



2025:DHC:11411



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

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Date of Decision: 08.12.2025

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CRL.A. 41/2017

STATE (GOVT OF NCT OF DELHI)

.....Appellant

Through: Mr. Pradeep Gahalot, APP for State

versus

AMRINDER KUMAR SINHA

.....Respondent

Through: Mr. Abhas Mishra and Ms. Neha Singhal, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present appeal filed under Section 378(1) Cr.PC, the appellant/State seeks to assail the judgment dated 18.12.2014, passed by the learned Special Judge-07 (Central), (PC Act Case of ACB, GNCTD) Delhi in context of FIR No.34/2009 under Section 7 and 13 of the Prevention of Corruption Act, 1988 registered at PS Anti-Corruption Branch, Delhi, whereby the accused (respondent herein) was acquitted.
2. Mr. *Pradeep Gahalot*, learned APP for the State contends that the Trial Court has failed to correctly appreciate the testimony of the witnesses produced during trial. He submits that the acceptance and recovery of the bribe amount stands duly established from the testimony of the complainant and the *panch* witness. Further, the GC notes recovered at the instance of the respondent were also tallied.



3. Learned counsel for the respondent on the other hand, has defended the impugned judgment by contending that in a case under Section 7 and 13 of the PC Act, the proof of demand is *sine qua non*, which the prosecution has failed to establish.

4. In the present case, one *Rahul Sejwal* claimed that since the year 2004, he was running a travel company in the name of “*M/s Indraprastha Intercity Travel*” at 222 Lado Sarai, New Delhi and has been providing vehicles to Rail Land Development Authority (‘RLDA’) on rental basis since December, 2007. In his complaint given on 23.10.2009, he alleged that when he approached the office of RLDA, the respondent, who was working as an Accounts Assistant, a demand of 2% of the bill amount was made for clearance of the bills. A complaint was made to Vice-Chairman, RLDA after which, one Mr. *Ram Narayan Guliya* was posted in the accounts department but after some time, the respondent was again given charge of the said post whereafter, he demanded bribe of Rs.10,000/- on 22.10.2009. It was alleged that out of 32 pending bills, only a sum of Rs.3,93,000/- were released with unnecessary deduction of Rs.30,000/-. When the complainant spoke with the respondent on these deductions, the respondent had demanded the bribe.

5. During trial, the prosecution has examined the complainant-*Rahul Sejwal* as PW-12. In his testimony, he narrated the allegations made in the complaint. He deposed that on 23.10.2009, he had visited the office of Anti Corruption Branch and after completion of pre-raid proceedings, the raid team had reached the office of RLDA along with him and the panch witness-*Udai Singh Daagar*. When the complainant approached the respondent, the panch witness was standing at a distance of 8-10 steps. In the entire deposition, the complainant had not whispered about any demand being



made by the respondent. A reading of his testimony rather reveals that he has only mentioned talking to the respondent and then claimed that he took out GC notes from his pocket and gave the same to the respondent, which were statedly later recovered. The witness was cross examined by the learned APP for the state in which he stated that the respondent had asked for commission of Rs.10,000/- and the same was accepted. In his cross-examination by the defence, a suggestion was given that the complainant's father had given a complaint against the respondent, which was denied. It was further denied by him that he had supplied forged and fabricated bills to the IO to show his claim.

6. *Udai Singh Daagar*- the *panch* witness was examined as PW-8. He deposed about the pre-raid proceedings, accompanying the raid team and reaching the respondent's office at about 02:30 PM. The witness however has not stated about hearing of any demand being made by the respondent. He was not even cross-examined by the learned APP on this aspect.

7. The trial has proceeded on the basis of sanction obtained from the sanctioning authority. A perusal of record would reveal that the sanction was taken twice – the first sanction has never seen the light of the day and the second sanction was proved through the testimony of Mr. *Ashish Singh*, Senior Divisional Finance Manager, Office of Senior Divisional Finance Manager, North Central Railway, Agra, who was examined as PW-9. In his testimony, he claimed that before granting sanction, he had gone through record of the case, including the photocopy of FIR, statements of the prosecution witnesses, case diary, seizure memo, FSL report, etc. He stated that the sanction was granted after carefully going through the record. However, in his cross-examination, he stated that before granting sanction,



he had gone through the record of FIR No.40/2008. Pertinently, the FIR in the present case is 34/2009. There is no clarification sought by State by seeking re-examination or recall of this witness at any stage.

8. The learned Trial Court while passing the impugned judgment also took into account the fact that it had come on record that the respondent was not working as an accounts officer and thus had no role to play in clearance of the bills or payment or release of the payment. In this regard, the Trial Court has taken into account the testimony of PW-12, the complainant himself. The Trial Court further noted that duty list of the staff would indicate that it was another official namely *Ram Narayan* who was assigned the duty of preparation of cheques and dispatch of the same to the concerned parties. Further, at the time of lodging of complaint, no bill was pending clearance, which fact was affirmed by the IO.

9. It is well settled that the proof of demand has to be conclusively established by the prosecution. The gratification under Section 7 of the Act of 1988 uses the expression 'gratification', which in terms of the decision of the Supreme Court in the year 2023 means demand of bribe for a purpose.

10. A gainful reference may be made to the Supreme Court's decision in *B. Jayaraj Vs. State of Andhra Pradesh*¹, where it was held as under:

"8. ...Mere possession and recovery of the currency notes from the accused without proof of demand will not bring home the offence under Section 7. The above also will be conclusive in so far as the offence under Section 13(1)(d)(i) and (ii) is concerned as in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to be established."

¹ (2014) 13 SCC 55



11. The Constitution Bench later affirmed the aforesaid decision in the case of Neeraj Dutta Vs. State (Govt of NCT of Delhi), ²and held that:

"88. What emerges from the aforesaid discussion is summarised as under:

88.1 (a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of the Act.

88.2 (b) 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.

88.3 (c) Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.

88.4 (d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:

(i) if there is an offer to pay by the bribe giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.

(ii) On the other hand, if the public servant makes a demand and the bribe giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Section 13(1)(d)(i) and (ii) of the Act.

(iii) In both cases of (i) and (ii) above, the offer by the bribe giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Section 13(1)(d), (i) and (ii) respectively of the Act."

12. Thus while bearing in mind the above principles, the factual canvass in present case falls short only on aspect of non-application of mind by the

² (2023) 4 SCC 731



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sanctioning authority but also demand being not conclusively proved which is a sine qua non to establish a charge under Section 7 and 13 (1)(d) of the Act. Further, a judgment of acquittal brings in double presumption of innocence in favour of the accused which is a settled position of law, no longer *res integra*, that such double presumption operates at the appellate stage after an acquittal by the Sessions Court and gainful reference may be made to the Supreme Court's decision in Ravi Sharma v.State (NCT of Delhi),³ and Anwar Ali v. State of H.P.⁴.

In view of the foregoing discussion, I find no ground to entertain the present appeal and the same is accordingly dismissed with no orders as to costs.

MANOJ KUMAR OHRI
(JUDGE)

DECEMBER 8, 2025/rd

³ (2022) 8 SCC 536

⁴ (2020) 10 SCC166