



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

% **Reserved on : 19th April, 2022**
Pronounced on: 22nd July, 2022

+ **CRL.A. 303/2015, CRL.M.A. 10122/2015 & CRL.M.A. 2202/2016**

OMBIR SINGH

..... Appellant

Through: Mr. Prasook Jain and Ms.
Kshirja Agarwal, Advocates

versus

STATE

..... Respondent

Through: Ms. Kusum Dhalla, APP for
State with ASI Satyander Kr.
P.S. Anti Corruption Branch

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

CHANDRA DHARI SINGH, J.

1. The instant criminal appeal under Section 374 read with Section 482 of the Code of Criminal Procedure, 1973 (hereinafter "Cr.P.C.") and Section 27 of the Prevention of Corruption Act, 1988 (hereinafter "PC Act") has been filed on behalf of the appellant against the judgment of conviction dated 10th February, 2015 and order of sentence dated 12th February, 2015



passed by the learned Special Judge (PC ACT), ACB, (Central) in CC No. 04/2014 titled 'State vs. Ombir'.

FACTUAL MATRIX

2. The background of the case is discussed hereunder: -

(i) On 7th February, 2012, two inspectors, namely, Devender Singh Bisht and Rajesh Verma, from the Department of Weights and Measures, conducted a surprise inspection at the factory of the complainant, Diwakar Prasad, M/s Anjali Chem Industries, and while some packages were found to be conforming to the standard specification on the date of the inspection, upon a subsequent inspection on 15th February, 2012, by one Jitender Singh Rathi, Zonal Officer (South), the need for verification of certain other weights and measures was found.

(ii) In pursuance of the second inspection, the complainant visited the office of one Devender Singh Bisht in the Department of Weights and Measures at 10:30 am on 16th February, 2012 in Okhla Phase- 3 and allegedly there he met with the appellant who informed him that he can be challaned with a fine of Rs. 25,000/- for the irregularities committed. It was further claimed that the appellant told him that his challan would be settled and would be handled if the complainant gave him a sum of Rs. 10,000/-, which amount was finally settled at Rs. 7,000/- at 2:00 pm on the same day.

(iii) The complainant claims that he left the Department of Weights and Measures in Okhla Phase-3 and went to the office of the ACP, Anti-



Corruption Branch (hereinafter “ACB”) in Civil Lines to make a written complaint. Upon lodging of the complaint with the ACP, the case was marked to Inspector Yash Pal Singh at 12:00 noon, who then assembled a team comprising of the *panch* witness, Raid Officer and other officers and conducted pre-trap proceedings by briefing the raiding party by 1:30 pm.

(iv) The raiding party drove to the office of the appellant at about 2:15 pm where he was not found. It was alleged that the complainant, thereafter, telephoned the appellant, who told him to meet him at a Juice Shop where he accepted the bribe amount and was caught red handed and hence, with registration of FIR No. 5/2012 registered at Police Station Anti-Corruption Branch, the appellant was prosecuted.

(v) Chargesheet was filed against the appellant on 7th July, 2014 under Section 7 and 13(1)(d) of the PC Act and charges were framed by the learned Special Judge under the same provisions.

(vi) The learned Special Judge after consideration of the arguments passed the impugned judgment dated 10th February 2015, wherein it was observed that there were no reasons to disbelieve the oral testimony of complainant that he went to the office of Department of Weights and Measures on 16th February 2012 at about 10.30 AM and the accused made a demand for bribe from the complainant. The learned Special Judge held that prosecution established beyond reasonable doubt that accused Ombir demanded and accepted bribe of Rs.7,000/- from the complainant on 16th February, 2012. Further, the learned judge concluded that treated GC notes were recovered



from the possession of the accused and on basis of these facts, convicted the accused for the offences punishable under Section 7 & 13(2) read with Section 13(1)(d) of the PC Act and vide order of sentence dated 12th February, 2015, the accused/appellant was sentenced to undergo rigorous imprisonment for a period of 2 years along with a fine of Rs. 7,000/- under Section 7 and rigorous imprisonment of 2 and 1/2 years along with a fine of Rs. 8,000/- under Section 13(2).

(vii) The appellant is before this Court assailing the impugned judgment and the order on sentence.

SUBMISSIONS

3. Mr. Prasouk Jain, learned counsel appearing on behalf of the appellant submitted that the impugned judgment and order dated 10th February, 2015 and 12th February, 2015 have been passed without appreciating that there is no incriminating evidence against the appellant.

4. It is submitted that the prosecution examined twelve witnesses and there were major discrepancies in the statements of the *panch* witnesses, official witness and the complainant. The witnesses of the prosecution and also the complainant had not even seen the Department of Weights and Measures and had wrongly stated that Devender Singh Bisht, DW1, has a separate office in the Department of Weights and Measures, where his name plate has also been displayed. The contrary fact was proven by the photographs exhibited by the DW1. The witnesses have also stated that



Department of Weights and Measures is surrounded by boundary of 5 feet which is incorrect, as was also shown by the photographs produced by DW1, in light of which, the prosecution story that raiding team entered the boundary wall of the office, was disproved. The learned counsel for the appellant challenged the integrity and veracity of the statements made by the witnesses.

5. It is submitted that the contradictions in the statements of the complainant and the *panch* witness as regards recovery of treated GC notes to have been effected at the spot and the hand wash proceedings to have been done at the spot have not been explained by the prosecution.

6. Moreover, learned counsel for the appellant submitted that *panch* witness, PW9, has insisted that there were three vehicles, whereas other witnesses have mentioned that two vehicles were used for the raid. Referring to the statement of HC Krishan, PW5, it is argued that one vehicle was brought back from the spot, by which, he carried the *rukka* to PS ACB. There were, thus, about 10 members of raiding team including the Raid Officer, Investigating Officer and the accused; and only one vehicle available for all of them to return to PS ACB. It is thus argued that prosecution suffered from the vacuum as to how the team travelled from the spot to PS ACB.

7. It is submitted that the statement of the *panch* witness cannot be relied upon since he was made aware of the complainant and the entire case was also discussed in front of him which made him prejudiced towards the case



of the complainant, and hence, he was not an independent witness. Moreover, the *panch* witness claimed that he was already on duty at the Anti-Corruption Branch (hereinafter “ACB”), which raised serious doubt on his credibility and reliability. It is also submitted that the complainant as well as the *panch* witness turned hostile during their evidence.

8. Further, it is submitted that from the day of the inspection, that is 7th February 2012, to the day of complainant approaching the Department of Weights and Measures, 16th February 2012, there is a delay of 8 to 9 days which was not explained at any stage. It is argued that had there been anticipation of a challan being levied on the complainant, he would not have waited for such considerable time to approach the concerned officer.

9. Learned counsel for the appellant submitted that on 11th December, 2014, the statement of the appellant under Section 313 of the Cr.P.C. was recorded by the learned Special Judge in the absence of the counsel for the appellant and various pertinent questions were not clarified.

10. It is submitted that the testimonies of the two defence witnesses examined, who confirmed an alibi to the appellant against the allegations made by the complainant, raised serious doubts on the veracity of the statements of the complainant. Statement of Devender Singh Bisht, DW1, clearly stated that he alongwith Rajesh Verma inspector gave an OK report to one Anjali Kamarkar who was present at the factory of the complainant. He also stated that the complainant never came to meet him after the inspection done by them on 7th February 2012. DW1 also exhibited the



document to show that the complainant has lodged a false complaint against the accused, as he was not present on 16th February 2012, as shown in the attendance record, original attendance record was produced before the learned Special Judge as exhibit DW1/B.

11. It is submitted that when the concerned Inspectors, Devender Singh Bisht and Rajesh Verma, inspected the factory premises, they found everything in order and prepared an inspection report confirming the fact. There was no intimation or information for a need of a challan being issued and hence, there was no need for confrontation of the appellant by the complainant. Reliance is placed on the Judgment passed in ***Chironji Lai vs. State of M.P., 2008 SCC OnLine MP 492***, where it has been held that where motive of demanded bribe is not proved then accused cannot be convicted for receiving illegal gratification of bribe. In ***Ganga Kumar Srivastava vs. State of Bihar, 2005 (6) SCC 211***, the Hon'ble Supreme Court has held that if there was no occasion for demand and acceptance of bribe, the accused cannot be convicted.

12. To give force to his arguments, learned counsel for the appellant also relied upon the judgments of ***K. Shanthamma vs. the State of Telangana, 2022 SCC OnLine SC 21***, ***P. Satyanarayana Murthy vs. District Inspector of Police, State of Andhra Pradesh & Anr, (2019) 11 SCC 465***, ***State of Punjab vs. Madan Mohan Lal Verma (2013) 14 SCC 153***, amongst others, to submit that where demand for illegal gratification is not



established and proved, the offences under Section 7 and 13(1)(d) of the PC Act cannot be made out.

13. Further, it is submitted that Inspector Devender Singh Bisht, DW1, who is an official witness, not only denied issuance of any challan and confirmed issuance of an OK report to the inspection, but also denied that the complainant ever met him on 7th February, 2012 or 16th February, 2012. He stated that the complainant never came to meet him after the inspection was carried out on 7th February, 2012. He further testified and showed photographs to state that he does not have a cabin nor a name plate in the office and hence, the testimony of the complainant could not be relied upon for the reason of the discrepancies in his testimony.

14. In light of the aforesaid judgments, it is submitted that in the present case, no occasion of any demand arose, as the inspectors already found the packages OK and inspection report was handed over accordingly to the employees of the complainant. Moreover, it is submitted that the appellant, who is an Assistant rank officer, does not even have the power to issue or cancel a challan which lies with Inspector rank officers who are superior to him and therefore, the appellant has no control on them.

15. It is submitted that the Raid Officer received the complaint made by the complainant at about 12 pm and without examining the background of the complainant he prepared for the raiding team as well as trap proceedings allegedly within half an hour, that is, by 12:30 pm. The said fact has also been contended by the appellant and it is submitted that the prosecution's



allegation is that the complainant after leaving Department of Weights and Measures, Okhla went to his home in Faridabad to pick bribe money of Rs. 7,000/- and reached PS-ACB, Civil Lines at 11:45 am and made his written Complaint to the ACP, ACB who subsequently marked it to the Raiding Officer at 12:00 pm. The said version is in complete contradiction to the stand of the complainant. The events between complainant reaching PS ACB, Civil Lines at 11:45 am and reaching Department of Weights and Measures, Okhla, which is about 20 kms away, at 2:15 pm are also highly improbable. The entire proceedings have allegedly happened in less than 1 hour 45 minutes which raise a serious doubt upon events of the intervening day.

16. It is submitted that there is no DD entry for the complaint allegedly made by the complainant and this contradiction was also disregarded by the learned Special Judge.

17. The learned counsel for the appellant raised the plea of alibi before the learned Special Judge as well as this Court. It was contended that the complainant could not have met the appellant at the office of DW1 at Department of Weights and Measures, Okhla, and be at Department of Weights and Measure, Tilak Nagar, at the time when the alleged demand for bribe was made. It is submitted that the attendance register maintained by the Okhla Branch of the Department of Weights and Measures showed that the appellant was not present there on the day or time of the alleged demand. In pursuance to the order of a coordinate bench of this Court dated 4th



December 2015, the defence was permitted to examine the Call Detail Records (CDR) of the appellant and it is alleged that they also revealed the location of the appellant to be at Tilak Nagar from 10:30 am to 11:39 am. The fact was also corroborated by the statement of one S.D. Majhi, DW2, who established on oath that the appellant was with him from 10:30 am to 12 pm on the day of the incident.

18. It is submitted that the learned Special Judge failed to consider the fact that the accused is fourth class employee of Department of Weights and Measures and the order of sanction of prosecution was passed by the sanctioning authority mechanically, without proper appreciation of the facts. He had not been supplied any document as have been mentioned in examination-in-chief by the prosecution.

19. Learned counsel appearing on behalf of the appellant submitted that the judgment of conviction as well as order on sentence passed by the learned Special Judge is absolutely illegal, arbitrary and therefore, liable to be set aside.

20. *Per Contra*, Ms. Kusum Dhalla, learned APP for the State vehemently opposed the submissions made on behalf of the appellant and submitted that there is no error in the judgment passed by the learned Special Judge. It is submitted that the complainant and the *panch* witness have fully supported the case as regards demand, acceptance and recovery of bribe.



21. It is submitted that the prosecution was able to establish before the learned Special Judge, with the testimony of the *panch* witness, that the post raid report was prepared at the spot and there was no discrepancy with regard to this fact. On being further cross examined, the *panch* deposed that serial numbers of recovered GC notes were compared with the serial numbers recorded in pre-raid report, at the spot.

22. Responding to the argument on behalf of the appellant, it is submitted on behalf of the respondent/State that the minor discrepancies in the testimonies of the witnesses as regards the recovery and hand wash proceedings having been done at the spot or at PS ACB, shall have to be harmoniously construed to interpret that the raid report, which was written at the spot is correct sequence of evidence. To give force to her argument, that minor discrepancy in the statement of the *panch* witness would not vitiate an otherwise unimpeached evidence, learned APP relied upon the judgment of a coordinate bench of this Court in ***Vijay Narain vs. State of Delhi*, 2014 SCC OnLine Del 1807**. It is further submitted that the Raid Officer has also fully corroborated the statement of the complainant as regards recovery and hand wash proceedings that was carried out at the spot.

23. It is further submitted that at the time of his cross-examination, the complainant had reiterated his statement as made during his examination-in-chief with respect to visiting the Department of Weights and Measures. Moreover, he was able to provide elaborate details of his visit during his examination.



24. Learned APP for the respondent/State submitted that the appellant relied upon the deposition of DW2, S.D. Majhi, to submit that the appellant was present at the Tilak Nagar Laboratory at the time of the alleged incident of demand of the bribe and left only at 12 pm, however, no record of arrival or departure was produced by the defence witness to establish the same. Therefore, the ground of alibi was rightly dismissed by the learned Special Judge.

25. It is submitted on behalf of the respondent/State that all essential ingredients for convicting the appellant under the provisions of the PC Act were duly made out against him and hence, the judgment of conviction and order of sentence was passed, keeping in view all relevant factors including the statements of the complainant, witnesses, officers and the accused/appellant himself.

26. Heard learned counsel for the parties and perused the record.

ANALYSIS AND FINDINGS

27. The appellant has been convicted under Section 7 and 13(1)(d) of the PC Act, which stipulate as under:-

“7. Public servant taking gratification other than legal remuneration in respect of an official act.—

Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other



person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than 1 [three years] but which may extend to 2 [seven years] and shall also be liable to fine.

Explanations.—(a) “Expecting to be a public servant.” If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

(b) “Gratification.” The word “gratification” is not restricted to pecuniary gratifications or to gratifications estimable in money.

(c) “Legal remuneration.” The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organisation, which he serves, to accept.

(d) “A motive or reward for doing.” A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.



(e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section.

13. Criminal misconduct by a public servant.—(1) A public servant is said to commit the offence of criminal misconduct,—

....

(d) if he,— (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or.....”

28. A bare reading of the provisions, as aforestated, elucidates that a public servant accepting, obtaining, agreeing to accept or even attempting to obtain from any person any gratification, other than what is lawfully and legally accrued, would be subjected to the rigours under the PC Act. An expansive interpretation of the provisions requires that to make out the offence under the PC Act, the essential ingredients which need to be established include demand, acceptance and recovery of the illegal gratification involved.

29. In the instant case, there is no dispute to the fact that the appellant is a public servant, posted with the Department of Weights and Measures as a



Manual Assistant and is thereby, covered under the comprehensive definition under the PC Act. What remains to be tested, hence, is whether there was a demand and acceptance by the appellant of the illegal gratification and whether there was recovery thereof from him.

30. The prosecution examined the complainant as PW4 and according to his examination-in-chief, he went to the Department of Weights and Measures on the intervening day to deal with the issue regarding verification of the weights and measures at his factory. He also stated that he met the appellant at the said office in Okhla, where the appellant made the demand for a sum of Rs. 10,000/- settling his issue of challan and thereafter, settled for Rs. 7,000/-. The relevant part said testimony is reproduced hereunder:-

“On 16.02.2012 I went to the Weight and Measurement Department at Modi Mill, Okhla Phase III. I went to the room Devinder Bisht, where accused Ombir present in the court (correctly identified), was also present with Devinder Bisht. Accused Ombir Singh, Inspector, Weight and Measurement Department, took me outside the room and told me that I was liable to be challaned for Rs. 25,000/- but the matter can be settled on payment of Rs. 10,000/-. I requested him not to issue the challan and also told him that the amount was of Rs. 10,000/- was on the higher side. He agreed to accept Rs. 7,000/- for not issuing the challan. Since I am against taking and giving bribe, I went to PS ACB. I met Inspector Yash Pal Singh at PS ACB and lodged my complaint Ex. PW4/A which is in my hand writing and bears my signatures at point A.”

This version of the story was reiterated by the complainant during his cross-examination and no other witness was produced to dispute or support



the said testimony of the complainant and there are no cogent reasons to disbelieve and reject the statement made by the complainant under oath.

31. Another relevant testimony is of the PW9, that is, the *panch* witness, Chandra Kant Sharma, who stated as under during his examination:

“On 16.02.2012, I was posted as LDC in Horticulture Department, PHQ, Delhi. I was on duty on that day as panch witness in Anti Corruption Branch. I had reported in Anti Corruption Branch at about 10:00 AM. At about 12 O' Clock, I was called by Inspector Yash Pal Singh to his room. Complainant Divakar Prasad was already present in the room of Inspector Yash Pal Singh (hereinafter called as 'RO'). Complaint Ex.PW4/A was shown to me. I read the same and put my signatures at point B, in token of authenticity of the complaint. The gist of the complaint was regarding the bribe of Rs. 7,000/- demanded by one Ombir Singh of Weight & Measure Department (hereinafter called as 'WMD').”

32. Alongwith the statements reproduced above, both the witnesses confirmed the complaint and its contents, which also bore their signatures. Both the witnesses also made consistent statements regarding the instructions that they received from the Raid Officer, Inspector Yash Pal Singh, for conducting pre-raid proceedings. These statements made by the witnesses, when taken in construction with the testimonies elaborating the raid proceedings, cannot be dismissed. Hence, the first question of demand of the illegal gratification was answered in the affirmative and has been established against the appellant.



33. The second question, being the acceptance of the gratification, also needs to be adjudicated in light of the statements made by the prosecution witnesses. The statement also contained the contents as reproduced under:-

PW4

“Myself and panch witness were again reminded of the instructions. We both then left for the office of the Weight & Measurement Department. The members of raiding party took suitable positions in the office. I along with panch witness went inside the office and inquired about the accused Ombir Singh. I was told that he was not in the office. I then made a phone call to the accused on his mobile phone using my mobile phone bearing No. 9899375937 and he told me to reach a juice shop near the Modi Mill. I then informed the panch witness and the RO of the telephonic instructions given by accused. RO again instructed the panch witness to go with me to the juice shop and he reminded us of the instructions previously given. We then left for juice shop. Accused also reached the shop. He initially talked about certain irrelevant issues and then demanded the bribe amount. On his demand I took out treated GC notes from my pocket using my right hand and handed over the same to accused, who accepted the same with his right hand. Panch witness gave predetermined signal and the raiding party arrived. Raid Officer disclosed his identity and challenged the accused that he had accepted bribe from me. On the instructions of Raid Officer, panch witness recovered those treated GC notes from the right hand of the accused.”

PW9

“At about 01:30 PM, I along with complainant, Inspector Yashpal, Ct. Jai Krishnan, 3 drivers, and other members



of aiding team in all about 6 in numbers left left Anti Corruption Branch in three government vehicles for Okhla Phase-II and we reached there at about 02: 15 PM. The government vehicles were parked in front of the WMD. Myself and complainant got down from the vehicle and were again briefed by the RO. Divakar went inside the office and I remained at the door of the room. Divakar came back and informed that accused was not in the office. We came out and accordingly informed the Raid Officer.

Divakar was instructed by the Raid Officer to make a phone call to the accused to ascertain his availability. After speaking to the accused, complainant informed that he had been instructed by the accused to reach a particular Juice Shop nearby. RO again instructed the complainant and myself to reach the said Juice Shop and hand over treated GC notes to the accused on demand. RO told us that he will be within a distance of about 100 mtrs. and keep a watch on us and would reach the Juice Shop on pre-determined signal given by me.

In the meantime, accused reached the Juice Shop and complainant asked him if his work would be done. Accused assured him of his work being done and then accused demanded money from complainant. Complainant, then; took out treated GC notes from Left Upper pocket of his shirt and handed over the same to the accused, who accepted the same in his right hand and was about to transfer them to his pocket. I gave the pre-determined signal and RO with his team immediately reached there and apprehended the accused. RO informed the accused about his identity. Accused also understood that he had been caught by Police. A crowd had gathered at the spot. Accused was, then, put in the Government vehicle and brought to PS-ACB.”



PW12

“Complainant and panch witness were reminded about the instructions given to them in the pre-raid proceedings. They were sent inside the office of WMD and I along with members of raiding party followed them and we took our suitable positions outside the Main Wall surrounding the office of WMD.

5 Mins. later, complainant came out and informed me that accused was not present in the office and that he had spoken to the accused on phone, who had instructed him to wait at a Juice Shop on the Modi Mill Main Road. Complainant and panch witness were again instructed to go to the Juice Shop for the raid. Myself and members of the raiding team took suitable position outside the Juice Shop.

Short while later, I received pre-determined signal from panch witness and I had noticed that one person had gone towards them. On receiving the signal, I along with raiding team rushed to the Juice Shop. I introduced myself as Inspector from Anti Corruption Branch and challenged the said person i.e. accused Ombir (present in the court today, correctly identified by the witness). We, then, apprehended him.”

34. The elaborate details of the raid proceedings conducted by the concerned officers have been laid out in the statements of the witnesses. These witnesses being the front footers of the raid proceedings gave consistent and corroborated statements describing the events of the day of the incident and there is no reason to dismiss these statements, since, the same were reiterated by the witnesses in their cross-examination as well. There were no contradictions in the testimonies of these witnesses during the



course of the entire trial and hence, there is no ground to accept the contention that the accused/appellant had not accepted the bribe money.

35. The final question now to be adjudicated is whether due recovery of the bribe money was made from the appellant. For the same, it is relevant to revisit the statements of PW4 and PW9, wherein, they mentioned that the complainant had Rs. 1000/- GC notes to hand over to the accused/appellant at the time of the raid proceedings. The appellant was evidently apprehended with the said GC notes and upon his apprehension he was made to undergo the requisite Sodium Carbonate hand wash procedure which revealed that the appellant had in fact taken the GC notes in his possession from the complainant. The PW12 made the following deposition regarding the recovery of the bribe money from the appellant:-

“I made enquiries from the complainant & panch witness, who told me that accused had demanded & accepted the bribe or that he was still holding the treated GC notes in his right hand. I instructed the panch witness to recover the treated GC notes from the accused, who recovered the same from the right hand of the accused. Myself and the panch witness compared the sl. no. of those recovered GC notes with the sl. no. mentioned in pre-raider report Ex. PW4/B, and they matched. Those recovered GC notes were taken into possession vide seizure memo Ex. PW4/C which bears my signatures at point C and that of accused at point D.”

36. An examination and analysis of these statements evince that the recovery of the GC treated noted was made from the appellant during the



conclusion of the raid proceedings. There is no significant contradiction in the statements made by the witnesses, including the Raid Officer, with regard to the recovery of the said amount from the appellant. Moreover, the hand wash procedure conducted and examined by the FSL was opined by PW1 to be containing phenolphthalein powder, which strengthened the case against the appellant confirming the recovery of the treated GC notes from the possession of the accused/appellant.

37. The learned counsel for the appellant during the course of arguments has also raised the plea of alibi before this Court. The statements of the witnesses have corroborated the presence of the appellant at the place of offence, that is, where demand was made. Moreover, after the detailed appreciation of the evidence as carried out in the foregoing paragraphs, there are no reasonable grounds whatsoever to consider the same and this Court does not find any substance in the plea raised on behalf of the appellant.

CONCLUSION

38. At this stage, it is pertinent to refer to the observations made by this Court, regarding the cancerous effects of corruption, in **V.K. Verma vs. CBI, 2022 SCC OnLine Del 1192**, which as reproduced hereunder:

“Corruption is a silent killer in society. It is a serious economic issue since it adversely affects the country’s economic development and inhibits the achievement of developmental goals, by promoting inequality in allocation of resources and inefficiencies in utilisation of resources. It adds to the deprivation of the poor and



weaker sections of the society. Therefore, every effort should be made to eradicate the same. At the end of the day, it is society and the downtrodden who bear the pangs of the corrupt acts of a few.”

39. The scales of justice for determining guilt are not those of a goldsmith where weighing upon the quantum of corruption, the conviction or acquittal of an accused would be done. Irrespective of the quantum of the amount involved in a corruption case, the aforestated observations hold relevance. The issue of corruption seems to be so deep rooted that it has spread like a termite that is hollowing the system and the instant complainant also fell prey to this.

40. Keeping in view the discussion as aforementioned, the arguments advanced on behalf of the parties, the perusal of the record as well as the impugned order, it is found that the appellant has met all the essential ingredients to constitute the offence under Section 7 and 13 (1)(d) of the PC Act, for the reasons that the prosecution was able to prove that the demand and acceptance of the illegal gratification was made by the appellant and recovery was also made from him of the GC notes/ bribe money.

41. In view of the above facts and circumstances, this Court finds that there is no cogent ground available and made out on behalf of the appellant to interfere with the impugned order. The observations made by the learned Special Judge are hereby upheld and accordingly, the judgement of conviction dated 10th February, 2015 and order of sentence dated 12th



February, 2015 passed by the learned Special Judge (PC ACT), ACB, (Central) in CC No. 04/2014 titled 'State vs. Ombir' are also upheld.

42. Accordingly, the instant appeal is dismissed for the reason of it being devoid of merit.

43. Pending applications, if any, also stand disposed of.

44. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

JULY 22, 2022
gs/ms