

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.168 of 2019**

Arising Out of PS. Case No.-117 Year-2016 Thana- C.B.I CASE District- Patna

Ramashray Prasad @ Ramashray Prasad yadav Late Badri Prasad Yadav Vill-
Tentua Bazar,P.S-Atari,Distt.-Gaya

... .. Appellant/s

Versus

The State of Bihar Through Superintendent, Vigilance, Patna Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Bindhyachal Singh, Sr. Adv. Mr. Vipin Kumar Singh, Adv. Mr. Kumar Awnish Ankit, Adv.
For the Amicus Curiae		Ms. Akanksha Malviya, Adv.
For the Respondent/s	:	Mr. Anil Kumar Special Vigilance PP.

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL JUDGMENT

Date : 08-07-2025

Heard Mr. Bindhyachal Singh, learned Senior counsel for the appellant, assisted by Ms. Akanksha Malviya learned *Amicus Curiae* as well as Mr. Anil Singh, Special Vigilance Public Prosecutor.

2. The present appeal has been preferred against the judgment of conviction and sentence dated 17.11.2018 and 26.11.2018, passed by the learned Spl. Judge, Vigilance (Trap Case), Patna in Special Case No. 53 of 2016 (Vigilance Case No. 117 of 2016), whereby the appellant has been convicted and sentenced under Section 7 of the P.C. Act, 1988 (for short 'the Act of 1988'), and directed to undergo RI for four years with a fine of Rs. 5,000/- and in case of default in payment of fine, was



further directed to undergo SI for three months. He was further sentenced and directed to undergo RI for four years and a fine of Rs. 5,000/- for the offence under Section 13(2) read with Section 13(1) (d) of the Act of 1988 and in default of payment of fine, was directed to undergo SI for three months. All the sentences were directed to run concurrently.

3. The appellant Ramashray Prasad @ Ramashray Prasad Yadav was Sub-Inspector in Sahebganj Police Station at the relevant time. According to allegation, he was trapped by the members of the trap team while accepting the bribe from the complainant Priya Ranjan Kumar (PW-6). According to the allegation, Priya Ranjan Kumar, lodged a written complaint on 20.10.2016 before the S.P.-cum-Officer in Charge Vigilance P.S. Patna. In his complaint, he made allegation that his father's Apachee motorcycle, bearing Registration No. BR06-AW-2137, which was parked in front of his shop, was stolen away by unknown thieves. Priya Ranjan Kumar lodged a case in Sahebganj P.S. which was registered as Sahebganj P.S. Case No. 229/2016 and the appellant Ramashray Prasad @ Ramashray Prasad Yadav was assigned the investigation of that case. The appellant, in the course of investigation, came to the shop of the complainant and demanded Rs. 5000/- for helping



the complainant. The complainant was not willing to give the bribe and he filed the complaint. Chandra Bhushan Kumar Singh (PW-5), who was a constable, was given the assignment of verification of the complaint. He verified the complaint. He verified the complaint on 20.10.2016 at 4:45 P.M. In course of verification, PW-5 saw the appellant demanding Rs. 5000/- at a tea stall, for helping the complainant in the case of motorcycle theft. At the request of the complainant, the appellant reduced the amount of bribe from Rs. 5000/- to Rs. 2000/-. Then PW-5, being assured that the allegation was true, submitted his verification report (Ext.4) to the S.P.-cum-Officer-in-charge Vigilance P.S. Patna on 27.10.2016.

4. On the basis of that report, a trap team was constituted under the leadership of Arun Shukla, Dy. S.P. of Vigilance (PW-8). The members of the trap team were Police Inspector, Sri Narayan Singh (PW-1), Satya Narayan Ram (PW-2), Aasif Ekbal Mehendi, A.S.I. (PW-7), Indrajeet Singh (not examined), Head Constable Naresh Kumar Mandal (not examined), Constable Chandra Bhushan Kumar Singh (PW-5), and Arurendra Kumar Yadav (PW-3). On 27.10.2016 between 17:30 hours and 19:30 hours, a meeting of the trap team was held in the Vigilance Headquarters, Patna. PW-5, the verifier,



introduced the complainant to the members of the trap team. In the presence of the members of the trap team, the complainant produced four G.C. notes of Rs. 500/- denomination, totalling Rs. 2000/-. Those four G.C. notes were treated with phenolphthalein powder and were returned to the complainant with a direction to give those notes to the appellant only on his demand. Police Inspector, Aasif Ekbal Mehandi touched the phenolphthalein powder on his finger and dipped it in sodium carbonate solution. The colour of that solution turned from white to pink. The solution was preserved in a bottle, marked as Exhibit-A. The members of the trap team, along with the complainant, put their signatures thereon. Thereafter, the trap team in-charge directed the verifier and the complainant to indicate a signal when the accused accepts the bribe. After trapping the appellant, the post-trap memo was prepared and all the members of the trap team, the complainant and the independent witnesses put their signatures thereon, which has been marked as Exhibit-1.

5. According to the plan detailed in the pre-trap memo, the trap team proceeded for the place of occurrence with armed forces by two vehicles. On 28.10.2016 at 8:15 A.M., the complainant, according to pre-planning, met the trap team at



State Highways-74 near Pakari Line Hotel at 11:45 A.M. The complainant contacted the appellant through mobile phone and the appellant informed him that he would come soon near Semra Nijamat Dholy Chowk. The members of the trap team were in civil dress around the informed place. The appellant came near Ansu Kirana Store and after leaving his jeep, he reached near that shop. When he received the bribe, the verifier (PW-5) gave a signal. The trap team surrounded the accused and Rs. 2000/- was recovered from his right pocket. Head Constable Naresh Kumar Mandal (not examined) and Constable Arurendra Kumar Yadav (PW3) caught the right and left hand of the appellant. The trap team in-charge called two persons, who were made independent witnesses. Both these two independent witnesses put their signatures on the pre-trap memo. The post-trap memo (Exhibit-2) was also prepared, which was signed by the members of the trap team, two independent witnesses and the complainant.

6. After preparing the post-trap memo, the formal FIR was lodged on the basis whereof, Patna Vigilance P.S. Case No. 117 of 2016 dated 28.10.2016 was registered. The formal FIR is Exhibit-7. After lodging of the FIR, the investigation was carried on and after conclusion of the investigation, the charge-sheet was submitted against the appellant under Section 7/13(2)



r/w 13(1)(d) of the Act of 1988. The learned Special Judge, Vigilance, North Bihar, Muzaffarpur took cognizance on 30.01.2017. On 17.04.2017, the charges were framed against the appellant under Sections 7/13(2) r/w 13(1)(d) of the Act of 1988, which were read over and explained to the appellant, who pleaded not guilty and claimed to be tried.

7. The prosecution produced 10 witnesses to substantiate the charges. The witnesses are as follows:-

List of witnesses	Name	Description
P.W-1	Sri. Narayan Singh	Member of trap team
P.W-2	Satya Narayan Ram	Member of trap team
P.W-3	Arurendra Kumar Yadav	Member of trap team
P.W-4	Asgar Imam	Sanctioning Authority
P.W-5	Chandra Bhushan Kumar Singh	Verifier
P.W-6	Priya Ranjan Kumar	Complainant
P.W-7	Aasif Ekbal Mehendi	Member of trap team
P.W-8	Arun Shukla	In-Charge of trap team
P.W-9	Parth Banerjee	Sr. Sentific Officer in FSL, Patna
P.W-10	Ram Niwas Choudhary	Investigating Officer

8. As mentioned above, PW-1, PW-2, PW-3, PW-5, PW-7, and PW-8 are the members of the trap team.



9. PW-4, Asgar Imam, was the sanctioning officer at the relevant time. He gave the sanction for prosecution of the appellant. The sanction order is Exhibit-3.

10. P.W-9 Parth Banerjee was Senior Scientific Officer in FSL, Patna, who proved Exhibit-A, the experimental solution and washing solution and also proved Exhibits B, C and D, the washing solution of fingers of both hands and washing solution of the pocket of the shirt of accused Ramashray Prasad. The FSL report was marked at the instance of this witness as Exhibit-8.

11. P.W-10 Ram Niwas Choudhary is the Investigating Officer.

12. The documentary evidences exhibited by the prosecution are as follows:-

1.	Pre-trap memo	Ext.1
2.	Post trap memo	Ext.2
3.	Sanction order	Ext.3
4.	Verification report	Ext.4
5.	Complaint petition	Ext. 5
6.	Action taken report of trap team	Ext.6
7.	Formal FIR	Ext.7
8.	FSL Report	Ext.8
9.	Charge sheet	Ext.9
10	Signature on four pages of post trap memo	Ext. 1/A, 1/B, 1/C, 1/D.



11	Four G.C. notes of Rs. 500/- denomination	Material Ext. 1 to 1/3
12	Shirt of the accused	Material Ext. II

13. After conclusion of the prosecution evidences, the appellant was questioned under Section 313 of the CrPC for the purpose of enabling him to explain the circumstances appearing in evidence against him. The appellant denied the veracity of the incriminating circumstances appearing against him in the evidences of the prosecution as well as the exhibited documents. He pleaded his innocence in his statement under Section 313 of the CrPC.

14. P.W-6 Priya Ranjan Kumar (the complainant) has stated during his deposition that on 20.10.2016, he went to Sahebganj Police Station where he met the appellant, who demanded Rs. 5000/- as a bribe, but on the request of the complainant, he reduced the amount to Rs. 2000/-. This witness has stated that he gave four notes of Rs. 500/- denomination and thereafter he returned to his house. On 28.10.2016, Chandra Bhushan Kumar Singh (PW-5) instructed him to be present at Pakri Line Hotel. When the pre-trap memo was produced before



this witness at the time of his deposition in the Court, he stated that his signature was present over there, in which the date has been mentioned as 27.10.2016. In para-6 of his deposition, this witness deposed that on 28.10.2016, the members of the trap team gave him Rs. 2000/-. The complainant thereafter was asked by the trap team to hand over those notes to the appellant. Thereafter, he called the appellant and on his demand, this witness handed over those notes to the appellant. After receiving those notes, the appellant kept them in the right pocket of his Uniform. This witness identified his signature on the post-trap memo (Ext.2).

During his cross-examination, in para-9, he stated that the members of the trap team had obtained his signature on blank papers. In para-10, he deposed that his hand was not dipped into the solution. In para-12 of his deposition, this witness has stated that after making the complaint, he remained in his village for six days, and after six days, on 27.10.2016, he went to the vigilance office on call of Chandra Bhushan Kumar Singh (PW-5). He stated further that he returned to his house and on 28.10.2016, he received a telephonic call from the vigilance.

15. P.W-5, Chandra Bhushan Kumar Singh is the verifier of the complaint. He deposed that on 20.10.2016, he was



posted as constable in Vigilance Investigation Bureau. He received the complaint of Priya Ranjan Kumar on the order of the Superintendent of Police. Then he submitted his verification report. He stated further that on 20.10.2016 at 9:45 A.M., he went to Sahebganj Police Station with the complainant where they met the appellant. Thereafter, they went to a nearby tea stall where the appellant demanded Rs. 5000/- from the complainant. At the request of the complainant, the appellant reduced the bribe amount to Rs. 2000/-. Having found substance in the complaint, this witness submitted his verification report, (Ext.4) to the Superintendent of Police-cum-officer-in-charge. The Superintendent of Police accorded permission to constitute a trap team and the permission is Exhibit-4/a. Thereafter, the trap team was constituted and the appellant was apprehended immediately during receiving of the bribe from the complainant. Those four notes of Rs. 500/- denomination were recovered from the right pocket of the appellant. His fingers and shirt pocket were dipped into the solution of sodium carbonate and the colour of the solution turned from white to pink. The post-trap memo was prepared.

During his cross-examination, this witness has stated that he met Priya Ranjan Kumar for the first time on



20.10.2016. The Superintendent of Police introduced Priya Ranjan Kumar to this witness. In para-19 of his deposition, he has stated that he submitted his verification report on 27.10.2016. In para-20, he has stated that he did not obtain the signature of the complainant on the verification report. He has stated that on the asking of the in-charge of the trap team, the complainant had produced the notes. Aasif Ekbal Mehendi applied the powders on those notes. The next day, i.e. 28.10.2016, the trap was conducted and the appellant was arrested. The trap team, after the arrest of the appellant, brought him to Patna. In para-27, this witness has stated that the notes were not recovered from the hands of the appellant, but those notes were recovered from the pocket of the appellant. In para-28 of his deposition, this witness has stated that those notes were recovered in the presence of independent witnesses Jitendar Thakur and Sonu Alam. This witness has stated further that the seizure memo was not shown to him.

16. P.W-1, Sri Narayan Singh, was also a member of the trap team. He was posted as Dy. S.P. in the Vigilance Investigation Bureau. This witness has stated that the complainant produced four G.C.notes of Rs. 500/- denomination. The numbers of the notes were jotted down. Aasif Ekbal



Mehandi applied phenolphthalein powder on those notes. The notes were handed over to the complainant with the instruction that he should hand over those notes to the appellant only on his demand. After dipping of the fingers of Mr. Aasif Ekbal Mehandi in phenolphthalein solution, the colour of the solution turned pink, which was preserved and was marked as Exhibit-A. According to the pre-plan, the members of the trap team apprehended the appellant at Ansu Kirana Store. The persons of the locality assembled there and two persons from the crowd were invited who became ready to be the witnesses of the seizure list. They put their signatures on the pre-trap memo. The notes of Rs. 2000/- were recovered from the right pocket of the appellant. Those notes matched with the description given in the pre-trap memo. The post-trap memo was in the handwriting of this witness and at his instance, the post-trap memo was marked as Exhibit-2.

In para-15 of his cross-examination, the witness has stated that the appellant did not demand money in the presence of this witness. But this witness saw the complainant giving money to the appellant. This witness could not recall wherefrom the complainant handed over those notes to the appellant. In para-16 of his deposition, this witness has stated that Ramashray



Prasad (the appellant) was known to him from before. He was posted with this witness in Biramkganj Police Station, but this witness has stated further that the verifier informed him that he is Ramashray Prasad. This witness has stated further that he prepared the post-trap memo at the dictation of the leader of the trap team. He stated further that the description of one note was missed to be mentioned in the post-trap memo. In para- 22 of his deposition, this witness has stated that one of the independent witnesses was a resident of Mirganj, District Gopalganj. The local persons who were assembled at the spot at the time of seizure, did not become ready to be the witnesses of the trap memo. This witness has stated that the hand of any of the members of the trap team was not washed in the presence of the independent witness.

17. PW2 Satya Narayan Ram is also a member of trap team. At that time, he was posted as Inspector in Vigilance Investigation Bureau, Patna. According to his deposition, a meeting of trap team was convened on 27-10-2016 at Vigilance Headquarters, Patna, between 17.30 to 19.30 hours. This witness has stated that four currency notes of Rs.500 denomination were produced by the complainant and after applying sodium carbonate powder on those notes, they were handed over to the



complainant. He has stated further that the members of trap team instructed the complainant to give those notes to the appellant only on his demand and not otherwise. Constable Naresh Kumar Mandal and Arurendra Kumar Yadav caught hold of left and right wrist of the appellant. Those notes were recovered from the right pocket of the appellant. His fingers were dipped into the solution of sodium carbonate and the color of water turned into pink color. The pre-trap memo was prepared in the handwriting of this witness. He stated further that on the dictation of in-charge of trap team, he prepared pre-trap memo in four pages.

In paragraph 13 of his deposition, this witness has stated that in preparing the pre-test memo, he didn't apply his wisdom or discretion. He did not mention in pre-trap memo as to wherefrom the solution of sodium carbonate was brought. This witness did not listen to the appellant demanding the bribe. He has stated further that he was not aware of the reason for non-submission of verification report between 20.10.2016 to 26.10.2016.

18. PW 3 Arurendra Kumar Yadav is also a member of trap team. At that time he was a constable in Vigilance Investigation Bureau, Patna. His deposition is similar to PW2. He is the person who is said to have caught hold of the



left hand of the appellant while receiving the bribe. He also stated that from right pocket of appellant four notes of Rs. 500 denomination were recovered. This witness caught hold of the left hand of the appellant and Naresh Kumar Mandal caught hold of his right hand. Thereafter the appellant was arrested. In para-16 of his deposition, this witness has stated that he could not recall in which pocket the appellant had kept those notes. He could not see the complainant giving money to the appellant, but again in para-17 he has stated that he saw the appellant receiving something from the complainant but what was that thing, he could not notice. This witness has stated that the investigating officer did not take his statement.

19. PW4 Ashgar Imam, a retired DIG in Muzaffarpur, was the sanctioning authority. He deposed that he issued the sanction order for prosecution of the appellant. The sanction order has been marked as Ext. 3.

20. PW7 Asif Iqbal Mehendi was also a member of the trap team. His deposition is similar to the other members of the trap team. He has stated that at the time of pre-trap planning, four notes of Rs.500 denomination were found. He applied phenolphthalein powder on those notes and he prepared a solution of sodium carbonate. The notes were handed over to the



complainant with the instruction that he shall give those notes to the appellant only on demand. He has stated further that from the right pocket of the Uniform of the appellant, those notes were recovered and thereafter the appellant was arrested.

In para-14 of his cross examination, this witness has stated that one of the seizure list witnesses, Jitendra Thakur, was a co-villager of the complainant. In para-19 of his cross examination, he has stated that he did not see the appellant accepting the bribe money, nor he saw the complainant giving the bribe money.

21. PW8 Arun Shukla, a retired DSP in Vigilance Investigation Bureau, Patna, was the head of the trap team. He deposed that there were eight members in the trap team. The deposition of this witness is also similar to the other members of the trap team. According to his deposition, on 28-10-2016, at 8.15 pm, they reached near Semra Nizamat Chowk. They occupied their respective places, keeping some distance and after receiving signal from the complainant, the trap team apprehended the appellant and Rs. 2000/- was recovered from his right pocket. The persons of the vicinity assembled there. On request, two persons, Jitendra Thakur and Sonu Alam, became ready to be the witnesses of seizure list and they they signed the



pre-trap memo and post-trap memo.

22. PW 9 Partha Benerjee is the Senior Scientific Officer, FSL, Patna. He proved the FSL report. He has stated that four bottles A, B, C & D, containing some solutions were tested as phenolphthalein and sodium carbonate.

23. PW 10 Ram Niwas Chaudhary is the I.O. of this case. He deposed that the Police superintendent-cum-SHO handed over the investigation of the case to this witness. He recorded the statement of the complainant, the verifier and the leader of the trap team and also recorded the statement of the appellant. He recorded the statement of Shri Bhagawan Singh, Satya Narayan Rai, Asif Iqbal Mehendi, Indrajeet Singh, Naresh Kumar Mandal and Arurendra Kumar Yadav. He deposed that the recovered notes were kept in vigilance *Malkhana* and after completion of the investigation, he submitted the charge sheet. He identified his signature on the charge-sheet (Ext.9) In para-13 of his deposition, this witness has stated that neither the pre-trap nor post-trap memo was prepared in his presence. He received the FIR on 29-10-2016, but due to mistake, it has been mentioned in the case diary that FIR was received by this witness on 28-10-2016. In para-16, this witness has stated that on 2-11-2016, he went to the place of occurrence, where he



recorded the statement of seizure list witnesses. The first seizure list witness Jitendra Thakur was a co-villager of the complainant, whereas the second seizure list witness, Sonu Alam, was the driver of the JCB.

24. The learned Senior Counsel Mr. Bindhyachal Singh and learned Amicus Curiae Ms. Aakansha Malaviya have submitted that conjoint study of the prosecution evidences makes the prosecution case as doubtful. The recovery of notes from the pocket of the appellant is also doubtful. They submitted further that no single independent witness has been examined, whereas, according to the prosecution witnesses, the persons of the locality assembled at the time of trap of the appellant. The prosecution case becomes doubtful also on the ground that the complainant, during his deposition, has stated that his signature was obtained on blank paper. They submitted that after obtaining the signature of the complainant on the blank paper, the pre-trap memo, Ext.1 and post-trap memo, Ext.2, were prepared. The witnesses of seizure list have not been examined. According to allegation, the alleged bribe accepted by the appellant was recovered from his right pocket in presence of two independent witnesses, but the names of those two independent witnesses have not been disclosed in the FIR, nor the reasons thereof has



been explained by the prosecution. The Investigating Officer (PW-10), in his deposition, has stated that the first seizure list witness, Jitender Thakur, was co-villager of the complainant and the second seizure list witness, Sonu Alam, was the JCB driver. Neither their names have been disclosed in the FIR, nor they have been examined during the trial, which makes the case of the prosecution as doubtful. The learned counsels also submitted that the complainant lodged his complaint on 20.10.2016 and on the same day, the verification of the complaint was assigned to PW-5 Chandra Bhushan Kumar Singh. On the same day, Chandra Bhushan Kumar Singh, along with the complainant, went to Sahebganj Police Station and met the appellant. Thereafter, they went to a nearby tea stall where the appellant demanded Rs. 5,000/- from the complainant. At the request of the complainant, the appellant reduced the bribe amount to Rs. 2,000/-. This verification was done on 20.10.2016, but PW-5 submitted his verification report, Ext.4, after 7 days, i.e., on 27.10.2016, without assigning any reason of delay in submitting his report. This fact alone makes the prosecution case susceptible and the benefit of doubt goes in favour of the appellant.

25. On the other hand, Mr. Anil Singh, the learned Special Vigilance Public Prosecutor, has submitted that the



appellant was apprehended while accepting illegal gratification in presence of independent witnesses. All the prosecution witnesses are consistent in deposing that the appellant was caught hold by PW-3 Arurendra Kumar Yadav and Naresh Kumar Mandal. The prosecution proved its case beyond all shadows of reasonable doubts.

26. I have perused the impugned judgment of the trial court and carefully perused the lower court records. I have also given my thoughtful consideration to the rival submissions advanced on behalf of the parties.

27. From perusal of the FIR and written report, it transpires that the description of catching the appellant red-handed has been described but there is nothing in that written report showing the recovery of the alleged bribe in presence of the two independent witnesses. But in the deposition of the prosecution witnesses, it has come that the recovery was made in presence of the two independent witnesses. PW-5 Chandra Bhushan Kumar Singh, the verifier, in para- 2 of his deposition, has stated that the notes were recovered in presence of Jitendra Thakur and Sonu Alam. This witness states categorically that Jitendra thakur and Sonu Alam are independent witnesses, but the Investigating Officer, PW-10, has stated that Jitendra Thakur



was co-villager of the complainant, whereas Sonu Alam was the driver of the JCB. PW-1 Sri. Narayan Singh deposed during trial that the persons of the locality assembled there and two persons from the crowd were invited to be the witnesses of the seizure list. They put their signatures on the pre-trap memo, but this witness did not mention the names of the seizure list witnesses.

28. There are a number of material inconsistencies in the depositions of the persecution witnesses regarding the seizure list witnesses. Non-examination of seizure list witnesses also makes the prosecution case as doubtful.

29. PW-6 the complainant, according to his deposition lodged his complaint on 20.10.2016, and on the same day, PW-5, Chandra Bhushan Kumar Singh, was assigned to verify the veracity of the complaint lodged by the complainant. On the same day, i.e., 20.10.2016, Chandra Bhushan Kumar Singh visited the police station with the complainant and he saw the appellant demanding Rs. 2,000/- as bribe and after being assured about the veracity of the complaint, he submitted his verification report on 27.10.2016, but the reasons for a delay of seven days in submission of the report, has not been explained by Mr. Chandra Bhushan Kumar Singh. During his deposition, Chandra Bhushan Kumar Singh has stated in para-19 that he submitted his



verification report on 27.10.2016. No reason has been given by this witness explaining the delay of seven days in submitting his verification report to the Superintendent of Police. On this score also, the prosecution case becomes doubtful. He has further stated during his deposition that he did not obtain the signature of the complainant on the verification report. No reason has been explained as to why he couldn't obtain the signature of the complainant on the verification report.

30. PW-1 Sri Narayan Singh, who was also a member of trap team, has stated in para-15 of his deposition that the appellant did not demand money in presence of this witness but this witness saw the complainant giving money to the appellant. This witness could not recall wherefrom the complainant handed over those notes to the appellant. In para-16 of his deposition, this witness has stated that the appellant was known to him from before. In para-22 of his deposition, this witness states that one of the independent witnesses was the resident of District Gopalganj. The local persons did not become ready to be the seizure list witnesses.

31. PW-3 Arurendra Kumar Yadav, also a member of trap team, is said to have caught hold of the left hand of the appellant while receiving the bribe. He stated during his



deposition in examination-in-chief that from the right pocket of the appellant four notes of Rs. 500/- denomination were recovered, but contrary to his earlier deposition, he deposed in para-16 of his statement that he could not recall in which pocket, the appellant had kept those notes.

32. PW-7 Aasif Ekbal Mehendi, who was also a member of the trap team, has stated in para-19 of his deposition that he did not see the appellant accepting the bribe nor giving the bribe money.

33. After scrutiny of the prosecution evidences, I find that there are a number of material contradictions in the depositions of the witnesses, which are fatal to the prosecution case.

34. In my view, the prosecution has miserably and utterly failed to prove the guilt of the appellant.

35. Accordingly, giving the benefit of doubt to the appellant, the judgment of conviction and sentence dated 17.11.2018 and 26.11.2018, passed by the learned Spl. Judge, Vigilance (Trap Case), Patna in Special Case No. 53 of 2016 (Vigilance Case No. 117 of 2016) is set aside and the appeal is allowed.

36. Since the appellant is on bail, he is discharged



from the liability of bail bond.

37. This Court appreciates the valuable and able assistance to the Court rendered by Ms. Akanksha Malviya, the learned *amicus curiae* and directs the Patna High Court Legal Services Committee, Patna, to pay an honorarium of Rs. 20,000/- as a token money to the learned *amicus curiae*.

(Nawneet Kumar Pandey, J)

Nirmal/HR

AFR/NAFR	NAFR
CAV DATE	Nil
Uploading Date	25.07.2025
Transmission Date	25 .07.2025

