by the High Court show that the Court relied upon the statements of PW 10 and PW 11. It is further noticed that recovery of currency notes, Exts. P-1 to P-4 from the shirt pocket of the accused, examined in light of Exts. PC and PD, there was sufficient evidence to record the finding of guilt against the accused. The Court remained uninfluenced by the fact that the shadow witness had turned hostile, as it was the opinion of the Court that recovery witnesses fully satisfied the requisite ingredients. We must notice that the High Court has fallen in error insofar as it has drawn the inference of the demand and receipt of the illegal gratification from the fact that the money was recovered from the accused.

20. It is a settled canon of criminal jurisprudence that the conviction of an accused cannot be founded on the basis of inference. The offence should be proved against the accused beyond reasonable doubt either by direct evidence or even by circumstantial evidence if each link of the chain of events is established pointing towards the guilt of the accused. The prosecution has to lead cogent evidence in that regard so far as it satisfies the essentials of a complete chain duly supported by appropriate evidence.'

22. The FIR against the complainant was registered on fourth day after the occurrence (as the parties were exploring the possibility of settlement). On being informed by the injured about failure of settlement talks, the FIR was registered. Otherwise also the Investigating Officer could not have demanded bribe from the complainant for making a kalandra against both the parties including

the complainant (PW-2) when he had already arrested PW-2 and his wife and two sons in case FIR No.411/2003 and also released him on police bail without making any demand of bribe.

23. The version of the complainant PW-2 Ranbir Singh who was employee in a Court shows that he felt insulted and his ego was hurt when cross-FIR was not registered.

24. There is nothing on record to suggest that prior to visiting the Anti Corruption Branch on that date the appellant visited the police station a day before when the alleged payment of bribe was made from him or he complained to superior officer about the alleged demand of bribe.

25. The complaint Ex.PW2/A made by PW-2 Ranbir Singh on the basis of which trap was laid, does not speak about the date or the time when the bribe money was demanded by the convict from the complainant. The complainant has mentioned in the complaint Ex.PW-2/A that the bribe of ₹5,000/- had been demanded by SI Kedar Singh for initiating action/kalandra and he being against giving of bribe, wanted action to be taken and that he had brought the bribe amount with him and has been called by SI Kedar Singh on that date (5th February, 2004) in the evening at 6:00 PM, he has informed him (SI Kedar Singh) that he would be giving ₹1,000/- in the evening on that date. So far as demand of bribe is concerned, it was to be paid for initiating proceedings under Section 107/150 Cr.P.C. by filing kalandra. It is a matter of record that the kalandra had been prepared and filed on 4th February, 2004 itself i.e. before the demand was claimed to have been made on 4th February, 2004 at 7.00 pm.

26. PW-2 has admitted that PCR call was made on 27th December, 2003 when the quarrel took place. DD No.3 was assigned to SI Kedar Singh - the convict. On his visit to the spot, he was informed that the injured Nirmala, daughter of Nafe Singh had been taken to M.B. Hospital, Pooth Khurd. He reached the hospital, collected her MLC but when the case was to be registered, both the parties being neighbours, requested to wait for 2-3 days as they wanted to settle the issue and they were produced before the SHO and recorded DD no.9A to the above effect on the same day. It has also been proved from the record the FIR No.411/2003, under Section 341/323/34 IPC against the parties was registered only on 30th December, 2003 when injured Nirmala came to the police station that the compromise talks have failed and she wanted legal action. It has also been admitted by PW-2 Ranbir Singh that when he and his wife and sons were arrested on 2nd January, 2004 by the convict SI Kedar Singh, immediately they were released on police bail and no bribe was demanded by him even at that time.

27. The grievance of the complainant Ranbir Singh was that while FIR 411/2003 on the basis of the statement of injured Nirmala Devi/daughter of Nafe Singh has been registered against him and his family but no action was taken on the basis of his complainant against his opponents. FIR can be registered on commission of cognizable offence. The complaint made by PW-2 Ranbir Singh at Police Station Bawana in respect of the incident dated 27th December, 2003 (not exhibited) is only to the extent that on 27th December, 2003, in the morning at about 9-9:30 AM, when he was raising construction on

plot, Nafe Singh, son of Sh.Lala and his two sons and wife visited his house. They were armed and threatened to kill him. He closed the door of his house and saved him and these five persons had also attacked in the year 1986 when he was on duty in Court and this was the second time and he apprehended threat from these persons.

28. The complainant Ranbir Singh had a grudge against the convict as on the basis of his above complainant dated 27th December, 2003, cross FIR was not registered and even kalandra was not filed. There is nothing on record to suggest that before approaching the Anti Corruption Branch, he verified from the convict whether the kalandra has been filed or not. PW-9 Anil Kumar, panch witness did not state any demand being made by the convict SI Kedar Singh when he along with the complainant entered his room. No recovery has been affected from the pocket of the convict.

29. It is surprising that despite trap being laid in the Police Station Bawana, the raiding officer did not even care to make at least an entry in the roznamcha of the Police Station Bawana about the trap being laid in the Police Station and whether the trap was successful or not. It is highly improbable that on raid being conducted in the police station, in the IO room of SI Kedar Singh, no police official gathered there. Neither the statement of PW-2 Ranbir Singh that when he entered, convict demanded bribe from him has been corroborated by PW-9 Anil Kumar, the panch witness, nor any such demand was heard by PW-9, despite the fact that he was there only for the purpose of witnessing the conversation of demand and acceptance of bribe

amount. PW-9 has specifically stated that the bribe money was not recovered from the pocket of the convict.

30. In this case, not only the bribe money has not been proved to be recovered from the pocket of the convict, his personal search memo Ex.PW-2/8 records that on his search only telephone diary, ball pen and ring were recovered.

31. It is a case where the panch witness has not supported the prosecution case on the aspect of demand of bribe as well as recovery of tainted money from the pocket of the convict. The prosecution has failed to prove beyond reasonable doubt that the convict had at any point of time demanded bribe from the complainant. In fact, it is a case where the convict was discharging his duties as an Investigating Officer without any favour. When he received DD No.3A and visited the spot, after obtaining the MLC, he not only brought to the notice of the SHO that the parties being neighbours, did not want immediate registration of the FIR but also recorded this fact vide DD No.9A. Thereafter no FIR was registered till injured Nirmala Devi herself requested for the legal action and only thereafter FIR was registered and that too only for the offence which was made out from the statement and were bailable in nature. There is no immediate arrest on 30th December 2003 and again the arrest of the complainant Ranbir Singh, his wife and two sons on 2nd January, 2004 was without any expectation. From the complaint dated 27th December, 2003 by the complainant, it appears that he is a Court employee and with a view to teach a lesson to the convict, he lodged a false complaint with the Anti Corruption Branch about demand of bribe from him. As per PW-10 –

the raiding officer, the complainant reached Anti Corruption Branch at 2.40 pm and after recording his complaint and conducting the pre-trap proceedings, he alongwith the raiding team left Anti Corruption Branch for the spot at 4.30 pm. PW-9 Sh.Anil Kumar – the panch witness in his examination-in-chief has stated that on 5th February, 2004 he reached Anti Corruption Branch at about 10.00 am and complainant reached at about 2.00pm. However, in his cross examination, he has stated that he reached Anti Corruption Branch in the morning hours and when he was called by the raiding officer in his room, the complainant was already sitting there. As per version of the complainant PW-2 Sh.Ranbir Singh, he has reached Anti Corruption Branch at 4.00 pm. The raiding officer also without proper verification of the facts preferred to conduct the raid. The post-trap proceedings also raise a serious question mark about their correctness and credibility of the version of complainant on the demand and acceptance of bribe.

32. Neither in the complaint Ex.PW-2/A nor in his examination-in-chief, PW-2 Ranbir Singh - complainant mentioned as to when and where bribe of ₹5,000/- was demanded from him, whether the demand was reduced to ₹1,000/- or it was to be partially met by paying ₹1,000/- on 4th February, 2004 in the evening and balance later. There is no whisper when balance amount was to be paid.

33. The statement of the raid officer is to the effect that the demand made was of ₹5,000/- but reduced to ₹1,000/- which appears to have escaped the attention of learned Trial Court.

34. It is also necessary to mention that on direction of a superior officer, presence of PW-9 Sh.Anil Kumar in the Anti Corruption Branch is also not proved. The request, if any, made by the raid officer or any other officer of Anti Corruption Branch or the duty slip or instruction in writing given to PW-9 to report the Anti Corruption Branch has not been placed/proved on record.

35. To conclude, the prosecution evidence is not sufficient to prove the charges against the appellant. The version of PW-2 Sh.Ranbir Singh - the complainant, PW-9 Sh.Anil Kumar – the panch witness and PW-10 Sh.Sunder Dev – the raiding officer could not have been implicitly relied upon by the learned Trial to convict the appellant in view of various discrepancies, embellishments and inherent infirmities in their version.

36. As a result, the appeal is allowed. The impugned judgment dated 24th December, 2010 and order on sentence dated 15th January, 2011 are set aside.

37. The appellant is acquitted of the charges. His bail bonds stand discharged.

38. LCR be sent back alongwith copy of this order.

39. A copy of the order be also sent to the concerned Jail Superintendent for information.

PRATIBHA RANI
(JUDGE)

NOVEMBER 23, 2017
'hkaur'