AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.2243 of 1999

Judgment Reserved on : 16.2.2021

Judgment Delivered on : 28.5.2021

Yadoram Banote, aged about 38 years, son of Latariya Banote, Patwari, Halka No.19, R/o Bihari Kala, Police Station Ambagarh Chowki, District Raipur, M.P. (now Chhattisgarh)

---- Appellant

versus

State of M.P. through Special Police Establishment Lokayukta, Bhopal, Unit Raipur (now Chhattisgarh)

--- Respondent

For Appellant : Shri Sunil Sahu and Shri Ajay Mishra, Advocate

For Respondent : Shri H.S. Ahluwalia, Deputy Advocate General

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Hon'ble Shri Justice Arvind Singh Chandel

C.A.V. JUDGMENT

1. This appeal has been preferred against judgment dated 2.8.1999 passed by the Special Judge, Raipur in Special Case No.101 of 1991, whereby the Appellant has been convicted and sentenced as under:

Conviction	Sentence
Under Section 5(1)(d) read with Section 5(2) of the Prevention of Corruption Act, 1947 (henceforth 'the Act, 1947')	Rigorous Imprisonment for 1 year and fine of Rs.1000/- with default stipulation
Under Section 161 of the Indian Penal Code	Rigorous Imprisonment for 1 year and fine of Rs.1000/- with default stipulation

2. Case of the prosecution is that at the relevant time, the Appellant was posted as a Patwari. Complainant Hamir Rao (PW2) wanted a copy of record of certain land recorded in the name of Surtiram. After death of Surtiram, the land was recorded in the name of elder brother of father of Complainant Hamir Rao. Hamir Rao submitted an application for obtaining a copy of the said record before the Tahsildar upon which the Tahsildar directed the Appellant to give the copy sought by Hamir Rao. At that time, the Appellant was posted as Patwari at Halka No.19. Hamir Rao requested the Appellant to give him the copy. Allegedly, the Appellant demanded a sum of Rs.100 from Complainant Hamir Rao for supplying him the desired copy and the Appellant told Hamir Rao that he should bring the money on 30.10.1986. Hamir Rao did not want to give the bribe to the Appellant and, therefore, he went to Raipur and submitted written complaint (Ex.P3) to the Superintendent of Police, Lokayukta. The Superintendent of Police, Lokayukta directed B.D. Dhananjay (PW12), Inspector, Lokayukta to inquire into the matter. It is the further case of the prosecution that on 30.10.1986, Complainant Hamir Rao went to the bungalow of the Superintendent of Police, Lokayukta, Raipur, where Inspector B.D. Dhananjay (PW12) was also present. L.P. Tamboli (PW10), Assistant Engineer, Irrigation Department and H.B. Singh, Superintendent of Land Records (not examined by the prosecution) were called as panch witnesses. They verified the complaint from Complainant Hamir Rao. Hamir Rao produced 2 currency notes each of Rs.50 for trap proceeding. Their numbers were noted and they were smeared with phenolphthelin powder. On completion of other formalities, a trap party went to Village Biharikala. Complainant Hamir Rao was asked to go to the house of the Appellant. He went to the house. At that time, the Appellant was sitting in the courtyard of his house. Allegedly, the Appellant demanded the bribe money from Complainant Hamir Rao. Hamir Rao gave him the tainted money. Thereafter, Hamir Rao came out of the house of the Appellant and gave a signal to the trap party. On getting the signal, members of the trap party reached to the spot and caught hold hands of the Appellant. Hands of the Appellant were washed into a solution of sodium carbonate on which colour of the solution turned into pink. Pocket of the shirt of the Appellant was searched, but no currency note was found therein. The shirt of the Appellant was dipped into a solution of sodium carbonate on which colour of the solution turned into pink. On being inquired, the Appellant told that the currency notes were given by him to Dayalal (PW4). Thereafter, Dayalal (PW4) was called on the spot. His fingers were washed in a solution of sodium carbonate on which colour of the solution turned into pink. He took out the tainted money from the pocket of his shirt and handed over the same to the trap party. On being dipped the said tainted currency notes into a solution of sodium carbonate, colour of the solution turned into pink. On being dipped the shirt of Dayalal (PW4) into a solution of sodium carbonate, colour of the solution turned into pink. On completion of other essential formalities, Dehati Nalishi was recorded on the spot. Thereafter, on the basis of said Dehati Nalishi, First Information Report (Ex.P14) was registered. On completion of investigation, a charge-sheet was filed. The Trial Court framed charges.

3. To bring home the offence, the prosecution examined as many as 12 witnesses. Statement of the Appellant was also recorded under Section 313 of the Code of Criminal Procedure in which he denied the guilt, pleaded innocence and false implication. It was the defence of the Appellant that since the Tahsildar had endorsed in the application of the Complainant that the desired copy be supplied after obtaining consent from the recorded Bhumi-Swami, the Appellant told the Complainant that he will supply him the copy after obtaining consent from the recorded Bhumi-Swami and, therefore, at that time, he refused to provide the desired copy to the Complainant. On this, the Complainant told the Appellant that he had come with a sum of Rs.100, but again he refused to provide him the desired copy. Thereafter, the Complainant forcibly put sum of Rs.100 in the pocket of his shirt. He took out that money from his pocket and threw away. Thereafter, the Complainant returned from the spot. At that time, Dayalal (PW4) reached there. On being asked by Dayalal (PW4), the Appellant narrated him the entire story and requested him to refund the said money to the Complainant. On this, Dayalal (PW4) took the said money and went out from there. The Appellant neither demanded bribe from the Complainant nor did he voluntarily accept the same as bribe. In his defence, the Appellant examined two witnesses, namely, Krishna Kumar as DW1 and Paltan as DW2.

4. On completion of the trial, the Trial Court convicted and sentenced the Appellant as mentioned in 1st paragraph of this judgment.

Hence, this appeal.

5. Learned Counsel appearing for the Appellant submitted that the Trial Court has convicted the Appellant without there being sufficient and clinching evidence against him. The star witness of the prosecution Dayalal (PW4) has not supported the case of the prosecution and turned hostile. But, this fact has completely been overlooked by the Trial Court. The tainted money was seized from Dayalal (PW4). From perusal of the statement of Dayalal (PW4), it is clear that acceptance of the amount of Rs.100 as bribe by the Appellant has not been proved by the prosecution. It was further argued that one of the panch witnesses, namely, H.B. Singh has not been examined by the prosecution. From the statement of other panch witness L.P. Tamboli (PW10) and the other evidence available on record, it is established that at the time of alleged transaction, panch witness L.P. Tamboli (PW10) was not present at the spot. Therefore, demand of bribe money is also not established. It was further argued that with regard to the presence of Dayalal (PW4) at the spot and recovery of the tainted money from him, material contradictions have occurred in the statements of the prosecution witnesses. Therefore, the entire prosecution story is doubtful. Hence, the conviction of the Appellant is not sustainable. Reliance was placed on **(2021) 3 SCC 687 (N. Vijayakumar v. State of Tamil Nadu)**, **(2014) 13 SCC 55 (B. Jayaraj v. State of Andhra Pradesh)** and **(2015) 10 SCC 152 (P. Satyanarayana Murthy v. District Inspector of Police, State of Andhra Pradesh)**.

6. Opposing the above arguments, Learned Counsel appearing for the Respondent/State supported the impugned judgment. It was submitted by him that from the evidence adduced by the prosecution both the demand and the acceptance of bribe money is proved. There is sufficient evidence on record to show that the bribe money was recovered from Dayalal (PW4) at the instance of the Appellant himself. Therefore, the Trial Court has rightly convicted the Appellant.

7. I have heard the rival contentions urged on behalf of the parties and perused the entire material available including the statements of witnesses of both sides with due care.

8. Present is a case of demand and acceptance of illegal gratification other than legal remuneration by misusing the office by a public servant/Appellant. A heinous offence relating to a public servant is sufficient for termination of his services. Degree/standard of proof of ingredients of the offence is high and the prosecution is required to prove the offence by adducing cogent evidence without leaving any room for doubt or ambiguity.

9. In case of an illegal gratification, there are three essential ingredients to constitute the offence. They are (i) demand, (ii) acceptance and (iii) recovery.

10. In **B. Jayaraj case** (supra), it was held by the Supreme Court as under:

> "7. Insofar as the offence under Section 7 is concerned,

it is a settled position in law that demand of illegal gratification is sine qua non to constitute the said offence and mere recovery of currency notes cannot constitute the offence under Section 7 unless it is proved beyond all reasonable doubt that the accused voluntarily accepted the money knowing it to be a bribe. The above position has been succinctly laid down in several judgments of this Court. By way of illustration reference may be made to the decision in *C.M. Sharma* v. *State of A.P.,* (2010) 15 SCC 1 and *C.M. Girish Babu* v. *CBI,* (2009) 3 SCC 779.

8. In the present case, the complainant did not support the prosecution case insofar as demand by the accused is concerned. The prosecution has not examined any other witness, present at the time when the money was allegedly handed over to the accused by the complainant, to prove that the same was pursuant to any demand made by the accused. When the complainant himself had disowned what he had stated in the initial complaint (Ext. P-11) before LW 9, and there is no other evidence to prove that the accused had made any demand, the evidence of PW 1 and the contents of Ext. P-11 cannot be relied upon to come to the conclusion that the above material furnishes proof of the demand allegedly made by the accused. We are, therefore, inclined to hold that the learned trial court as well as the High Court was not correct in holding the demand alleged to be made by the accused as proved. The only other material available is the recovery of the tainted currency notes from the possession of the accused. In fact such possession is admitted by the accused himself. Mere possession and recovery of the currency notes from the accused without proof of demand will not bring home the offence under Section 7. The above also will be conclusive insofar as the offence under Sections 13(1)(d)(i) and (ii) is concerned as in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to be established.

9. Insofar as the presumption permissible to be drawn under Section 20 of the Act is concerned, such presumption can only be in respect of the offence under Section 7 and not the offences under Sections 13(1)(d)(i) and (ii) of the Act. In any event, it is only on proof of acceptance of illegal gratification that presumption can be drawn under Section 20 of the Act that such gratification was received for doing or forbearing to do any official act. Proof of acceptance of illegal gratification can follow only if there is proof of demand. As the same is lacking in the present case the primary facts on the basis of which the legal presumption under Section 20 can be drawn are wholly absent.”

11. Further, in **P. Satyanarayana Murthy case** (supra), the Supreme Court held as follows:

> “**22**. In a recent enunciation by this Court to discern the imperative prerequisites of Sections 7 and 13 of the Act, it has been underlined in *B. Jayaraj* v. *State of A.P.*, (2014) 13 SCC 55, in unequivocal terms, that mere possession and recovery of currency notes from an accused without proof of demand would not establish an offence under Section 7 as well as Sections 13(1)(d)(i) and (ii) of the Act. It has been propounded that in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to be proved. The proof of demand, thus, has been held to be an indispensable essentiality and of permeating mandate for an offence under Sections 7 and 13 of the Act. Qua Section 20 of the Act, which permits a presumption as envisaged therein, it has been held that while it is extendable only to an offence under Section 7 and not to those under Sections 13(1)(d)(i) and (ii) of the Act, it is contingent as well on the proof of acceptance of illegal gratification for doing or forbearing to do any official act. Such proof of acceptance of illegal gratification, it was emphasised, could follow only if there was proof of demand. Axiomatically, it was held that in absence of proof of demand, such legal presumption under Section 20 of the Act would also not arise.
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> **23**. The proof of demand of illegal gratification, thus, is the gravamen of the offence under Sections 7 and 13(1)(d)(i) and (ii) of the Act and in absence thereof, unmistakably the charge therefor, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, dehors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Section 7 or 13 of the Act would not entail his conviction thereunder.”

12. Recently, in **N. Vijayakumar case** (supra), reiterating the judgment of **B. Jayaraj case** (supra), it was held by the Supreme Court as follows:

> "**26**. It is equally well settled that mere recovery by itself cannot prove the charge of the prosecution against the accused. Reference can be made to the judgments of this Court in *C.M. Girish Babu* v. *CBI*, (2009) 3 SCC 779 and in *B. Jayaraj* v. *State of A.P.*, (2014) 13 SCC 55. In the aforesaid judgments of this Court while considering the case under Sections 7, 13(1)(d)(i) and (ii) of the Prevention of Corruption Act, 1988 it is reiterated that to prove the charge, it has to be proved beyond reasonable doubt that the accused voluntarily accepted money knowing it to be bribe. Absence of proof of demand for illegal gratification and mere possession or recovery of currency notes is not sufficient to constitute such offence. In the said judgments it is also held that even the presumption under Section 20 of the Act can be drawn only after demand for and acceptance of illegal gratification is proved. It is also fairly well settled that initial presumption of innocence in the criminal jurisprudence gets doubled by acquittal recorded by the trial court.
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> **27**. The relevant paras 7, 8 and 9 of the judgment in *B. Jayaraj* v. *State of A.P.*, (2014) 13 SCC 55 read as under: (SCC pp. 58-59)
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> > "7. Insofar as the offence under Section 7 is concerned, it is a settled position in law that demand of illegal gratification is sine qua non to constitute the said offence and mere recovery of currency notes cannot constitute the offence under Section 7 unless it is proved beyond all reasonable doubt that the accused voluntarily accepted the money knowing it to be a bribe. The above position has been succinctly laid down in several judgments of this Court. By way of illustration, reference may be made to the decision in *C.M. Sharma* v. *State of A.P.*, (2010) 15 SCC 1 and *C.M. Girish Babu* v. *CBI*, (2009) 3 SCC 779.
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> > 8. In the present case, the complainant

did not support the prosecution case insofar as demand by the accused is concerned. The prosecution has not examined any other witness, present at the time when the money was allegedly handed over to the accused by the complainant, to prove that the same was pursuant to any demand made by the accused. When the complainant himself had disowned what he had stated in the initial complaint (Ext.P-11) before LW9, and there is no other evidence to prove that the accused had made any demand, the evidence of PW1 and the contents of Ext. P-11 cannot be relied upon to come to the conclusion that the above material furnishes proof of the demand allegedly made by the accused. We are, therefore, inclined to hold that the learned trial court as well as the High Court was not correct in holding the demand alleged to be made by the accused as proved. The only other material available is the recovery of the tainted currency notes from the possession of the accused. In fact such possession is admitted by the accused himself. Mere possession and recovery of the currency notes from the accused without proof of demand will not bring home the offence under Section 7. The above also will be conclusive insofar as the offence under Sections 13(1)(d)(i) and (ii) is concerned as in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to be established.

9. Insofar as the presumption permissible to be drawn under Section 20 of the Act is concerned, such presumption can only be in respect of the offence under Section 7 and not the offences under Sections 13(1)(d)(i) and (ii) of the Act. In any event, it is only on proof of acceptance of illegal gratification that presumption can be drawn under Section 20 of the Act that such gratification was received for doing or forbearing to do any official act. Proof of acceptance of illegal gratification can follow only if there is proof of demand. As the

> same is lacking in the present case the primary facts on the basis of which the legal presumption under Section 20 can be drawn are wholly absent."

> The abovesaid view taken by this Court fully supports the case of the appellant. In view of the contradictions noticed by us above in the depositions of key witnesses examined on behalf of the prosecution, we are of the view that the demand for and acceptance of bribe amount and cellphone by the appellant, is not proved beyond reasonable doubt. Having regard to such evidence on record the acquittal recorded by the trial court is a "possible view" as such the judgment [*State of T.N.* v. *N. Vijayakumar,* 2020 SCC OnLine Mad 7098] of the High Court is fit to be set aside. Before recording conviction under the provisions of the Prevention of Corruption Act, the courts have to take utmost care in scanning the evidence. Once conviction is recorded under the provisions of the Prevention of Corruption Act, it casts a social stigma on the person in the society apart from serious consequences on the service rendered. At the same time it is also to be noted that whether the view taken by the trial court is a possible view or not, there cannot be any definite proposition and each case has to be judged on its own merits, having regard to evidence on record."

13. In the light of above view taken by the Supreme Court, I shall examine the facts and statements of witnesses of the present case. In the instant case, it is not in dispute that at the relevant time, the Appellant was posted as Patwari of Halka No.19. It is also not in dispute that for obtaining a copy of certain revenue document, Complainant Hamir Rao (PW2) submitted an application (Ex.P2) before the Tahsildar. It is also not in dispute that the Tahsildar made an endorsement in the said application directing the Appellant/Patwari to provide the desired copy after obtaining consent from the recorded Bhumi-Swami.

14. In his Court statement, Complainant Hamir Rao (PW2) deposed that he demanded a copy of certain revenue document from the

Appellant/Patwari. On this, the Appellant demanded bribe of Rs.100 and asked him to come with the bribe money on 30.10.1986. Then this witness went to the office of Lokayukta, Raipur on 29.10.1986 and submitted there written complaint (Ex.P3). Again on 30.10.1986, he went to the house of the Superintendent of Police, Lokayukta and there he gave two currency notes each of Rs.50 to Inspector B.D. Dhananjay (PW12) who was present there. This witness further deposed that after the proceeding of smearing of phenolphthalein powder over the two currency notes submitted by him, he was given a demonstration of trap proceeding and thereafter a trap party proceeded towards Village Biharikala where the Appellant was residing. According to this witness, the Appellant was residing in the house of Village Sarpanch Paltan (DW2). At the relevant time, the Appellant was sitting in the courtyard of the house and was working there alone. This witness demanded the desired copy from the Appellant, but the Appellant demanded bribe money from him. On this, this witness gave the tainted money, i.e., two currency notes each of Rs.50 to the Appellant to which the Appellant kept in the pocket of his shirt. Thereafter, the Appellant started preparing the desired copy. Then, this witness came out of the house and gave a signal to the trap party. This witness further deposed that as soon as he came out of the house, Dayalal (PW4) entered the house of the Appellant. The trap party went inside the house and inquired from the Appellant about the bribe money, but the Appellant told them that he did not receive any money. Hands of the Appellant were washed in a solution of sodium carbonate on which colour of the solution turned into pink. This witness further deposed that a search was made in the pocket of the shirt of the Appellant, but the tainted money was not found there. On this, the Appellant told that he had given the said money to Dayalal (PW4). Shirt of the Appellant was also washed in a solution of sodium carbonate on which colour of the solution turned into pink. Head Constable Mannulal (PW7) called Dayalal (PW4). On being asked, Dayalal (PW4) informed the trap party that the Appellant had given him the tainted money to which he had kept in his house. Thereafter, Dayalal (PW4) went to his house and brought and produced the tainted money before the trap party. The tainted money was seized. Thereafter, shirt of Dayalal (PW4) was also dipped into a solution of sodium carbonate on which colour of the solution turned into pink. Hamir Rao (PW2), in paragraph 24 of his cross-examination deposed that from the place where the members of the trap party were standing they could see movement of this witness in the house of the Appellant. In paragraph 28, this witness further deposed that first the trap party searched the Appellant and when the tainted money was not found from the Appellant, this witness told the trap party that Dayalal (PW4) was with the Appellant and, therefore, the tainted money would be with Dayalal (PW4). Then Dayalal (PW4) was called and he was inquired. Thereafter, Dayalal (PW4) brought and produced the tainted money before the trap party.

15. Dayalal (PW4) deposed that when he was sitting in front of his house, at that time, Hamir Rao (PW2) entered the house of the Appellant. After sometime, Hamir Rao (PW2) came to this witness and told him that he was in hurry and thereafter he gave him a sum of Rs.100 asking him that the said money be given to the Appellant. On this, this witness went to the Appellant and telling him that Hamir Rao (PW2) had given him the sum of Rs.100 to give him, tried to give the said money to the Appellant but the Appellant refused to accept the said money. This witness has been declared hostile by the prosecution. Again in paragraph 9, this witness deposed that when he was again called, at that time, the sum of Rs.100 given by Hamir Rao (PW2) to him was kept in the pocket of his shirt and the same was recovered from him by the trap party.

16. Constable B. Laxmaiya (PW5), one of the members of the trap party also deposed that when the tainted money was not recovered from the Appellant and on being told by the Appellant that the tainted money was kept with Dayalal (PW4), Dayalal (PW4) was called and the tainted money was recovered from him. In his cross-examination, this witness has deposed that from the place where they were standing, courtyard of the house of the Appellant was visible to them and he had witnessed Hamir Rao (PW2) giving money to the Appellant. In paragraph 8 of his cross-examination, this witness admitted that when the Appellant was inquired, he refused accepting the money.

17. One of the panch witnesses, L.P. Tamboli (PW10), in his examination-in-chief, in paragraph 5, deposed that when the Appellant, on being inquired, told that the tainted money was kept with Dayalal (PW4), at that time, Dayalal (PW4) was present at the spot. In paragraph 19, this witness again admitted that when they reached at the spot, at that time, Dayalal (PW4) was sitting there. In paragraph 14 of his cross-examination, this witness admitted the fact that when he was called in the office of Lokayukta for the trap proceeding, at that time, Complainant Hamir Rao (PW2) had not told anybody that the Appellant had demanded bribe from him.

18. Inspector/Investigating Officer B.D. Dhananjay (PW12), in paragraph 5 of his examination-in-chief deposed that when they went inside the house of the Appellant, at the time of trap, Dayalal (PW4) was also present there and he had taken out the tainted money from his pocket. In paragraph 12 of his cross-examination, this witness admitted that from the place where they were standing at the time of trap, the inside portion of the house of the Appellant was not visible to them nor was any conversation audible to them took place between the Complainant and the Appellant inside the said house.

19. On a minute examination of the above evidence adduced by the prosecution, in my considered view, the entire case of the prosecution is suspicious because the tainted money was not recovered from the possession of the Appellant. The tainted money was recovered from Dayalal (PW4). In his Court statement, Dayalal (PW4) has not supported the case of the prosecution and turned hostile. According to the statement of Dayalal (PW4), Complainant Hamir Rao (PW2) met with him after coming out of the house of the Appellant and gave him the sum of Rs.100 at that time. Hamir Rao (PW2) asked this witness to give the said money to the Appellant and went away. Thereafter, this witness went to the Appellant and tried to give him the said money, but he refused to accept the same. In paragraph 9 of cross-examination of this witness conducted by the prosecution itself, this witness deposed that he was called by the trap party from outside of the house of the Appellant. Complainant Hamir Rao (PW2) also stated that when he had gone to the Appellant, at that time, the Appellant was present in his house and when this witness came out of the house of the Appellant, then Dayalal (PW4) met with him outside. This witness further deposed that when Mannulal (PW7) called Dayalal (PW4), then the trap party inquired Dayalal (PW4) and thereafter Dayalal (PW4) brought the tainted money from his house and produced before the trap party. Mannulal (PW7) did not state anything about calling Dayalal (PW4) from his house by him. Other witness B. Laxmaiya (PW5), a member of the trap party also deposed that Dayalal (PW4) was called later on and the tainted money was recovered from him. Contrary to the statements of Complainant Hamir Rao (PW2) and B. Laxmaiya (PW5), panch witness L.P. Tamboli (PW10) and Investigating Officer B.D. Dhananjay (PW12) have stated that when they entered the house of the Appellant, at that time, Dayalal (PW4) was sitting there. Looking to the above, it is clear that the evidence of the prosecution is totally contradictory on the points (i) whether Dayalal (PW4) was already present in the house of the Appellant at the time of trap or he was called from his house later on and (ii) whether at the time of trap the tainted money was already kept in the pocket of Dayalal (PW4) or he had brought the tainted money from his house and thereafter the said money was recovered from him. According to the statement of B.D.

Dhananjay (PW12), from the place where they were standing, nothing was visible to them in the house of the Appellant nor was any conversation audible to them which took place between the Complainant and the Appellant inside the house. Contrary to the above statement of this witness, B. Laxmaiya (PW5) deposed that he witnessed the Appellant accepting money from the Complainant. As stated by Investigating Officer B.D. Dhananjay (PW12), when the activities going on inside the house of the Appellant were not visible to the trap party from the place where they were standing and no conversation going on inside the said house was audible to them from there, in such circumstances, the statement of B. Laxmaiya (PW5) that he witnessed the Appellant accepting money from the Complainant inside the house is not reliable. Looking to the above material contradictions in the statements of the witnesses, the entire story narrated by the prosecution becomes doubtful. From the evidence adduced by the prosecution, in my considered view, both the demand and the acceptance of bribe money by the Appellant is not established. Therefore, the conviction imposed upon the Appellant by the Trial Court is not sustainable. The Appellant is entitled to get benefit of doubt.

20. Consequently, the instant appeal is allowed. The judgment of the Trial Court under challenge is set aside. The Appellant is acquitted of the charges framed against him.

Sd/-

(**Arvind Singh Chandel**)
JUDGE

Gopal