



Judgment

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO.100 OF 2006

~~Harish Madhukarrao Kamble (Dead),
aged 32 years, line helper in MSEB,
Substation Dharampeth, Nagpur.~~

Through LR :

Chhaya Harish Kamble,
aged about 52 years, r/o plot No.102,
Pension Nagar, Police Line Takli,
Near Jaiswal Bichayat, Nagpur. **Appellant.**

:: VERSUS ::

State of Maharashtra,
through Anti Corruption Bureau,
Nagpur. **Respondent.**

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Shri S.A.Bramhe, Counsel for the Appellant.
Shri N.B.Jawade, Additional Public Prosecutor for the State.

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CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 16/07/2024

PRONOUNCED ON : 25/07/2024

JUDGMENT

1. By this appeal, appellant Harish Madhukarrao Kamble (the accused) has challenged judgment and order of conviction and sentence dated 30.1.2006 passed by learned Judge, Special Court for ACB, Nagpur (learned Judge of the trial court) in

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Special Case No.10/2002 whereby he is convicted for offence punishable under Section 7 of the Prevention of Corruption Act, 1988 (the said Act) and sentenced to undergo rigorous imprisonment for one year and to pay fine Rs.1000/-, in default, to undergo rigorous imprisonment for three month.

He is further convicted for offence punishable under Section 13(1)(d) read with 13(2) of the said Act and sentenced to undergo rigorous imprisonment for three years and to pay fine Rs.1000/-, in default, to undergo rigorous imprisonment for three months.

2. During pendency of the appeal, the accused died and his legal heir was brought on record to prosecute the appeal.

3. Brief facts of the prosecution case are as under:

In September 2000, the accused was working as Line Helper in MSEB Sub Station Dharampeth, Nagpur. One Anil Narayanrao Pawar (the complainant) was residing in Zilla Parishad Quarters at Ravi Nagpur, Nagpur. On 22.9.2001, when the complainant was working in the office, he received a phone call of

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his wife informing him that two persons came to their house and disconnected electric connection. He immediately rushed to the house and saw that two persons were present. On enquiry, names of the accused and one Wankhade were revealed. It was also informed to him that, electric meter in his quarter is defective and he has to pay penalty of Rs.6000/-. The complainant explained to them that he had occupied the quarter just two months back and he is not aware about past bills, but the said persons were not ready to listen and they affixed paper seal on the electric meter in the quarter of the complainant. After repeated requests, the accused demanded Rs.2000/- from him to settle the issue. After a negotiation, he agreed to accept Rs.1000/-. When the complainant requested for giving him some time to pay the amount, the accused told that he can pay the amount in two installments i.e. 1st is to be paid on 25.9.2001 and 2nd is to be paid on 1.10.2001. If balance amount was not given, penalty of Rs.6000 would be recovered from him. As he was not willing to pay the amount, he approached the office of the Anti Corruption Bureau at Nagpur and lodged a report.

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4. On receipt of the report, office of the bureau called two panchas and in presence of panchas, the complainant narrated the entire incident which was verified by panchas. After following a due procedure, officers of the bureau decided to lay a trap. The complainant produced tainted amount Rs.1000/-. The demonstration as to phenolphthalein powder and sodium carbonate was shown to the complainant as well as panchas. The said solution was applied on the tainted notes. The tainted notes were kept in shirt pocket of the complainant. The complainant as well as both panchas were instructed. As per instructions, the complainant was asked not to hand over the amount unless it is demanded. Accordingly, pre-trap panchanama was drawn. After the pre-trap panchanama, the complainant and pancha No.1 left the office of the bureau on scooter and other raiding party members followed them. The complainant went in his office along with pancha No.1. At about 5:00 pm, the accused came to his office and demanded the amount. The complainant handed over the same. On receipt of a predetermined signal, the Trap Officer caught the accused. The amount was recovered from him. The hand wash of the accused as well as the complainant was collected.

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After seizure of relevant documents, proceeding regarding post-trap was completed. After obtaining a due sanction, chargesheet was filed against the accused. During investigation, pant of the accused was also seized. Solution of the sodium carbonate was sprinkled on left side pocket of the pant whereat purple dots appeared.

5. During trial, the prosecution examined in all seven witnesses namely, Anil Narayanrao Pawar vide Exhibit-15 (PW1), the complainant; Manohar Laxmanrao Niradkar vide Exhibit-22 (PW2), the Shadow Pancha; Nitin Wasudeorao Bhonde vide Exhibit-29 (PW3), the Junior Engineer; Anil Ganpatrao Gadgilwar vide Exhibit-32 (PW4), another pancha; Arun Nagraj Borse vide Exhibit-35 (PW5), the Sanctioning Authority; Sudhakar Shamraoji Dhote vide Exhibit-41 (PW6), the Carrier, and Deepak Mukunda Deshpande vide Exhibit-46 (PW7), the Trap Officer.

6. Besides the oral evidence, the prosecution placed reliance on seizure memo Exhibit-10, complaint Exhibit-16, seizure memo Exhibit-19, electric bill Exhibit-20, pre-trap panchanama Exhibit-23, seizure memos Exhibits-24 to 26, post-trap panchanama

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Exhibit-27, map Exhibit-28, seizure memo Exhibit-31, Sanction Order Exhibit-38, First Information Report Exhibit-42, report Exhibit-48, and Chemical Analyzer's Report Exhibit-52.

7. After considering the evidence adduced during the trial, learned Judge of the trial court held the accused guilty convicting and sentencing him as the aforesaid.

8. Heard learned counsel Shri S.A.Bramhe for the accused and learned Additional Public Prosecutor Shri N.B.Jawade for the State. I have been taken through the entire evidence so also the judgment impugned in the appeal.

9. Learned counsel for the accused submitted that the sanction accorded to prosecute the accused is not as contemplated under Section 19 of the said Act. Insofar as the demand and acceptance is concerned, the prosecution failed to prove the demand. Proof of demand is *sine qua non*, which is not established and, therefore, the entire case of the prosecution fails. He has taken me through the entire evidence and submitted that as the prosecution has not proved foundational facts, question

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of rebuttal by the accused does not arise. There is absolutely no evidence, as far as the demand is concerned, corroborating by any of witnesses. Thus, the demand as well as the acceptance is neither established nor proved. The evidence as to the sanction is also not satisfactory and, therefore, the appeal deserves to be allowed.

10. *Per contra*, learned Additional Public Prosecutor for the State invited my attention to the evidence of Sanctioning Authority PW5 Arun Borse who stated that after receiving documents, he studied the same and found that the accused was involved in bribe amount and, therefore, he accorded the sanction. Thus, the sanction was accorded after application of mind. Perusal of the sanction order would show that after reading investigation papers and evaluating the evidence carefully, the Sanctioning Authority satisfied himself and, thereafter, the sanction was accorded. As such, the sanction is as per the law. As far as the demand and acceptance is concerned, not only the evidence of complainant PW1 Anil Pawar but also the evidence of Shadow Pancha PW2 Manohar Niradkar describing communication between the

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complainant and the accused, which is reproduced in the post-trap panchanama, sufficiently shows that there was demand and in pursuance of the demand, the amount was accepted. Thus, looking to the evidence, no interference is called for and the appeal deserves to be dismissed.

11. Issue regarding validity of the sanction was raised by learned counsel for the accused. The Sanction Order was challenged on ground that it was accorded mechanically and without application of mind and, therefore, it is not a valid sanction.

12. In view of the well settled principles of law, the Sanctioning Authority has to apply his/her own independent mind for generation of his/her satisfaction for sanction. A sanction order should speak for itself. It is well settled that Sanction Order should not be so elaborate like an order of court containing a detailed reasons, but it should be after application of mind. On the basis of the evidence and materials before the Sanctioning Authority, the Authority has to decide whether sanction is to be accorded or forbidden.

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13. To prove the sanction, the prosecution examined Sanctioning Authority PW5 Arun Borse, who was serving as the Chief Engineer in the year 2001 with MSEB Nagpur. He received documents and studied all documents and it revealed to him that the accused is involved in demanding the bribe amount and received the same and, therefore, he granted the sanction to prosecute the accused. As far as another employee of the MSEB is concerned, he was not involved in receipt of the bribe amount and, therefore, he granted sanction against the accused. His cross examination shows that he received a draft sanction order from the office of the bureau. His cross examination further shows that he has mentioned in the Sanction Order that Wankhade told the complainant he would be liable for penalty for two months charges. Except the said cross examination, nothing is brought on record to establish that the sanction is not as per the law.

14. Perusal of second last paragraph of the Sanction Order shows that it is specifically mentioned that upon carefully reading papers of investigation into Crime No3167/2001 and after carefully evaluating the evidence on record, he was satisfied that

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there is adequate evidence to prosecute the accused and accorded the sanction.

15. It is a well settled that sanction is solemn and sacrosanct act. It is also well settled that the law requires no sanction to be given in particular form. The sanction should be given in respect of facts constituting offence charged equally which applies to the sanction under Section 19 of the said Act.

16. As observed earlier, that the Sanction Order is not required to be passed as of a court order, sub section (4) of Section 19 of the said Act states that in determining under sub-section (3) whether the absence of, or any error, omission or irregularity in, such sanction has occasioned or resulted in a failure of justice.

17. The issue of sanction should not be put at such pedestal as would make it impossible for the prosecution and the court to prosecute an accused. The object and purpose of grant of sanction and protection contemplated thereby does not mean that technical and trivial objections to legality and validity of

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sanction to be entertained. When all relevant materials placed before the Sanctioning Authority are found to be taken into consideration in correct perspective, the sanction accorded is by application of mind. Merely because there are some irregularities the same would not lead to conclusion that there was non-application of mind by the sanctioning authority.

18. By applying the aforesaid principles of law to the instant case, the evidence of Sanctioning Authority PW5 Arun Borse is sufficient to show that he had considered investigation papers and after application of mind, he accorded the sanction and, therefore, the contention of learned counsel for the accused that the sanction is invalid deserves to be discarded.

19. Thus, the sanction accorded is after application of mind and, therefore, the contention of learned counsel for the accused persons is not sustainable and is liable to be discarded.

20. To prove the demand and acceptance, the prosecution mainly placed reliance on the evidence of complainant PW1 Anil Pawar and Shadow Pancha PW2 Manohar Niradkar. On the

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question of demand, the evidence of the complainant shows that on 22.9.2001, when he was in the office, the accused and one Wankhade visited his house and disconnected his electric connection on account of defective electric meter. He received information from his wife and he immediately went at home and met the accused. Despite his explanation, that he occupied quarter two months back, the accused asked him to pay penalty of Rs.6000/-. On his several request, the accused demanded Rs.3000/- to settle the issue. The accused further told him that he has to pay the amount in two installments i.e. 1st is to be paid on 25.9.2001 and 2nd is to be paid on 1.10.2001. As he was not desirous to pay the amount, he approached the office of the bureau. His evidence further shows that thereafter it was decided to lay a trap. He narrated all events took place during the pre-trap panchanama and deposed that on the day of the trap, he along with pancha were sitting in his office and at about 5:00 pm, the accused came to his office and demanded the amount and accepted the same. The evidence further shows that the complainant told the accused that he was put to the harassment, but the accused told him that one police constable has also paid

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him Rs.100/- and such types of things always happen. Thereafter, the amount was handed over by the complainant to the accused which was accepted. During cross examination, it came on record that initially the complainant was also working in the MSEB. He admitted that he informed the accused and Wankhade that he has also worked in the MSEB. An attempt was that a brother of the complainant was serving in police department and with the help of his brother, this false complaint is lodged, which is denied by the complainant. As far as the demand and acceptance is concerned, the same which is not shattered during the cross examination.

21. To corroborate the version of complainant PW1 Anil Pawar, the prosecution also examined Shadow Pancha PW2 Manohar Niradkar. The Shadow Pancha narrated all events took place during pre-trap and post-trap panchanamas. As to the demand, his evidence shows that he along with the complainant went in the office of the complainant and was keeping watch on the accused. The accused came in the office of the complainant and the accused demanded the amount and the complainant handed over the same. The evidence specifically shows that the accused

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asked the complainant near gate whether he had done the work of the amount. The complainant told him that the amount was brought and, thereafter, the accused asked the complainant to hand over the same and the complainant handed over the amount to the accused. He narrated this communication subsequently to the Trap Officer also. The said communication is reproduced in the post-trap panchanama, which shows that the accused asked the complainant, "Have you brought the money as I had asked? The complainant replied, "I have brought the money, however he could not find the papers he had broken". On that, the accused told he will manage everything. The subsequent communication further shows that the complainant told the accused that he is being harassed . On that, the accused told that such things happen. This communication was recorded in the post-trap panchanama on the basis of disclosure by Shadow Pancha PW2 Manohar Niradkar. During cross examination, it came on record that initially he has also acted as a pancha . Further cross examination is to the extent that before deposition, he read his statement. As far as the demand and acceptance is concerned, he denied suggestion that there was no demand by the accused, but the complainant was

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thrusting the amount, which was denied by the accused and the amount fallen on the ground is also denied. Thus, as far as the demand and acceptance is concerned, the evidence of the Shadow Pancha is also not shattered. The suggestion was given to the Shadow Pancha that he read the statement before his deposition, but it shows that he has read the said statement before one month back. This may be to refresh his memory as the trap was conducted in the year 2001 and his deposition was recorded in the year 2005. Merely because he read the statement that by itself is not sufficient to discard his evidence.

22. PW4 Anil Ganpatrao, also acted as second pancha. His evidence is to the extent of acceptance of the amount. His evidence shows that when they received signal, they ran towards the place and the notes were lying on the ground. Officers of the bureau directed him to collect the notes. The hand wash of the accused was also collected in his presence. His cross examination also shows that he acted as pancha at earlier point of time also. He also admitted that he has read his statement prior to his deposition, but it is nowhere the case of the defence that prior to entering the

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witness box, the statement was read by this witness. Thus, it is apparent from the evidence that the demand was made to settle the issue regarding imposing the penalty.

23. Junior Engineer PW3 Nitin Bhonde, is examined by the prosecution to corroborate the version. As per his evidence, at the time of the trap, the accused was working as Line Helper and duties of the Line Helper is to accompany Line Helper Wankhade. On the request of the officer of the bureau, he produced temporary disconnection list. The diary was also shown to the Trap Officer. The clerk of the office has taken the entries. The electric meter at the house of the complainant was taken out and it was sent to testing unit. During the cross, he admitted that if the meter is defective, penalty is imposed. Before imposing the penalty, he checks the meter. The defective meter used to be sent to the testing unit. The accused and Wankhade were working on the same post. Line Man has no power to recover the penalty. The accused has not obtained the amount as a penalty, but the evidence shows that the demand was made to settle the issue regarding imposing of fine.

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24. The substantial evidence of the complainant and the shadow pancha corroborated by the recital of the post-trap panchanama is consistent and nothing incriminating is brought on record to support the defence that the amount was thrust. If the accused was not intending to accept the amount, there was no reason for him to visit the office of the complainant. Admittedly, the trap was laid in the office of the complainant and the accused was caught in the office of the complainant itself. As far as the defence of thrusting of the amount is concerned, the same is neither supported by any witnesses nor by any circumstantial evidence.

25. PW6 Sudhakar Dhote, is formal witness, who carried the incriminating articles to the Chemical Analyzer.

26. Trap Officer PW7 Deepak Deshpande, narrated about various procedures carried out by him during the pre-trap and post-trap panchanama. His evidence is as to the recovery of the amount from the accused. His evidence shows that the accused received the said amount by left hand and kept in side pocket of his pant. Pancha No.1 told that after the accused noticed members

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of the trap party, he dropped the tainted amount on the ground. The amount was collected by pancha No.2. The hand wash of the accused and the complainant was collected and forwarded to the Chemical Analyzer and the Chemical Analyzer's Report Exhibit-52 shows phenolphthalein powder and sodium carbonate solution were detected in the said hand wash.

27. Thus, the entire evidence adduced by the prosecution consistently shows that the accused with one Wankhade was deputed on duty to disconnect electric connections obtained on defective electric meters. The complainant was residing in the Zilla Parishad Quarter and the meter of the said quarter was found defective and, therefore, the accused disconnected the electric supply. Instead of imposing the penalty, the accused demanded the amount and accepted the same in the office of the complainant.

28. Learned counsel for the accused submitted that mere possession and recovery of currency notes from the accused without proof of demand would not establish an offence.

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29. It is well settled that besides direct evidence, demand and acceptance can be proved on the basis of circumstantial evidence.

30. The Constitution Bench of the Honourable Apex Court in the case of **Neeraj Dutta vs. State (Govt.of NCT of Delhi)**¹ held that for recording conviction under Sections 7 and 13 (1)(d)(i) (ii) of the said Act, the prosecution has to prove the demand and acceptance of illegal gratification either by direct evidence which can be in the nature of oral or documentary evidence or by circumstantial evidence in the absence of direct or oral evidence. It further held that under Section 7 of the said, in order to bring home the offence, there must be an offer which emanates from the bribe giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Section 13(1)(d) and (i) and (ii) of the said Act.

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31. Here, in the present case, the evidence of complainant PW1 Anil Pawar and Shadow Pancha PW2 Manohar Niradkar is consistent and corroborative as far as the demand is concerned. The evidence of Junior Engineer PW3 Nitin Bhonde shows that the duty was assigned to the accused to verify electric meters by handing over list of persons whose connections are to be disconnected. The defence of the accused that the amount was thrust is not supported by any material. On the contrary, the visit of the accused to the office of the complainant and demanding the amount and accepting the same is corroborated by the complainant and the Shadow Pancha as well as communication recorded in the post-trap panchanama. The consistent evidence proves the demand and the acceptance.

32. It is well settled that offences under the said Act, relating to public servants taking bribe, require demand of illegal gratification and acceptance thereof. The proof of demand of bribe by public servants and its acceptance by him is *sine qua non* for establishing offences under the said Act.

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33. The Honourable Apex Court in the case of **K.Shanthamma vs. The State of Telangana**² referring the judgment in the case of **P.Satyanarayana Murthy** *supra* held that the proof of demand of bribe by a public servant and its acceptance by him is *sine qua non* for establishing the offence under Section 7 of the said Act. The 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 offences under Sections 7 and 13 of the said Act would not entail his conviction thereunder. The Honourable Apex Court has reproduced paragraph No.23 of its decision in the case of **P.Satyanarayana Murthy** *supra*, which reads thus:

“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”.

34. To prove offences under Sections 7 and 13(1)(d) of the said Act, following are ingredients of the said Sections, which require to be prove:

under Section 7: (1) the accused must be a public servant or expecting to be a public servant; (2) he should accept or obtain or agrees to accept or attempts to obtain from any person; (3) for himself or for any other person; (4) any gratification other than legal remuneration, and (5) as a motive or reward for doing or forbearing to do any official act or to show any favour or disfavour.

under Section 13(1)(d): (1) the accused must be a public servant; (2) by corrupt or illegal means, obtains for himself or any other person any valuable thing or pecuniary advantage; or or by abusing his position as public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or while holding office as public servant, obtains for any person any valuable thing or pecuniary advantage

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without any public interest; (3) to make out an offence under Section 13(1)(d), there is no requirement that the valuable thing or pecuniary advantage should have been received as a motive or reward; (4) an agreement to accept or an attempt to obtain does not fall within Section 13(1)(d); (5) mere acceptance of any valuable thing or pecuniary advantage is not an offence under this provision; (6) to make out an offence under this provision, there has to be actual obtainment, and (7) since the legislature has used two different expressions namely “obtains” or “accepts”, the difference between these two have to be taken into consideration.

35. The Constitution Bench of the Honourable Apex Court in the case of **Neeraj Dutta vs. State (Govt. of NCT of Delhi)** *supra* held that in order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence. The

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Honourable Apex Court, while discussing expression “accept”, referred the judgment in the case of **Subhash Parbat Sonvane vs. State of Gujarat**³ observed that mere acceptance of money without there being any other evidence would not be sufficient for convicting the accused under Section 13(1)(d)(i). In Section 13(1) and (b) of the said Act, the Legislature has specifically used the words 'accepts' or 'obtains'. As against this, there is departure in the language used in clause (1)(d) of Section 13 and it has omitted the word 'accepts' and has emphasized the word 'obtains'. In sub clauses (i) and (ii) (iii) of Section 13(1) (d), the emphasize is on the word “obtains”. Therefore, there must be evidence on record that accused 'obtained' for himself or for any other person any valuable thing or pecuniary advantage by either corrupt or illegal means or by abusing his position as a public servant or he obtained for any person any valuable thing or pecuniary advantage without any public interest.

While discussing the expression “accept”, the Honourable Apex Court observed that “accepts” means to take or receive with “consenting mind”. The ‘consent’ can be established not

³ (2002)5 SCC 86

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only by leading evidence of prior agreement but also from the circumstances surrounding the transaction itself without proof of such prior agreement. If an acquaintance of a public servant in expectation and with the hope that in future, if need be, he would be able to get some official favour from him, voluntarily offers any gratification and if the public servant willingly takes or receives such gratification it would certainly amount to 'acceptance' and, therefore, it cannot be said that as an abstract proposition of law, that without a prior demand there cannot be 'acceptance'. The position will however, be different so far as an offence under Section 5(1)(d) read with Section 5(2) of the 1947 Act is concerned. Under the said Sections, the prosecution has to prove that the accused 'obtained' the valuable thing or pecuniary advantage by corrupt or illegal means or by otherwise abusing his position as a public servant and that too without the aid of the statutory presumption under Section 4(1) of the 1947 Act as it is available only in respect of offences under Section 5(1)(a) and (b) and not under Section 5(1)(c), (d) or (e) of the 1947 Act. According to this court, 'obtain' means to secure or gain (something) as the result of request or effort. In case of

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obtainment the initiative vests in the person who receives and in that context a demand or request from him will be a primary requisite for an offence under Section 5(1)(d) of the 1947 Act unlike an offence under Section 161 of the Indian Penal Code, which can be established by proof of either 'acceptance' or 'obtainment'.

36. In the light of the above well settled position of law, if the evidence adduced is appreciated, it would show that the demand and acceptance is proved. It is corroborated by the circumstantial evidence in the nature of the Chemical Analyzer's Report Exhibit-52, which shows contents of phenolphthalein powder and sodium carbonate in the hand wash collected by the officer of the bureau.

37. The statutory presumption under Section 20 of the said Act comes into play when evidence either direct or circumstantial shows that money was accepted other than for motive of reward under Section 7 of the said Act. The standard required for rebutting presumption is tested on the touchstone of preponderance of probabilities which is a threshold of a lower degree than proof beyond all reasonable doubts.

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38. Thus, presumption under Section 20 of the said Act comes into play and no reasonable explanation is forthcoming from the accused to rebut the presumption.

39. The Honourable Apex Court, in the case of **C.M.Girish Babu vs. CBI Cochi, High of Kerala**⁴, held that it is well settled that the presumption to be drawn under Section 20 is not an inviolable one. The accused charged with the offence could rebut it either through the cross-examination of the witnesses cited against him or by adducing reliable evidence. It is further held that it is equally well settled that the burden of proof placed upon the accused person against whom the presumption is made under Section 20 of the Act is not akin to that of burden placed on the prosecution to prove the case beyond a reasonable doubt.

40. Thus, in the present case, a primary condition for acting on the legal presumption, that the prosecution should have proved that whatever received by accused was gratification, is proved by the prosecution. A fact is said to be proved when its

4 (2009)3 SCC 779

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existence is directly established or when upon the material before it the Court finds its existence to be so probable that a reasonable man would act on the supposition that it exists. Unless, therefore, the explanation is supported by proof, the presumption created by the provision cannot be said to be rebutted.

41. In the light of the above facts and circumstances, as learned Judge of the trial court has rightly appreciated the evidence adduced and convicted and sentenced the accused, I find that the appeal is devoid of merits and liable to be dismissed and the same is **dismissed**.

The appeal stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

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