



Judgment

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

CRIMINAL APPEAL NO.566 OF 2008

~~Manohar s/o Shioram Lingayat (Dead),
aged 56 years, occupation service,
r/o Nawargaon, tahsil Brahmapuri,
district Chandrapur.~~

LRs of Manohar Lingayat :

1A) Smt.Pushpa w/o Manohar Lingayat,
aged about 63 years, occupation household.

1B) Santosh s/o Manohar Lingayat,
aged about 31 years, occupation Nil.

Both r/o Nawargaon,
tahsil Bramhapuri, district Chandrapur. **Appellants.**

:: V E R S U S ::

State of Maharashtra, through Deputy
Superintendent of Police,
Anti Corruption Bureau, Chandrapur. **Respondent.**

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Shri Y.B.Mandpe, Counsel for Appellants.
Shri N.B.Jawade, Additional Public Prosecutor for the State.

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CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 10/07/2024

PRONOUNCED ON : 23/07/2024

JUDGMENT

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1. By this appeal, appellant Manohar s/o Shioram Lingayat (the accused) has challenged judgment and order of conviction and sentence dated 18.7.2008 passed by learned Special Judge, Chandrapur (learned Judge of the trial court) in Special Case No.9/2002 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.200/-, in default, to undergo simple imprisonment for one month.

He is further convicted for offence punishable under Section 13(1)(d) punishable under Section 13(2) of the said Act and sentenced to undergo rigorous imprisonment for eighteen months and to pay fine Rs.300/-, in default, to undergo simple imprisonment for one month.

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

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

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Dayaram Kawaduji Fating (the complainant), had constructed a new house at village Nawargaon, tahsil Sindewahi, district Chandrapur. For the new constructed house, he is in need of electric connection and, therefore, he applied to MSEB prior to 10-12 days of 16.10.2001. He contacted a Junior Engineer who explained the complainant procedure to be adopted and informed him that before granting him electric connection, inspection of the spot needs to be carried out and after inspection, he can issue demand note. The Junior Engineer also informed him that he would send two employees of the MSEB to his residence for taking measurement. The accused was serving as Lineman in MSEB. As per instructions of the Junior engineer, he visited the house of the complainant and took measurement and disclosed that demand note would be prepared for which the complainant has to incur expenses Rs.6000/- to Rs.6500/- for service line. He further informed the complainant that 130 feet service line and one pole are required to be erected for giving the electric connection. On which, the complainant shown his inability to pay the said amount. The accused informed the complainant that if he pays Rs.1000/-, the

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amount can be reduced upto Rs.3000/- to Rs.3500/-,. After a negotiation, the accused shown his willingness to accept Rs.500/-. Accordingly, the complainant informed the accused that he would come on the next day. As the complainant was not desirous to pay the amount, he approached the office of the Anti Corruption Bureau at Chandrapur (the bureau), and a lodged report.

4. On receipt of the report, officer of the bureau called two panchas and in presence of panchas, the complainant narrated the incident, which was verified by panchas. After following a due procedure, officers of the bureau decided to lay a trap. The complainant produced 5 currencies of Rs.100/-. A demonstration as to phenolphthalein powder and sodium carbonate was shown. The said solution was applied on 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

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panchanama, the complainant along with pancha No.1 and other raiding party members proceeded at Nawargaon and sat in a cycle shop of the complainant. Pancha No.1 was sitting in the cycle shop as customer. The accused along with other co-accused came in the shop and communicated with the complainant. At the relevant time, the accused demanded the amount, which was handed over by the complainant to the accused. The accused accepted the said amount and kept in his full pant pocket. After receipt of a signal, the Trap Officer along with raiding party members came in the shop and caught the accused. The amount was recovered from the accused. The hand wash of the accused as well as the complainant was collected. After seizure of relevant documents, the proceeding regarding post-trap panchanama was completed. After obtaining a due sanction, chargesheet was filed against the accused.

5. During trial, the prosecution examined in all seven witnesses, namely : Dayaram Fating vide Exhibit-10 (PW1), the complainant; Suresh Vinayak Mahajan vide Exhibit-19 (PW2), the Shadow Pancha; Sudhir Dinkar Sayankal vide Exhibit-33

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(PW3), the carrier; Dilip Ramchandra Bhaddarwar vide Exhibit-35 (PW4); the Assistant Sub Inspector; Balkrishna Amle vide Exhibit-39 (PW5), the Sanctioning Authority; Pankaj Honade vide Exhibit-42 (PW6), the Junior Engineer of the MSEB, and Purshottam Choudhary vide Exhibit-48 (PW7), the Trap Officer.

6. Besides the oral evidence, the prosecution placed reliance on complaint Exhibit-11, seizure memo Exhibit-12, personal search panchanama Exhibit-13, No Objection Certificate by Grampanchayat Exhibit-17, pre-trap panchanama Exhibit-20, seizure memo Exhibits-23 to 26, post-trap panchanama Exhibit-26, map Exhibit-28, the Sanction Order Exhibit-40, seizure memo Exhibit-43, application for electric connection Exhibit-46, seizure memo Exhibit-50, report Exhibit-53, letter to the Chemical Analyzer Exhibit-55, and the Chemical Analyzer's Report Exhibit-56.

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.

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8. Heard learned counsel Shri Y.B.Mandpe 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 appearing for the accused submitted that the judgment impugned is erroneous and without appropriate reasoning. The evidence adduced nowhere shows that the accused was having authority to provide the electric connection. The amount received by the accused is towards the electric fitting, which he did in the house of the complainant in a private capacity. The demand and acceptance is not proved. No independent witness is examined to prove earlier demand. The sanction to prosecute the accused is not as contemplated under Section 19 of the said Act. The accused rebutted presumption as proof of demand, which is *sine qua non*, is not established and, therefore, the entire case of the prosecution fails. In view of the same, the appeal deserves to be allowed.

10. *Per contra*, learned Additional Public Prosecutor for the State invited my attention towards the cross examination and

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submitted that the cross examination itself substantiates the prosecution story that there was a demand for issuing demand note by the accused. The demand is proved through the evidence of complainant PW1 Dayaram Fating as well as Shadow Pancha PW1 Suresh Mahajan. This evidence is not rebutted by the accused either on the basis of preponderance of probability or by adducing the evidence. As far as the defence of the accused is concerned, that he accepted the amount towards installation of electric meter, the same is falsified through the evidence. Thus, nothing is on record to show that the amount was accepted towards charges of installation of electric meter. The sanction accorded is valid and after application of mind. Looking to circumstances and the consistent evidence adduced, no interference is called for in the judgment impugned in the appeal.

11. Learned counsel for the accused challenged validity of the sanction. Thus, issue regarding validity of the sanction was raised. The Sanction Order was challenged on ground that it was

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accorded without application of mind and mechanically and, therefore, it is not a valid sanction.

12. In view of 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.

13. To prove the sanction, the prosecution examined Sanctioning Authority PW5 Balkrishna Amle serving as Executive Engineer at Bramhapuri Division. As per the evidence of the said witness, the accused and co-accused Purshottam Wagh were working as Line Helpers at Bramhapuri Division at Nawargaon District Centre under the jurisdiction of Bramhapuri Division. He is appointing authority of Line Helpers. He received requisite papers. After studying the said papers, he accorded the

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sanction. The said Sanction Order is at Exhibit-40. His cross examination shows that he had passed the Sanction Order after verification and letter from the bureau. He had received set of 137 papers and after going through papers, he accorded the sanction.

Thus, Sanctioning Authority PW5 Balkrishna Amle considered investigation papers and accorded the sanction.

14. 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.

15. 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.

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16. 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 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.

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

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18. 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.

19. Besides the Sanction Order, the prosecution claimed that the accused demanded gratification amount and accepted the same. In order to prove the demand and acceptance, the prosecution mainly placed reliance on the evidence of complainant PW1 Dayaram Fating and Shadow Pancha PW2 Suresh Mahajan.

20. On the question of demand and payment of bribe for performance of public duty or forbearance to perform such duty, it is necessary to see testimony of complainant PW1 Dayaram Fating. The evidence of the complainant shows that as he constructed a new house, he was in need of electric connection and, therefore, he moved an application for the electric connection, which is at Exhibit 46. He met a Junior Engineer Honade who informed him that before issuing demand note for sanctioning him electric connection, inspection of the spot is required. Accordingly, he sent the accused and other co-accused.

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The accused took measurement and informed the complainant that for issuing the demand note, he has to incur expenses Rs.6000/- to to Rs.6500/-. He also informed that for electric connection service line of 130 feet and one pole are required. On request by the complainant to reduce the amount, he demanded Rs.1000/- and after a negotiation, it was agreed to Rs.500/-. The evidence of the complainant narrates about the procedure carried out by the officer of the bureau during pre-trap and post-trap panchanamas. As to the demand, the evidence of the complainant shows that he along with pancha was sitting in his shop. The pancha was sitting as customer. The accused and the co-accused came in his shop. The accused for amount Rs.500/- and he handed over the same amount, which was accepted by the accused by left hand and kept in his pant pocket and, thereafter, the accused started writing the demand note, but he was caught by officer of the bureau. The amount was recovered from the pant pocket of the accused. The hand wash of the accused as well as the complainant was collected. Thus, as to the demand, the complainant deposed that the accused demanded the amount and accepted the same.

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21. To corroborate the version of complainant PW1 Dayaram Fating, the prosecution examined Shadow Pancha PW2 Suresh Mahajan. 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 cycle shop of the complainant. He was sitting on a stool in front of the counter of the cycle shop and the complainant was at the counter. The accused came and informed that he brought a form and he will complete formalities and demanded the amount and told the complainant that he will perform the work. The complainant handed over the amount which was accepted by the accused and kept in right pocket of his full pant. The accused was caught by the officer of the bureau and the amount was recovered from his pant pocket.

22. Both witnesses complainant PW1 Dayaram Fating and Shadow Pancha PW1 Suresh Mahajan were cross examined on the point of demand and acceptance. An attempt was made to bring on record that the service line and the pole for electric connection were required and, therefore, the complainant was

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required to incur expenses. The cross shows that electric pole was 30-40 feet from the house of the complainant. The complainant admitted that pole was required near his house. However, he denied that there was no Grampanchayat permission for erecting the said pole. It came on record that Exhibit-17 is the permission by the Grampanchayat. The complainant admitted that the accused was not having authority to sanction electric connection. The evidence shows that the application of the complainant was pending for the electric connection.

23. Thus, the defence of the accused is that the accused was not authority to sanction the electric connection and, therefore, no amount was demanded by him.

24. It is pertinent to note that the demand was not for electric connection, but the demand was for reducing the amount towards the expenses which the complainant has to incur and for furnishing the demand note.

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25. The another defence of the accused was that he was doing the private work of electric fitting and the amount was accepted towards the electric fitting. The said suggestions are denied by the complainant. The cross examination of Shadow Pancha PW2 Suresh Mahajan also shows that he denied that the amount was demanded as to the electric fitting. The Shadow Pancha admitted that there was a talk regarding the electric fitting and the accused demanded Rs.500/- towards electric charges. However, he denied that the amount was accepted towards the electric fitting. He specifically stated that the talk was regarding the new electric meter and not as to the old one. As far as the defence of the accused is concerned, that the demand was made towards the electric fitting, no evidence is brought on record that prior to approval of the electric connection, the complainant asked the accused to complete the electric fitting.

26. The prosecution has also examined Junior Engineer PW6 Pankaj Honade, working with the MSEB. The said witness testified that the accused and the co-accused were working as

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Line Helpers. As a part of his duty, he has to look after maintenance of wires so also to ascertain the distance from pole upto the house when there is an application for new connection. He further deposed that the application of complainant PW1 Dayaram Fating was ending for new electric connection. He sent the accused to take measurement and the application was handed over to the accused. He also produced the extract of entry in the register Exhibit-43 to show that he received the application of the complainant. The said application was not returned to him after the measurement.

27. Thus, it is clear from the evidence of Junior Engineer PW6 Pankaj Honade that the accused was sent at the house of the complainant to take measurement. Though he is cross examined at length, nothing incriminating is brought on record to falsify his evidence.

28. Carrier PW3 Sudhir Sayankal and Assistant Sub Inspector PW4 Dilip Bhaddarwar, are formal witnesses.

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29. Trap Officer PW7 Purshottam Choudhary, narrated about various procedures carried out by him during pre-trap and post-trap panchanamas. His evidence is as to the recovery of the amount from the accused. His evidence shows that after receipt of the signal from the complainant, he went inside the shop of the complainant after the accused demanded and accepted the amount. The amount was recovered from pant pocket of the accused. The hand wash of the accused as well as along with requisite material was forwarded to the Chemical Analyzer. Though the Trap Officer was examined, the defence could not bring any incriminating material on record.

30. Thus, the evidence adduced by the prosecution consistently shows that the accused was sent by Junior Engineer PW6 Pankaj Honade for measurement before issuing demand note to allow the electric connection to the complainant. The accused informed the expenses to the complainant and to reduce the amount of such expenses, demanded the amount and accepted Rs.500/-. As far as the demand is concerned, the same is corroborated by the prosecution.

31. 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. In support of his contentions, he placed reliance on following decisions:

- 1. P.Satyanarayana Murthy vs. The Dist.Inspector of Police and ors¹;**
- 2. T.Subramanian vs. State of T.N.², and**
- 3. Mohan Bhaiyyalal Shrivastava vs. State of Mah³.**

He submitted that when accused offers reasonable and probable explanation, that the money was accepted by him other than illegal gratification, the accused would be entitled to acquittal.

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

1 AIR 2015 SC 3549

2 (2006)1 SCC 401

3 2023 AIIMR (cri) 3138

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33. The Constitution Bench of the Honourable Apex Court in the case of **Neeraj Dutta vs. State (Govt.of NCT of Delhi)**⁴ 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.

34. Here, in the present case, the evidence of complainant PW1 Dayaram Fating as well as Shadow Pancha PW1 Suresh Mahajan is consistent and corroborative. It is also corroborated by Junior Engineer PW6 Pankaj Honade, working with the

4 2023 4 SCC 731

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MSEB, who sent the accused at the house of the complainant for taking measurement. As far as the defence of the accused is concerned, that he has done the work of electric fitting and amount is accepted towards the expenses of the said electric fitting, the same is not supported by any material. The complainant has denied the said suggestion and the accused has not adduced any evidence to substantiate his contention. The consistent evidence proves the demand and acceptance.

35. 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.

36. The Honourable Apex Court in the case of **K.Shanthamma vs. The State of Telangana**⁵ 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

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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, de hors 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”.

37. 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:

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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 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

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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.

38. 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 Honourable Apex Court, while discussing expression “accept”, referred the judgment in the case of **Subhash Parbat Sonvane vs. State of Gujarat**⁶ observed that mere acceptance of money without there being any other evidence would not be sufficient

⁶ (2002)5 SCC 86

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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 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

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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 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,

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which can be established by proof of either 'acceptance' or 'obtainment'.

39. In the light of the above well settled legal position, if the evidence adduced is appreciated, it shows that the demand and acceptance are proved by PW1 Dayaram Fating as well as Shadow Pancha PW1 Suresh Mahajan. It is corroborated by the circumstantial evidence in the nature of Chemical Analyzer's Report (Exhibit-56) which shows contents of **phenolphthalein** powder and sodium carbonate solution in the hand wash collected by the investigating officer.

40. 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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41. 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.

42. The Honourable Apex Court, in the case of **C.M.Girish Babu vs. CBI Cochi, High of Kerala**⁷, 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.

43. 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

⁷ (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.

44. 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.)

!! BrWankhede !!

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