IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.3 of 2013

Arising out of PS. Case No. -26 Year- 2006 Thana -C.B.I. CASE District-

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Ramesh Kumar Ram S/o Late Sh. Lurki Ram Resident of Village Mokhalisa, P.O-Gidha, P.S- Koilwar, District- Bhojpur.

.... Appellant/s

Versus

The State of Bihar through Central Bureau of Investigation

.... Respondent/s

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Appearance:

For the Appellant/s : Mr. S.K. Lal, Advocate

For the Respondent/s : Mr. Bipin Kumar Singh (SC- CBI)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

C.A.V. JUDGMENT

Date: 29-06-2018

The present appeal was preferred against the judgment of conviction and sentence dated 04.12.2012 passed by the learned Court of Special Judge, CBI Court No.-II, Patna in Special Case No. 18 of 2006 (arising out of RC Case No. 26A of 2006). By the said judgment the appellant herein has been held guilty under Section 7 & 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 and has been sentenced to undergo R.I. for one year and a fine of Rs. 500/- under Section 7 of the Prevention of Corruption Act and the appellant has been further sentenced to undergo R.I. for one year and to pay a fine of Rs. 5,000/- under Section 13(2) read with Section 13(1) (d) of the Prevention of Corruption Act and in default of payment of fine, the appellant has been sentenced to undergo S.I. for one week. The sentences have been directed to run concurrently.

The short facts of the case is that the present case was registered on the basis of written complaint of Shri Binod Singh dated 28.11.2006 who had alleged that the appellant herein, the then Sub-Postmaster, Barhara Post Office, Bhojpur was demanding an amount of Rs. 500/- from his for transfer of *Kisan Vikas Patras (hereinafter to be referred as 'KVPs.)* in his name. It has been further stated in the written complaint that the complainant had purchased six KVPs. from Smt. Lalo Devi for a sum of Rs. 6,000/- which had been issued from Barhara Post Office. On 28.11.2006 the complainant had approached the appellant herein for the purposes of encashing the said six KVPs. and depositing the amount in his account in the post office and for the said purposes the appellant had demanded a sum of Rs. 500/-. On the basis of the written complaint, C.B.I./A.C.B., Patna had registered a CBI Case bearing RC Case No. 26A of 2006 dated 29.11.2006 under Section 7 of the Prevention of Corruption Act, 1988. Thereafter, the allegations levelled by the complainant was verified and a team of C.B.I. officials and two independent witnesses had laid a trap and caught the appellant herein red handed while demanding and accepting a bribe of Rs. 5,00/- and then the bribe money was also recovered from the possession of the appellant during the trap led by the C.B.I. The C.B.I. had investigated the case and thereafter submitted a charge sheet against the appellant herein on 30.03.2007 under Section 7 & 13(2) read with Section 13(1)(d) of Prevention of Corruption Act and thereafter the cognizance of the offences was taken by the learned trial court on 05.06.2007. The learned trial court had then framed the charges against the appellant on 07.01.2008 under Section 7 & 13(2) read with Section 13(1) (d).

The prosecution had altogether examined 10 witnesses.

P.W. 1 is Mahendra Prasad Singh, is the then Assistant Director, Post Master General, office and he is the person who had accorded sanction for prosecution. P.W. 2 is Jai Prakash Mishra, the Deputy Superintendent of Police, C.B.I., Patna and he had proved the formal FIR which has been marked as Exhibit-2. P.W. 3 is Sheodhar Rai, the then Sub-Post Master, Barhara. P.W. 4 is Binod Kumar Singh, a C.B.I., Constable and the verifier in the present case. P.W. 5 is Arjun Kumar Tanti, Manager of the Bank who is said to be an independent witness. P.W. 6 i.e. Ramendra Pratap Pandey is the Investigating Officer of the present case and was the leader of the trap team. P.W. 7 Binod Singh is the complainant of the present case. P.W. 8 Shiv Narain Singh is a postal peon. P.W. 9 is Vimal Chandra Pulkai who is Chemist of the Forensic Science Laboratory. P.W. 10 Ajay Kumar is also the Investigating Officer of the present case.

The defence had also examined three witnesses:-

D.W.1 is Shailesh Kumar Pandey, employee of the post office. D.W. 2 is Shyam Kumar Verma and D.W. 3 is Lalo Kuar.

The learned counsel for the appellant has argued that the prosecution has miserably failed to prove the charge of demand, acceptance, recovery and motive in the present case. It has been further argued that neither the transfer form no. 34 i.e. Form No. N.C. 34 (marked as Exhibit-9) was recovered from the appellant nor the said transfer form contained the initial of the appellant herein authorizing the transfer but on the contrary the said transfer from was recovered from one Dhananjay Kumar Gaur, who has not been examined in the present case, thus the allegation of the complainant to the effect that for the purposes of transfer, the appellant had taken a bribe of Rs. 500/- is baseless and unsubstantiated. It is further submitted that K.V.Ps. of Lalo Kuar has not been brought on record of the present case, hence the very existence of the same is doubtful. It is the further submission of the learned counsel for the appellant that none of the witnesses have either seen or heard the appellant asking for bribe money, hence there is no evidence to show that the appellant had accepted the bribe money. It is also pointed out that there has been no recovery of any incriminating article from the appellant. It is further submitted that the deposition of the witnesses especially P.W. 5 would show that the currency notes were taken out from the drawer and not from the hand of the appellant herein. It is further submitted that P.W. 6 had clearly stated that he had instructed Vijay Paswan to take out the money from a box and thereafter the money was taken out of the box, hence the factum of the money being planted in the box, cannot be ruled out. The learned counsel for the appellant has also pointed out the discrepancy between the seizure memo and the report of the Central Forensic Science Laboratory, Kolkata inasmuch as, as per the seizure memo, Right Hand Wash (R.H.W.) turned pink but L.H.W. did not whereas according to the the Forensic Science Laboratory, R.H.W. and L.H.W. both turned positive, hence it is clear that the F.S.L. people had examined some other sample, thus no reliance can be placed either on the seizure memo or on the report of the F.S.L.

Per contra, the learned counsel for the C.B.I. Shri Bipin Kumar Sinha has submitted that the K.V.Ps. were pending for transfer with the appellant since a long time and for the same he was demanding a sum of Rs. 5,00/-. The learned counsel for the C.B.I. has further submitted that there is ample evidence on record to sustain conviction of the appellant herein. According to him, various witnesses including the trap witnesses, have supported the prosecution case and there is no infirmity or contradiction in the evidence of the said witnesses, as such the evidence of the witnesses produced by the prosecution are sufficient to show that the learned Trial Judge has rightly passed the judgment of conviction. It is further submitted that the recovery memo as well as the pre trap memo goes to prove the guilt of the appellant beyond any reasonable doubt. It is further submitted that the petitioner has been caught red handed demanding and accepting bribe money, hence no leniency should be shown with such person.

I have heard the learned counsel for the parties and besides going through the materials on record, have also perused the evidence. At this juncture, it would be apt to deal with the evidence of the prosecution witnesses at length:-

P.W. 1 is Mahendra Prasad Singh, who was the then Assistant Director in the office of Post Master General Office, Patna and he had accorded sanction for prosecution as also has proved the sanction order which has been marked as Exhibit-1.

P.W. 2 is Jaiprakash Mishra, Deputy Superintendent of Police, C.B.I. and he has proved the formal FIR which has been marked as Exhibit-2.

P.W. 3 is Sheodhar Rai, Sub Post Master, Barhara, Post Office and he has stated in his evidence that for the purposes of transfer of K.V.Ps., Form N.C. 34 is required to be filled up and both the buyer as well as the seller are required to put their signature on the said form. This witness has identified the signature of the appellant herein which was marked as Exhibit-3. This witness has also proved the A.C.G. 67 form and has identified the signature of the appellant present on the same which has been marked as Exhibit-3/1. This witness has also identified the signature of the appellant on the purchase form in the name of Lalo Devi on which the appellant had made an endorsement regarding transfer of the K.V.Ps. and the said signature of the appellant has been marked as Exhibit-3/2. In paragraph no. 10 of his cross-examination, P.W. 3 has stated that he can not identify the signature of the accused and in paragraph no. 11, he stated that there was no account in the name of Binod Singh in Barhara Post Office. In such view of the matter, P.W. 3 was declared hostile.

P.W. 4 is Binod Kumar Singh, who is the constable, C.B.I., A.C.B., Patna and he has stated in his evidence that in the month of

November, 2006, he was posted as Constable in C.B.I. He has further deposed that on 29.11.2006, he had gone for verification to Barhara where he had met the complainant namely Binod Kumar Singh and along with him he reached the said Post Office, Barhara at about 11:30 A.M. and there the appellant herein had demanded a sum of Rs. 500/- as bribe from the complainant for the purposes of transfer of the K.V.Ps. Thereafter, the said witness had submitted his report in the evening of 29.11.2006 which has been identified by him and is marked as Exhibit-4. This witness has further stated that on 30.11.2006 a team was constituted, which was being led by Shri R.P. Pandey and then the team had gone to the Regional Office of Punjab National Bank at Ara where two independent witnesses and the complainant were present from before. It is stated that at the bank pre-trap formalities were carried out, independent witness Arjun Kumar Tanti was asked to sign on the paper which was dried with Phenolphthalein powder and thereafter his hands were washed in the solution, which had turned pink. The currency notes were also dried with Phenolphthalein powder and the remaining powder was kept in envelope (Exhibit-3/5 & 3/6). Pre-trap memorandum was prepared on which the said witness has signed and P.W. 4 has proved the same and the same has been marked as Exhibits-3/7 to 3/9. P.W. 4 has further stated in his evidence that after the raiding party reached Barhara Post Office, the complainant had given six K.V.Ps. to the accused herein and in turn the appellant had demanded a sum of Rs. 500/- from the complainant and then the signal was given by the complainant and the witnesses came whereupon Shri R.P. Pandey directed Vijay Paswan to take out the money and then Shri Binod Kumar Singh and Lalit Kaushik had caught the hands of the appellant and washed the same whereupon the solution from the Right Hand Wash of the appellant turned pink and the same was seized and sealed (Exhibits-3/10 to 3/12). Thereafter, the recovery memorandum was prepared and signed by various police officials (Exhibits-3/13 to 3/16). In cross-examination, P.W. 4 has stated that the complainant had first given K.V.Ps. to the appellant whereafter the appellant had demanded a sum of Rs. 500/- from the complainant and then the complainant had given a sum of Rs. 500/- to the accused. It has been further stated that neither the complaint was given in his presence nor he had met Lalo Devi. In paragraph no. 45 of his cross-examination, P.W. 4 has stated that the money had come out from the wooden box of the appellant. In paragraph no. 55 of his cross-examination, P.W. 4 has stated that he had gone after being signaled. In paragraph no. 60 of his cross-examination, this witness has stated that the place where this witness along with other police officials etc. were standing, from there the door was not visible as well as nothing could be heard or seen.

P.W. 5, namely, Arjun Kumar Tanti is the Manager of U.C.O. Bank. This witness has stated in his evidence that in the month of November, 2006, he was posted at U.C.O. Bank Sahoo, Parbatta, District-Bhagalpur and on 30.11.2006, he had taken part in the trap led by the C.B.I. This witness has further stated that after he had come to the C.B.I. office for some official work, he went to Punjab National Bank, Ara where the complainant was sitting and told him about the alleged demand of bribe by the appellant herein. In the bank a practical demonstration was given regarding the reaction of Phenolphthalein with the solution of Sodium Carbonate. Thereafter, the said witness and others had gone to Barhara Post Office and the complainant as well as one Vijay Paswan had gone inside the office while P.W. 5 had remained outside the office. After signal was made, the said witness and other C.B.I. officials entered the post office and then the C.B.I. official had caught the hand of the accused and his right hand was washed in a milky chemical solution which became pink but upon the left hand being washed, the colour did not change. The said solutions were kept in different bottles and signed and had been exhibited in the present case. Thereafter a sum of Rs. 500/- and some documents were taken out by Vijay Paswan from the drawer and the number of the currency notes were compared and then sealed, which have been exhibited during the course of the trial. At this juncture the said witness i.e. P.W. 5 was declared hostile, however, he has been cross-examined. In paragraph no. 6 of his cross-examination, P.W. 5 has stated that during his tenure of posting at Parbatta, two C.B.I. cases were lodged. It has been further stated that on 29.11.2006 he was in the C.B.I. office at Patna for the entire day and he was not relieved in context of the said two cases and on the said day he was told to come to the office on 30.11.2006 whereafter he had reached the C.B.I. office in between 7:00-8:00 in the morning and there he was told about going to Ara and then the had left for Ara in between 8:00-8:30 in the morning and they had returned to the C.B.I. office at Patna from Ara at about 8:30 in the night. In paragraph-8 of his cross-examination, P.W. 5 has stated that on 30.11.2006, the hands of the appellant herein were only washed. It had also been stated that P.W. 5 did not have any talks with the complainant. In paragraph no. 10 of his cross-examination, P.W. 5 has stated that all people were not sitting inside the boundary and some were inside and others were outside. It has been further stated that after moving away from the counter, the complainant had signaled from the veranda. P.W. 5 has stated that the veranda is at a distance of 5-6 fit from the counter. In paragraph no. 11, it has been stated that he had neither seen nor heard as to what talks were held in between the complainant and the appellant herein. In paragraph no. 12, it has been stated that he had not seen as to who had kept the money in the drawer or who had taken out the money from the drawer. In paragraph no. 13, P.W. 5 has stated that he has nowhere written that he had read the pre-trap memorandum and the recovery memorandum and had then made his signature.

P.W. 6 is Ramendra Pratap Pandey, Inspector, C.B.I., A.C.B, Patna. P.W. 6 has stated in his evidence that he has investigated the case and he was the one who had constituted the trap team and he was the leader of the trap team. It has been stated that a five hundred rupees note was given by the complainant and the same was treated with Phenolphthalein powder and the same was then returned back to the complainant to be given on a demand being made by the accused/appellant herein. It has been stated that he had instructed that after transaction of the bribe money signal should be given by rubbing the hand. Thereafter, the pre-trap memorandum was prepared on the instruction of P.W. 6 by Lalit Kaushik, Inspector, C.B.I., signatures whereon have been marked as Ext. 3/31 to 3/33 and the pre-trap memorandum has been marked as Exhbit-5. The remaining Phenolphthalein powder was sealed in an envelope. The complainant had then gone to the accused and after some talks had given a sum of Rs. 500/- to the appellant who had then kept the same in the box and then he had given signal whereupon C.B.I. officials caught the hand of the accused and recovered the bribe money from a box and the same was tallied with the numbers of the note mentioned in the pre-trap memorandum. The recovered money was sealed in a cover and the same was also signed by shadow witness namely Vijay Kumar. During the course of the trial, the said documents/signature etc. have been marked as exhibits. This witness has further stated that the right hand of the appellant was washed in Sodium Carbonate solution which turned pink and the same was sealed in a phial and the same has been exhibited. The appellant was then arrested and since there was crowd on the place of occurrence, the recovery memorandum was prepared in the regional office of Punjab National Bank, Ara which has been proved and marked as Exhibit-7. In paragraph no. 7 of his cross-examination, P.W. 6 has stated that he cannot say as to when and who had purchased the K.V.Ps. This witness has further stated that he also does not know as to when the said K.V.Ps. were to mature. In paragraph no. 8 of his cross-examination, P.W. 6 has stated that he does not have any knowledge as to whether Lalo Kuer had purchased the K.V.Ps. herself or through someone else. In paragraph no. 9 of his cross-examination, P.W. 6 has stated that he had not met Lalo Devi and had also not seen the K.V.Ps. In paragraph no. 11 of his cross-examination, P.W. 6 has stated that at the time of raid the complainant had gone inside firstly and P.W. 6 was standing at a distance of 2-3 feet from the complainant. It is further stated that the height of the counter is about 3 feet and the appellant was sitting on the other side of the counter and the document as also the money was given through the counter to the appellant herein. This witness has further stated that nothing was recovered from the appellant and in fact bribe money was also not recovered from the appellant. It has been further stated that neither the witnesses from the place of occurrence nor from nearby places were called for deposing as witness. It has also been stated that several customers were standing at the Post Office and the work was going on, however, none of the said customers were made witness. This witness has further stated that none of the persons were searched before going inside the Post

Office and the C.B.I. officials had gone into the Post Office from the back door. In paragraph no. 12 of his cross-examination, this witness has stated that the money was taken out form the box by the witness namely Vijay Paswan after going inside with P.W. 6. It has also been stated that no money was kept in the said box and the said box was not sealed.

P.W. 7 is the complainant namely Binod Singh and he has stated that he had made a complaint with the C.B.I. It has been stated by the said witness that he had purchased six K.V.Ps. worth Rs. 1,000/- each through agent Hare Krishna and the same was to be transferred in his name for which he had met the appellant herein, who had demanded bribe whereafter he had made complaint on 28.11.2006 (marked as Exhibit-8) and the allegations were verified on 29.11.2006 and thereafter a trap team was constituted which reached the regional office of Punjab National Bank at Ara on 30.11.2006 where he had given a sum of Rs. 500/- to the trap team and the said note was treated with the Phenolphthalein powder and was handed back to P.W. 7 with a direction to give the same to the appellant herein upon demand of bribe being made by the appellant. The P.W. 7 is said to have gone to the said Post Office and upon a demand being made by the appellant, the said witness had handed over the note of Rs. 500/- to the appellant which was kept by him in the cash counter and thereafter the complainant had made signal to the C.B.I. officials who had caught the accused, recovered the money and then the hand of the appellant was washed and the water turned pink. This witness has proved his signature on recovery memorandum as well as on the envelope and phials. This witness has also proved the form filled by Hare Krishna which has been marked as Exhibit-9. In paragraph no. 8 of the cross-examination, this witness has stated that he had stated before the C.B.I. that he had signaled the C.B.I. team after coming out from Barhara Post Office.

P.W. 8 is Shiv Naresh Singh who is a postal employee, posted at Barhara Post Office. This witness has been declared hostile by the prosecution, hence there is no need of discussing his evidence.

P.W. 9 is Vimal Chandra Pulkai who was posted as Junior Scientific Officer at C.F.S.L., Kolkata on 14th February, 2007. This witness has proved the report of the C.F.S.L., Kolkata and the same has been marked as Exhibit-9. In paragraph no. 2 of his cross-examination, P.W. 9 has stated that light pink colour was found in R.H.W. while light pink colour was also found in L.H.W.

P.W. 10 is Ajai Kumar and he is said to have been posted as Inspector, C.B.I., Patna in A.C.B. in the year 2007. He has stated in his evidence that he had taken over the charge of the investigation of this case from Shri R.P. Pandey and has reiterated the statement of the complainant, inspected the place of occurrence, seized documents and had submitted the charge sheet after investigation.

Now, coming to the defence witnesses, Shailesh Kumar Pandey has been examined as D.W. 1 and he has stated in his evidence that he is working as an agent in Barhara Post Office and the complainant Binod Singh is the relative of Hare Krishna Singh. He has further stated that on 30.11.2006 at about 11:00 / 12:00 hour there was a crowd and the complainant Binod Singh was demanding ticket from the appellant herein whereupon the appellant had told the complainant to come in queue and in the meantime, Binod Singh came inside the counter and dropped some money in the government treasury of the Post Office whereafter he raised an alarm and then some people came and caught the appellant.

D.W. 2 is Sanjay Kumar Verma and he has stated in his evidence that he has not worked in Barhara Post Office. He has further stated that on 30.11.2016 six K.V.Ps. bearing Registration No. 10435 were transferred but on whose accounts the same has been transferred is not known.

D.W. 3 is Lalo Kuar and she has stated that she had given a sum of Rs. 6,000/- to Hare Krishna for purchase of K.V.Ps. but the K.V.Ps. were not given to her. The said witness has denied to be knowing any person by the name of Binod Singh or Awadhesh Singh. The said witness has further deposed that neither she has purchased any K.V.Ps. nor the K.V.Ps. exhibited by the D.W. 2 bears her L.T.I.

I have examined the materials on record and considered the arguments advanced by the learned counsel for the respective parties. The complaint given by the complainant namely Binod Kumar Singh (P.W.7) is Exhibit-A and a bare perusal of the same shows that the complainant has clearly alleged that the appellant herein was demanding a sum of Rs. 500/- as bribe for encashment of six K.V.Ps. In order to verify the allegations levelled by the complainant, the P.W. 4, C.B.I. Constable and the verifier in the present case was directed to submit his report on the complaint made by P.W. 7 whereafter P.W. 4 has submitted his verification report dated 29.11.2006 wherein he has stated that he along with the complainant had gone to Barhara Sub Post Office on 29.11.2006 at about 11:30 A.M. and met the appellant whereupon the appellant was requested to do the needful with regard to encashment of K.V.Ps. but the appellant demanded a sum of Rs. 500/-. The application for transfer i.e. Form No. N.C. 34, which is used for transfer of Post Office Saving Certificate from one person to another has been exhibited as Exhibit-9 and the same bears the L.T.I. of Lalo Devi as well as the same seeks transfer of the saving certificate from the name of Lalo Devi to the name of Binod Singh and also bears the signature of the appellant herein which has been identified by P.W. 3 Sheodhar Rai, Sub Postmaster of Barhara and has been marked as Exhibit-3. It is, therefore, clear that the matter pertaining to encashment and transfer of K.V.Ps. was pending before the appellant herein. The said Exhibit-9 was seized from the Post Office at the time the trap team had caught the appellant herein. Exhibit-X is the K.V.P. purchase form in the name of Lalo Devi bearing her L.T.I. and the same also bears the endorsement of the appellant herein. The signature of the appellant has been marked as Exhibit 3/2, whereby the appellant has endorsed on the form in the following manner:-

"Transfer one person to another person on 30.11.2006".

Thus, there is no doubt that the matter of the complainant for encashment / transfer of K.V.Ps. was pending before the appellant herein. I further find from the materials on record that the witness namely Binod Singh , P.W. 4, C.B.I. Constable, P.W.5 namely Arjun Tanti, Manager of the U.C.O. Bank, P.W. 6 Shri Ramendra Pratap Pandey, I.O. and the leader of the trap team and P.W. 7, namely, Binod Singh i.e. the complainant herein have deposed consistently and there is no contradiction or deviation in their evidence, hence there is no reason to raise any doubt about the veracity of their evidence. The said witnesses have fully supported the demonstration, pre trap memorandum prepared at the regional office of Punjab National bank at Ara, the demand and acceptance of the bribe money by the appellant herein from the complainant and the factum of Rs. 500/- note, which was brought by the complainant, being treated with Phenolphthalein powder whereafter the same was returned to the complainant with a direction to hand over the same to the appellant upon demand being made by the appellant. P.W. 7 has fully supported the factum of demand being made by the appellant whereafter he had handed over the marked Rs. 500/- note to the appellant herein which the appellant had accepted and had put in the cash box. The factum of demanding the money, accepting the same and putting the same in the cash box by the appellant is also proved by the uncontroverted evidence of the witnesses led during the course of the trial in the present case. The evidence of the aforesaid witnesses also supports the factum of the said Rs. 500/- note being recovered by an independent witness namely Vijay Paswan (since deceased) in presence of the witness Ramendra Pratap Pandey (P.W. 6). Further, the factum of the washing of the hands of the appellant in solution of Sodium Carbonate and the same turning into pink colour has also been proved beyond doubt. The recovery memorandum has been marked as Exhibit-7 and the same shows that the particulars of the marked note of Rs. 500/- which was recovered from the cash box kept on the left side of the appellant has tallied with the pre trap memorandum. From the evidence it is also apparent that the right hand fingers of the appellant was washed in milky solution of Sodium Carbonate which turned into pink colour and the same also proves that the accused had touched the marked currency note. The pre-trap memorandum which has been exhibited as Ex. 5 and recovery memorandum which has been exhibited as Ex. 7, during the course of the trial has been adequately proved and the appellant herein/the defence has not been able to either controvert the same or discredit either the pre trap memorandum or the recovery memorandum, hence the factum of demand, acceptance, recovery and motive of the appellant in the present case stands proved. The submission of the learned counsel for the appellant that neither any order of transfer of the K.V.Ps. has been made by the appellant nor Form No. NC 34 contains the initials of the appellants is also not correct in view of the evidence brought on record by the prosecution especially that of P.W. 3 namely Sheodahr Rai. The argument regarding the money having been taken out by Vijay Paswan on the instruction of P.W. 6 and the said Vijay Paswan having not been examined by the prosecution resulting in grave prejudice to the appellant is of also no avail to the appellant in view of sufficient materials on record to prove the factum of the appellant having received bribe money and kept in the cash box whereafater the same was recovered and upon the hands of the appellant being washed the colour of the solution turned pink showing that the appellant had handled the marked note, serial number whereof had also tallied with the one mentioned in the pre trap memorandum. The defence witness i.e. D.W. 1 and 2 are of no help to the appellant and as far as D.W. 3 is concerned, her deposition itself shows that apparently she has not deposed truthfully. The argument regarding the seizure memo showing R.H.W. having turned pink but L.H.W. having not turned pink whereas the report of the Central Forensic Science Laboratory showing sample of R.H.W. and L.H.W. having turned light pink is also of no avail or benefit to the appellant herein inasmuch as admittedly the right hand wash had turned pink and the same has also been corroborated by the C.F.S.L. report as also by the evidence produced by the prosecution during the course of trial.

Upon perusal of the entire evidence brought on record and after going through the same, it is apparent that the prosecution has succeeded in proving the demand of bribe, acceptance of it by the appellant and recovery of the offending/marked currency notes from the possession of the appellant. It is a settled principle of law, as laid down by the Hon'ble Apex Court in a catena of decisions, that once the demand and voluntary acceptance of illegal gratification, knowing it to be bribe, are proved by way of evidence, conviction must follow under Section 7 of the Prevention of Corruption Act against the accused person. In the instant case, no explanation has been furnished by the appellant as to how the marked / offending currency note came in his possession by way of bringing on record any evidence in this regard.

Considering the facts and circumstances of the present case as well as the specific evidence which has been brought on record and consistency in the evidence of the various witnesses, I find that there is no reason to create any doubt. I have examined the material available on record and I find that the twin requirements i.e. the demand and acceptance of illegal gratification of Rs. 500/- by the appellant has been proved by cogent, consistent and trustworthy evidence adduced by the prosecution against the appellant. Hence, upon examination of the materials on record and on going through the evidence led by the prosecution, I do not find any apparent error in the impugned judgment of conviction and sentence, hence I hold that the appellant had rightly been convicted and sentenced for the offence punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act by the learned trial court. In this regard, it would be fruitful to refer to some of the judgments rendered by the Hon'ble Apex Court on the subject matter under consideration, which are the ones reported in **AIR 2015 SC (Crl) 95 (Somabhai Gopalbhai Patel vs. State of Gujarat)**, **AIR 2015 SC (Crl) 320 (S. Dinesh Kr. vs. State Th. Inspector and Anr.)**, **AIR 2015 SC (Crl) 572 (L. Laxmikanta Vs. State by Superintendent of Police, Lokayukta)**.

Accordingly, the appeal i.e. Criminal Appeal No. 3 of 2013 stands dismissed. The appellant namely Ramesh Kumar Ram was granted provisional bail by the learned trial court at the time of recording of the judgment of conviction, which was confirmed by this Court by an order dated 04.01.2013 when the present appeal was admitted for hearing.

In view of the dismissal of the aforesaid appeal, the bail bonds of the aforesaid appellant is hereby cancelled. The appellant is directed to surrender before the court below for serving the remaining period of sentence.

The appeal stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	
CAV DATE	05.02.2018
Uploading Date	29.06.2018
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