

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.A. 297 of 2001

Satya Ranjan Mridha

-Vs-

Central Bureau of Investigation, SPE/ACB/Calcutta

For the Appellants : Mr. Bibaswan Bhattacharya
Mr. Tapan Kumar Mahapatra
Mr. Poonnug Roy

For the CBI : Mr. Amajit De
Ms. Shakshi Rathi
Ms. Hasi Saha

Judgment on : 22.06.2026

Ananya Bandyopadhyay, J.:-

1. This appeal is directed against the judgment and order of conviction dated 04.06.2001 passed by the Learned Judge, 1st Special Court, Alipore, South 24 Parganas in Special Case No.11 of 1993 arising out of C.B.I./SPE/ACB/CAL R.C. No.45 of 1992 dated 24.09.1992 convicting the appellants under Section 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 and sentenced to suffer rigorous imprisonment for 2 years and to pay a fine of Rs.3,000/- in default to suffer rigorous imprisonment for 6 months for the offence under Section 7 of the Prevention of Corruption Act, 1988 and sentenced to suffer rigorous imprisonment for 2 years and to pay a fine of Rs.3,000/- in default to suffer rigorous

imprisonment for 6 months for the offence under Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988.

2. The prosecution case precisely stated on 24.09.1992, the complainant i.e. PW-1 lodged a written complaint with the S.P./CBI/ACB/Calcutta to the effect that he was an educated youth having passed 'Draftsmanship Course' from I.T.I., Howrah in the year 1991 and he registered his name at Khidderpore Employment Exchange. On 17.09.92, he received a call-letter dated 10/14.09.92 from the said Employment Exchange asking him to appear for an interview for the post of Draftsman (Civil) in the office of the Superintending Engineer (Co-ordination circle) 'B' region, CPWD, Nizam Palace Compound, 234/4, A.J.C. Bose Road, 17th floor, Cal - 20 on 25.09.1992 at 11:00 a.m.

In order to ascertain the method and procedure of interview he visited the said office on 21.09.1992 where he was asked to meet co-accused A.K. Das, Engineering Assistant to Superintendent Engineer. Accordingly, PW-1 met A.K. Das, who informed the candidate required to appear on 25.09.1992 however a written examination would be held on 26.09.1992.

It was alleged when PW-1 solicited guidance, co-accused A.K. Das asked him to see the appellant i.e. S.R. Mridha, an U.D.C., of the same office. Accordingly, PW-1 i.e. the complainant met the appellant, who after calculating the age of the PW-1 disclosed that it was probably his last opportunity to secure a govt. job.

At that time, the appellant proposed PW-1 if he was really interested to get the job, he should pay a bribe of Rs.10,000/- to him. The appellant also

asked PW-1 to meet at his office at 09:30 a.m., on 25.09.1992 and to pay the said amount to him and the appellant would hand over the question papers for the said examination. Before accepting the said proposal of the appellant, PW-1 i.e. the complainant met co-accused A.K. Das and reported about the demand of the appellant. Then, co-accused A.K. Das asked PW-1 to follow the instruction of the appellant. PW-1 met the appellant and informed him that PW-1 would pay him Rs.10,000/- on 25.09.1992 as demanded. Since, PW-1 was not willing to pay any bribe he lodged the written complaint.

3. On the basis of the aforesaid written complaint and being endorsed by the SP, CBI, Shri S.K. Ghosh, DSP, CBI recorded the formal part of F.I.R., and started the Case No. RC 45/92 dated 24.09.1992 for investigation.
4. Upon conclusion of the investigation, the Investigating Agency submitted a charge-sheet under Sections 120B/109/34 of the Indian Penal Code and under Section 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 against the appellant to which he pleaded not guilty and claimed to be tried.
5. In order to prove its case, the prosecution examined as many as 11 witnesses and examined certain documents.
6. The Learned Advocate representing the appellant submitted as follows:-

i. "The proceedings in the instant case were instituted on the basis of a Written Complaint dated September 24, 1992, as lodged by one Shantanu Moitra (PW-1), before the Superintendent of Police, Central Bureau of Investigation, Calcutta, inter alia stating therein as to how upon receipt of an Interview Letter from the Employment Officer, Sub-

Regional Employment Exchequer, Khidderpore (being the PW-6) for the post of Draughtsman (Civil), when he had visited the concerned Offices on September 21, 1992 supposedly for ascertaining the method and procedure of the said interview, and was directed to meet the Co-Accused Shri A. K. Das, who had instructed him to be present in their Office premises on September 25, 1992 although the said interview was scheduled for the following day and had instructed him to apparently meet with the present Appellant for any assistance in connection with the entire procedure; upon being guided by a peon of the said Office, he had allegedly met with the present Appellant in his Office, when, referring to his advanced age for the post in question, he had purportedly agreed to assist him and had demanded a bribe of 10,000/- from him for providing him with the question papers of the concerned interview on September 25, 1992 and subsequently, after consultation with Shri A. K. Das, he had supposedly agreed to pay such amount and had duly informed the present Appellant of his willingness to pay such amount.

Is quite interesting to note that although the PW-1 had explicitly stated in his Written Complaint that he was strictly against the giving of bribe to Public Servants, yet for some unexplained and incognito reasons best known only to him, he chose to wait for 3 long days before actually informing such fact for the very first time to the Investigating Agency, which, in turn, raises serious doubts and questions over the actual fervor, intentions and actions of the PW-1 and the candour of the alleged incident, which happens to be the very basis of the Prosecution Case.

ii. As per the concerned Interview Letter, the interview was scheduled for September 25, 1992, as also admitted by the PW-1 in course of his deposition before the Learned Trial Court.

If that be so, then it totally renders the entire Prosecution Story utterly dysfunctional and superfluous, as there was no point in allegedly providing the PW-1 with the question papers containing 5 pages of questions on the date of the interview itself, as then he would hardly get any opportunity to take advantage of the same and get himself prepared on the basis of the said documents.

iii. In course of his deposition, in the Cross-Examination, the PW-1 had stated that he was never directed to the office of the present appellant by any peon, but he followed the present Appellant to his Office, when he left from the chambers of Shri A.K. Das; this again is in contravention to his Examination-in-Chief, wherein he had stated that upon being called by Mr. A. K. Das, the present Appellant came to his Office and upon calculating and considering his eligibility for the said post, he had apparently demanded the bribe there.

In order to shamelessly conceal and enshroud the apparent and obvious loopholes in the fictitious case of the prosecution and in order to obscure his inability to identify such peon, he came up with a new story altogether at every stage of the instant Trial, which only goes on to further vitiate and devalue the genuineness and authenticity of the said Prosecution Witness.

iv. In course of his deposition before the Learned Trial Court, the PW-1 had professed his date of birth to be September 02, 1967 and as such, on the date fixed for his apparent interview (and also on the date of his supposed receipt of the corresponding Interview Letter), he had already exceeded the maximum permissible age for the concerned post, which was 25 Years (although he claimed to be only 24 years 9 months and 13 days, as on September 17, 1992, i.e. on the date of receipt of his Interview Letter).

Quite conspicuously, he had already attained the maximum permissible age on the date of receipt of his Interview Letter itself and as such, his trailing actions under such circumstances become all the more suspicious, disputable, shady and questionable.

He had further changed his stance from the written complaint and had stated that he had gone to the Office of the accused persons to enquire about the age of the candidates and although he had already received the corresponding Interview Letter, he wanted to apparently know if he was eligible for the same.

Redundant excuses and attempts were made by the PW-1, one after the other, to conceal his actual intentions and motives for seemingly visiting the Offices of the accused persons, which unquestionably raises severe apprehension, dilemma, hesitation and incredulity over the entire prosecution story.

v. Neither the Birth Certificate of the PW-1 nor any of the documents pertaining to his educational qualifications were ever seized by the Investigating Agency in course of investigation in the instant case.

Evidently, no investigation at all was done to ascertain his actual age or eligibility for the concerned Post, which is the very genesis of the instant proceedings, which only makes the case of the prosecution all the more brittle, frail and vulnerable.

vi. Apparently on September 21, 1992, upon returning home from the Offices of the accused persons, he had discussed the entire matter with his family-members, who had all agreed to collect the demanded sum of money somehow or the other, but wanted the matter to be informed/reported to the concerned authorities for appropriate action.

A subsequent new story that the PW-1 has come up with at the time of the instant Trial to indiscriminately and purblindly support the prosecution case, as there was no whisper whatsoever about the same in his Written Complaint, which has been treated as the F.I.R. in the instant case.

As per the version of the PW-1, the said amount was given to him by his mother, but the Investigating Officer never examined his mother or any of his family-members to ascertain the source or possibility of procurement of the said sum of money.

There was hardly any investigation and accordingly no proof/corroboation at all in respect of the source as well as means of procuring such a substantial sum of money within such a limited span of

time by the PW-1. He goes on to further renovate his story to the effect that one of the Fixed Deposit investments of his mother was encashed before maturity and the remainder of the amount was collected from individual sources.

Not only was such fact never verified/substantiated in course of investigation in the instant case, additionally, it raises serious questions about the genuineness and integrity of the said witness, who chooses to alter his versions at the drop of a hat.

The total number of notes collected was never mentioned in the written complaint and admittedly, at the time of lodging the same, neither the PW-1 nor any of his family-members were in possession of the said sum of money.

Again a valid question arises as to how and from what sources did they manage to collect such amount of money, which could not be reasonably uncovered in course of investigation in the instant case.

Although such illegal gratification was sought from him, the P.W.-1 never chose to inform/complain about the same to any of the superior officers and admittedly waited for three whole days before directly approaching the Investigating Agency.

Bizarre and outlandish conduct on the part of the PW-1, which raises contemplative doubts and distrusts about his motives and intentions, which reasonably appear somewhat different from what has been attempted to be made out by the prosecution.

vii. As per the prosecution case at the time of the alleged incident of demand and payment of bribe, only the PW-1 and Mr. S.C. Bose (since deceased) were present inside the Office of the present appellant (although at a distance of about 15 feet), while the PW-4 was asked to stand outside at a distance.

As Mr. S. C. Bose (since deceased), could not be examined as a Witness for the Prosecution in the instant Trial, the entire dubious, oblique and questionable version of the PW-1 remained flimsy and thoroughly unconfirmed and unsubstantiated by any independent witness, as the admitted position of the PW-4 at the material point of time, puts him at a blind spot, rendering him outright unable to view any of the activities supposedly going on inside, which, in turn, thoroughly demolishes his credibility and veracity as a purported eye-witness to the entire alleged incident of demand and receipt of bribe.

viii. Admittedly, as per the testimony of the PW-1, he had brought out the marked currency notes from the right pocket of his trouser, which was duly accepted by the present Appellant with his right hand, and then transferred to his left hand as he opened the drawer with his right hand and put the money therein before handing over the purported question papers of 5 pages to the PW-1; however, for reasons best known to the Investigating Agency, neither the money, the drawer of table of the present appellant, the trouser (and its pockets, wherein admittedly the money was kept) nor the hands of the PW-1 were ever washed for chemicals to corroborate and disambiguate the financial transaction as

attempted to made out and the said drawer as well as the trouser of the PW-1 were never even seized in course of investigation in the instant case.

Exorbitant irregularities, deficiencies and defects in the investigation of the instant case, which clearly unveiled the perfunctory, superficial and lackadaisical manner in which the investigation was conducted, solely to compulsorily implicate the present Appellant therein, which leaves behind grave and severe loopholes in the entire Prosecution Evidence, resulting in outright disruption of the entire chain of evidence attempted to be established to prove the guilt of the present appellant beyond all reasonable doubt.

ix. In course of his testimony before the Learned Trial Court, the PW-1 was all along completely silent about the location and position of the other apparent witnesses, especially the various police personnel who had also accompanied them in course of the purported raid, and had only spoken about the presence of the PW-4 and Mr. S.C. Bose (since deceased), and it is quite surprising to note that as per the prosecution case, upon being so signaled by the PW-1, the PW-10 could suddenly arrive therein and immediately restrain the present Appellant, when both of his hands were washed in a mixture of water sodium bicarbonate, which apparently turned red (subsequently modified to state pink).

The various discrepancies and inconsistencies in the different depictions made in course of his testimony by the supposedly most vital prosecution witness, i.e. the PW-1, are thoroughly prejudicial, detrimental

and damaging to the entire case of the prosecution and they inherently expose the congenital and elementary drawbacks and impairments in the entire conspiracy of the prosecution to falsely implicate the present appellant in the alleged offences.

x. In spite of free and unobstructed availability, no independent witness or employee of the Offices of the present Appellant were ever examined or cited as witnesses to corroborate the alleged setting up of trap, carrying out of raid or recovery from the possession of the present Appellant.

Further weakens and debilitates the case of the prosecution as there is utter absence of any independent or unregimented material further corroborating and/or validating the unsubstantiated versions of the different members of the Raiding Party.

xi. PW-10, being the Investigating Officer of the instant case, was also a member of the Raiding Party. He could not justify as to why only the concerned particular Officers and individuals were requisitioned for the participation in the instant raid and he could not place on record any such requisition.

Although there is no mandatory bar, yet for the sake of clarity and transparency, the Investigating Officer ought not to have been a member of the Raiding Party in connection with an incident, which he was himself investigating, as there remains every possibility and contingency of a biased and bigoted investigation and false implication, especially bearing in mind the ostentatious, unmitigated and unashamed misdemeanor and transgressions exhibited by the PW-10 while conducting the investigation

in the instant case; moreover, there is nothing to suggest that the various other members of the said Raiding Party were also unbiased, disinterested and impartial and their very participation in the instant alleged raid is also highly far-fetched and questionable, in as much as the PW-10 could not even produce any requisition slip, requiring them to participate therein.

xii. Admittedly, the Sanction Order for the prosecution of the present Appellant was passed by the PW-3 in an arbitrary manner, without proper consultation of any of the purported documents.

The very Order granting sanction for proceeding against the present Appellant was admittedly passed rather arbitrarily, obdurately and mechanically, without considering any necessary documents and without the proper application of mind.

xiii. The professed position and location of the PW-4 at the time of the alleged incident was such that he could not have seen the same with his own eyes. He could not give any coherent details about the sequence of events that unfurled on the fateful date and had gone on to depose that save and except the seizure in the instant case, he could not remember anything specific about the details of the alleged incident.

The very presence of the PW-4 at the alleged place of occurrence and his prominent status as an eye-witness to the entire alleged episode, as attempted to be depicted by the prosecution, is rendered extremely doubtful, hazardous and inconclusive by his own testimony before the

Learned Trial Court, which only further damages the overall narrative of the case of the prosecution.

He was present at the time of the alleged raid at the residence of the present Appellant, wherein admittedly nothing incriminating could be recovered.

This further goes on to vindicate the present Appellant of the alleged offences and comprehensively discredits and repudiates the overall prosecution story.

xiv. Contrary to the narrative attempted to be portrayed by the prosecution, the PW-4 was never an independent witness altogether and he had gone to admit in course of his testimony that he was well acquainted with the various C.B.I. Officials in course of their coordination meetings and had provided them with his visiting card.

In spite of his best efforts to veil the actual truth, the reality was indeed unearthed that he was never an altogether independent witness and had been closely associated/acquainted/affiliated with the Investigating Agency and hence there is every possibility of biasness, partiality and malfeasance.

xv. PW-5 was the Executive Engineer, Valuation Cell, I.T. Department, Calcutta and he had prepared the question papers for the recruitment to the post of Draughtsman, which, according to him, were sent directly to the Requisitioning Officer personally by hand by close cover by name.

The present appellant was neither the Requisitioning Officer nor anyone of his department and as such, he never had any access

whatsoever to the supposedly leaked question papers, but to protect and insulate the higher influential and authoritative officials, he was made the scapegoat and fall-guy by attributing certain fictitious and frivolous accusations upon him.

xvi. PW-6 was the Requisitioning Officer, who did not receive anything directly from the PW-5 and upon enquiry, the co-accused A. K. Das had verbally informed him that he had received the same and had kept it in the safe custody of his Office.

Everything becomes crystal clear that the present appellant was in no way connected with the procurement or providing of the question papers, but it was the acquitted co-accused Shri A. K. Das, who admittedly had access and actual custody of the said question leaked papers.

He neither enquired from the PW-5 for such defiance and misdemeanour, nor asked Shri A. K. Das to hand over the same to him.

Suspicious and surprisingly casual conduct on the part of the concerned officials as in spite of specific knowledge, they never started any departmental enquiry, nor took any strict actions for such severe infraction and misdeed and never even demanded back the question papers in the illegal custody of Shri A. K. Das, which only goes on expose the involvement and participation of the higher officials in the alleged offences, for which, the present appellant, having no connection thereto whatsoever, has been accursed and made an accused as a result of a larger conspiracy.

xvii. PW-7 was another Upper Division Clerk, who used sit with the present Appellant in the same Office, which was a big hall, along with other Upper Division Clerks, Lower Division Clerks, stenographers and the Head Clerk.

So, even if for the sake of argument only, the improbable and obscure Prosecution Story is to be believed, then the alleged place of occurrence is a large hall, which also happens to be the working area of quite a number of other employees, whose presence on a working day during the working hours cannot be overlooked, yet not a single one of them were ever examined to actually uncover the sequence of events that unfurled on the fateful date, apparently in all their presence, thereby rendering the entire prosecution story highly inconceivable and flimsy.

The table of the present Appellant was not at all visible from the main entrance door and only by peeping forward can it be seen from the zig-zag passage.

This further goes on validate and establish the fact that contrary to the overall narrative of the prosecution case, the PW-4 or for that matter, none of the other members of the Raiding Party, who were supposedly waiting outside, could have actually seen any of the incidents, purportedly going on inside, and were also in no position to see the apparent signal of the PW-1 before entering inside the room and allegedly catching the present Appellant red handed in the alleged act.

xviii. PW-8, although was a member of the supposed Raiding Party, yet he was deposing for the very first time during the instant trial and was never examined by the Investigating Officer in connection with the instant case.

Every probability of subsequent embellishments and exaggerations being incorporated into his testimony to blatantly support and/or fill up the inherent lacunae in the case of the prosecution.

xix. PW-11 was the Assistant Director, C.F.S.L. Hyderabad, and in the corresponding Report (marked as EXHIBIT-23) prepared as per his dictation, he had apparently detected the presence of Sodium Carbonate and Phenolphthalein. As a Scientific Officer, he had every authority to carry out chemical examination and assist the Assistant Director C.F.S.L., but he did not have any authority to submit any Report.

Admittedly, the PW-11 did not have any authority to submit the Report, upon which paramount reliance has been placed by the Learned Trial Court to arrive at a finding of guilt of the present appellant.

There was no mention therein as to the fact that the same was sent to him for examination or that the findings therein were being made as per his dictation or that he had come to the corresponding conclusion upon examination of the sample. There were no initials in his said Report with regard to the corrections made therein and even his initials in the bottle were not clearly visible.

Even otherwise, there remains sufficient doubts with regard to the admissibility and reliability of the said Report and whether the same was at all aptly prepared as per the dictations of the PW-11, after going

through and examining the actual concerned documents/sample of the instant case or not.

xx. Even in course of his Examination under the provisions of Section 313 of the Code of Criminal Procedure, 1973, when given an opportunity to defend himself and explain the circumstances attempted to be established against him by the prosecution, he had categorically stated that he, being an Upper Division Clerk, was in no way connected with the Recruitment Section and had no nexus or bearing with the staff and officials thereof, and had been falsely implicated in a rather mala fide manner.

xxi. Thus, the sum total of all the materials-on-record in the instant case would unambiguously and conclusively go on to reveal that the prosecution had miserably failed to bring on record any independent or admissible evidence to establish the guilt of the present Appellant in the alleged offences beyond all reasonable doubt, in as much as (as elaborately discussed above):-

- a) The date of birth, age and eligibility of the PW-1 for appearing in the concerned Interview was never enquired upon or proved in course of the instant Trial proceedings.*
- b) Admittedly, having already attained the maximum permissible age for the concerned post, but still having received the corresponding Interview Letter, the purpose for the P.W.-1's visiting the Offices of the accused persons remained unanswered.*

- c) *There was no explanation with regard to the delay of 3 days in reporting the matter to the Investigating Agency, that too without first complaining about the same to any Superior Officials.*
- d) *There was no investigation at all regarding the source, manner and means of procurement of the money to the tune of Rs.10,000/-, which was purportedly used for setting up the trap.*
- e) *The most vital Prosecution Witness, i.e. the PW-1, kept on consistently changing his versions and/or statements substantially at every stage of the instant Trial proceedings, especially with regard to material particulars and vital aspects of the Prosecution Case, as per the needs of the Prosecution Story.*
- f) *No independent or disinterested witnesses were ever examined to further corroborate the laying of the trap, holding of the raid and/or the alleged recovery from the present appellant.*
- g) *Mr. S.C. Bose (since deceased), who could have been a vital witness for the prosecution, could not be examined, but the PWs - 4, 8 and 10, all of whom claimed to have been eye-witnesses to the entire alleged incident, could not have at all seen the same, as is palpably evident from the prosecution evidence itself.*
- h) *The present Appellant was in no way connected with the Recruitment Section and as such was never concerned with the interview process at all, while in reality, it was the PWs - 5, 6 as well as the Co-Accused Shri A. K. Das, who were acutely associated with the entire recruitment procedure and were*

responsible for and in charge of the supposedly leaked question papers, all of whom were lamentably given a clean chit and exonerated here from, while making the present appellant the scapegoat and fall-guy for the misdeeds and malfeasance of the higher officials.

- i) No incriminating materials could be recovered from his residence to establish his involvement in the alleged offences.*
- j) The investigation was conducted in a rather motivated, lackadaisical and collusive manner in the instant case, without there being any active inquiry or legwork in respect of elementary and fundamental aspects of the prosecution case and vital articles were never even seized and sent for Chemical Analysis Examination, which could have otherwise exhumed the actual truth.*
- k) The Chemical Analysis Report, apparently prepared as per the dictations of the PW-11, was downright questionable, vague and inconclusive in terms of the samples examined and hence, inadmissible in the eyes of law.*
- l) The present Appellant had obviously downright fallen victim to ruthless and inexorable office politics, wherein, in order to cover up their tracks and obscure their culpability in certain corrupt, unethical and unscrupulous activities, the influential and authoritative higher officials, in active collusion and connivance with the Investigating Agency, had atrociously and diabolically*

implicated the present Appellant in certain fictitious acts, in spite of him being in no way connected to the contended interview procedure, and having been convicted by the Learned Trial Court, he is spending his last days, utterly bed-ridden and incapacitated, and suffering from severe terminal diseases (medical documents whereof have been earlier placed before this Hon'ble Court), while still bearing the burden of being referred to as "an accused"/"a convict"/"a criminal"/"a corrupt public servant", noticeably for no wrongdoings on his part.

xxii. While passing the impugned Order of conviction and sentence, the Learned Trial Court had solely relied extensively upon the uncorroborated, dubious and inconsistent depositions of the PWs - 1 & 4, which did not even receive any form of support/substantiation from any independent source or witness, as the entire case of the prosecution was substantially flawed, fallacious and questionable, inconsistent and contradictory to the established principles of law and the various customary doctrines of law were repeatedly outright violated, desecrated and defiled in every step of the instant trial proceedings, thereby resonantly rendering it a mistrial in the eyes of law since the accountable personnel (i.e. the influential and powerful higher officials, including the co-accused Shri A. K. Das) were given a clean chit for their alleged transgressions and malefactions, that too, without any proper investigation or inquiry whatsoever, while shifting the entire culpability,

censure and accusations upon the present Appellant, a mere Upper Division Clerk, leading a simple and honest life.

xxiii. Under such foregoing circumstances, it is most humbly and respectfully prayed that this Hon'ble Court may, after going through the entirety of the materials-on-record and after considering the rival submissions and arguments, as advanced on behalf of the respective parties, most graciously be pleased to set aside the impugned Order of Conviction and Sentence, thereby acquitting the appellant of all the alleged Charges and/or pass such other incidental and/or consequential Order(s), as this Hon'ble Court may deem fit and proper in the interest of justice, equity and good conscience."

7. The Learned Advocate representing the respondent submitted as follows:-

i. "The instant CBI case no. RC45(A)/1992 was registered at CBI, ACB, Kolkata on 24.09.1992 under section 7 of the Prevention of Corruption Act, 1988 on the basis of written complainant dated 24.09.1992 lodged by complainant Shantanu Moitra (an educated unemployed youth) against appellant alleging therein that complainant received an order on 17.09.1992 from Regional Employment Exchange, Khidderpur to appear for an interview on 25.09.1992 for appointment in the post of Draughtsman (Civil) in the office of Superintending Engineer, CPWD, Nizam Palace, 17th Floor, Kolkata-700020. In order to ascertain the method and procedure of the Interview, complainant visited the said CPWD office on 21.09.1992 and met appellant, the then U.D.C., of office of Superintending Engineer, CPWD, Kolkata who demanded bribe of

Rs.10,000/- to handover the question for the interview examination on 25.09.1992 and also told him (complainant) that this is last opportunity for him to secure government job.

ii. The appellant was caught red handed by CBI Trap Team while demanding and accepting bribe of Rs.10,000/- on 25.09.1992 from complainant Shantanu Moitra, in the immediate presence of independent witnesses.

iii. On completion of investigation in the aforesaid case, a charge sheet was filed on 06.05.1993 before the Court of Learned Special Judge, CBI Court No. 1, Alipore against the appellant accused and Apurba Kumar Das under section 120B/109/34 of the Indian Penal Code and under section 7/13(2)/13(1)(d) of the Prevention of Corruption Act, 1988 after obtaining the sanction for prosecution from the competent authority.

iv. After completion of the trial, the Learned Special Judge convicted appellant under section 7/13(2)/13(1)(d) of the Prevention of Corruption Act, 1988 and acquitted Apurba Kumar Das vide Judgment and order dated 04.06.2001.

v. The written notes of arguments on behalf of CBI is reproduced below:-

a) Appellant was arrayed as an FIR named accused in connection with RC 45/1992-CBI/ACB/Kolkata dated 24.09.1992 on the basis of a complaint Lodged by one Shantanu Moitra (an educated unemployed youth).

b) The complainant received an order dated 17.09.1992 from the Regional Employment Exchange office Khidirpur to appear for an interview for the post of Draughtsman (Civil) in the office of the

Superintending Engineer, Co-ordination Circle 'B' Region, CPWD, Nizam Palace, 17th Floor, A.J.C. Bose Road, Kolkata-20. For that purpose he met with the appellant on 21.09.1992 who demanded bribe of Rs.10,000/- for providing a set of question paper of the interview examination. That appellant asked to the complainant to hand over the bribe amount on 25.09.1992.

- c) On 21.09.1992 the complainant visited the office of Superintending Engineer, Co-ordination Circle 'B' Region, CPWD, Nizam Palace, 17th Floor, A.J.C. Bose Road, Kolkata-700020 for some query regarding the appearance of the said examination. On the date of such visit by complainant to said office, complainant met with appellant. The said appellant convinced complainant that this is his (complainant) last chance for getting Government job and appellant demanded bribe amount of Rs.10,000/- from complainant in the name of providing a set of question paper for interview examination for said post in CPWD.*
- d) The complainant was not ready to pay the bribe amount to appellant and therefore he filed written complaint to CBI, ACB, Kolkata on 24.09.1992 against appellant for demand of bribe. The said complaint was treated as FIR and accordingly a plan was prepared for apprehending the accused appellant while demanding and accepting the said bribe amount from complainant. In pursuance of same, the pre-trap proceedings was observed on 25.09.1992 in presence of independent witnesses,*

complainant and CBI Trap team. During the pre-trap proceedings, complainant produced the currency notes of denomination of Rs.100/- amounting to Rs.10,000/- which was smeared with phenolphthalein powder and same was kept with complainant with direction to hand over the tainted bribe amount to appellant only on demand.

e) After the pre-trap proceeding the complainant met with appellant in his office and as per demand by the appellant, complainant handed over the phenolphthalein smeared bribe amount of Rs.10,000/- to the appellant, which was accepted by the appellant by his right hand and thereafter appellant kept the same in his office table drawer. The aforesaid transfer of bribe amount was witnessed by the independent witnesses. Subsequently, members of trap team arrived at the spot and appellant was caught red handed for demanding and accepting bribe from complainant. Solution of sodium carbonate and water was prepared and the hand of appellant was washed in said milky solution, which turned into pink colour. The said hand wash was kept in the bottle which was marked as Exbt.-IV. The recovery of said tainted bribe amount of Rs.10,000/- was seized by CBI team in presence of independent witnesses which was marked as Exbt.-II.

f) During the course of trial, the prosecution had examined 11 witnesses (out of total 12 witnesses) which proved that the

accused appellant demanded and accepted the said bribe amount.

- g) PW-1/Complainant deposed that appellant demanded and accepted bribe money of Rs.10,000/- from him. In cross examination also this witness specifically stated that appellant demanded the bribe money of Rs.10,000/- and same was accepted by the appellant. He also stated that the said tainted bribe amount was recovered from the office drawer of the appellant. Further, regarding source of said bribe amount of Rs.10,000/-, PW-1 deposed that he got the above-mentioned money from his mother.*
- h) PW-3, L.C. Raha, Superintending Engineer, (Co-ordination), CPWD, Kolkata was sanctioning authority who accorded the sanction order against the appellant for prosecution of the alleged offence committed by the accused appellant. He identified the prosecution sanction, which was duly marked as Exhibit-VII.*
- i) PW-4 S.C. Das, the then Dy. Manager of Andrew & Yule Company Limited (Independent Witness) who accompanied the complainant on the said trap proceeding, has proved the entire process of demand and acceptance of illegal bribe money by accused appellant from complainant. The witness also proved the contents and identified his signature in the pre-trap memorandum marked as Exhibits- 3/4 and post-trap memorandum which was marked as Exhibit-5/4, The witness*

also deposed that denomination number of notes were tallied with the denomination number noted in pre-trap memorandum. Moreover, question paper for said interview examination was found inside the envelope (Exhibits-5/1 collectively) which was recovered and seized from the possession of the appellant during trap proceedings.

- j) PW-5 Paritosh Chowdhuri, the then Executive Engineer, CPWD, Kolkata who prepared the question papers for the said recruitment and which he send it to the concerned department of CPWD has identified the recovered question paper during trial proceedings.*
- k) PW-7 Mrinal Kanti Sarkar, U.D.C., CPWD, Kolkata in his evidence before trial court has identified the signature of the appellant on 25.09.1992 in the attendance registrar (Exhibits-14/1) and as per PW-7 office hour of CPWD was 9.30 a.m. to 6 p.m.*
- l) PW-8 Swapan Kumar Dasgupta, the then Inspector, CBI, ACB, Kolkata was a part of trap raiding party on 25.09.1992. He deposed before trial court that he along with PW-4 (Independent Witness namely S.C. Das) and PW-1 have heard the demand of bribe amount by appellant and also seen the transfer of bribe amount from complainant to appellant and thus witnessed the entire process of demand and acceptance of bribe. Defence has also admitted this fact.*

- m) PW-10 Subir Kumar Ghosh, then Dy. Superintendent of Police (L.O.), CBI also supported the prosecution case and proved the details of investigation conducted by him in the instant case.
- n) PW-11 Sanat Kumar Mukhopadhyay, the then Senior Scientific Officer of CFSL Calcutta examined the case exhibits i.e. hand wash of appellant etc. and he identifies his positive chemical examination report, thus, proving that those case exhibits contains phenolphthalein, sodium carbonate and water.
- o) All the above exhibited documents were not disputed by the defence during trial which clearly proved the genuineness of the prosecution case and the guilt of the accused appellant.
- p) Appellant in his examination under section 313 of the code of Criminal procedure replied in a very vague manner and didn't adduce any proper explanation to any of the relevant and material question put by the Ld. Judge. Accused appellant also gave misleading answers to Question No.04, 08, 09, 10, 12, 15, 23 & 27.
- q) Evidence of PW-1, PW-4 and PW-8 were corroborated with each other and prove the active role of the appellant in the demand and acceptance of bribe money.
- r) In a case of Prevention of Corruption Act, prosecution needs to prove the aspect of demand, acceptance and recovery of illegal gratification from the possession of the appellant.

s) *In trap case, demand, acceptance and recovery of bribe amount are essential factors and the Hon'ble Apex Court clarified in many of its judgment that if these three aspects. are proved then accused is guilty.*

t) *In that case all the said three vital parameters have been proved beyond any reasonable doubt by the prosecution and therefore the trial court has held the appellant guilty and convicted vide judgment and order dated 04.06.2001. Prosecution has successfully proved the case through entire chain of evidence.*

It is humbly submitted that Hon'ble Supreme Court in A. Karunanithi -versus-State and Others reported in 2025 SCC Online SC 1677 has clearly specified that in a case of Prevention of Corruption Act if demand and acceptance were made by the appellant coupled with recovery of amount from the appellant, then he can be convicted (Relevant Paragraphs are paragraph 12, 14,18, 22).

Therefore, on the basis of evidence adduced by prosecution witnesses supported by case exhibits, it can be safely construed the guilt of appellant in the instant case and for which the appellant was rightly convicted by the Learned Judge 1 Special (CBI) Court Alipore under Sections 7/13(1)(d)/13(2) of the Prevention of Corruption Act, 1988 and Order of the Learned Judge should be upheld by this Hon'ble High Court Calcutta."

8. A circumspection of evidence of the prosecution witnesses reveals as follows:-

- i. PW-1, an unemployed young man possessing qualifications in Madhyamik and Draftsmanship, unfolded before the Court the genesis of the prosecution case. According to him, his name had been sponsored through the Employment Exchange for recruitment under the Central Public Works Department. Upon receipt of an interview call letter, he attended the office situated on the seventeenth floor of Nizam Palace on 21 September 1992 with the object of making enquiries regarding the proposed selection process and the eligibility criteria governing the recruitment.
- ii. During his visit, he was directed to meet co-accused A.K. Das. After apprising A.K. Das of his concerns regarding age and eligibility, he was referred to appellant Mridha. PW-1 stated that both accused persons were present in Court and identified by him. He narrated that Mridha examined his particulars, made certain calculations on a sheet of paper and informed him that although his case could still be salvaged, the expiry of a limited period would extinguish all prospects of securing Government employment. Thereafter, Mridha demanded a sum of Rs.10,000/- and represented that upon payment of the amount he would furnish the questions intended for the interview examination.
- iii. PW-1 initially entertained reservations regarding the proposal. He returned to A.K. Das and disclosed the conversation in its entirety. According to him, A.K. Das advised him to act in accordance with Mridha's directions. Thereafter he communicated his willingness to arrange the demanded amount. Upon returning home, PW-1 informed

the members of his family of the occurrence. A collective decision was taken that the money would be arranged while simultaneously informing the authorities. Acting upon that decision, he approached the office of the Central Bureau of Investigation on 24 September 1992, met senior officers, reduced his grievance into writing and submitted a formal complaint. The written complaint was exhibited and his signature thereon was identified by him. PW-1 further deposed that on the following morning he attended the office of the C.B.I. carrying the money. In the presence of officers and independent witnesses, the currency notes were counted and their serial numbers recorded. He was instructed not to hand over the money unless a demand was expressly made. The currency notes were treated with chemical powder and a demonstration regarding the trap procedure was conducted. Memoranda prepared at that stage bore his signature. Thereafter, accompanied by members of the raiding party and independent witnesses, he proceeded to Nizam Palace. He entered the premises and ultimately reached the chamber of Mridha. After a brief interval, Mridha called him into the room. PW-1 stated that Mridha enquired whether he had brought the money. Upon receiving an affirmative response, Mridha demanded the amount. PW-1 then produced Rs.10,000/- from his pocket and handed the money to Mridha. According to the witness, Mridha accepted the currency notes, transferred them from one hand to another and placed them inside a drawer of his office table.

- iv. PW-1 testified that after receiving the money, Mridha supplied him with a question paper consisting of five pages. The document was identified in Court. Upon completion of the transaction, PW-1 gave the predetermined signal. Officers of the C.B.I. immediately entered the chamber and confronted Mridha. PW-1 disclosed to them the location where the currency notes had been kept and also produced the question paper supplied to him. He further narrated that hand-wash tests were conducted. The solution changed colour and was preserved in sealed containers. The tainted currency notes were recovered, counted and their serial numbers compared with those recorded earlier. The question papers and other articles were seized under seizure lists bearing his signature. Copies of the relevant documents were handed over to him.
- v. In cross-examination, PW-1 furnished extensive details concerning his educational background, employment registration and the circumstances leading to his visit to the C.P.W.D. office. He stated that the interview call received by him was the first such opportunity in his life. He explained that his intention in visiting the office before the scheduled interview stemmed from apprehensions regarding the upper age limit prescribed for Government service. The witness described the physical layout of the office and the sequence of his interactions with the accused persons. He admitted that he did not know the identity of the person who first directed him to A.K. Das. He reiterated, however, that after becoming suspicious of Mridha's proposal he reported the matter to A.K. Das, who instructed him to comply with Mridha's

directions. He maintained that the same fact had been incorporated in his written complaint. PW-1 acknowledged that a considerable number of officers and employees were present within the office premises. He described the location of various chambers and stated that A.K. Das occupied a separate room. He clarified that his conversation with A.K. Das on 21 September 1992 lasted for a few minutes and that persons were moving about in the office during that period. The witness disclosed that the money used in the trap had been arranged by his mother, who was aware of the purpose for which the amount was required. He also stated that the Investigating Officer had not examined his parents or elder brother during investigation. During a searching cross-examination on behalf of appellant Mridha, suggestions were advanced that no demand for illegal gratification had been made, that no bribe had been accepted, and that the recovery had not taken place in the manner alleged by the prosecution. Each of those suggestions was categorically denied. PW-1 remained steadfast in his assertion that Mridha demanded and accepted Rs.10,000/- and thereafter supplied him with the question papers.

- vi. Cross-examination on behalf of co-accused A.K. Das elicited that PW-1 had no prior acquaintance with several employees of the office and was unable to identify certain individuals suggested to him by the defence. He nonetheless adhered to his earlier version that A.K. Das had referred him to Mridha and had advised him to follow Mridha's directions after being informed of the demand for money. The evidence of PW-1 thus

constitutes the foundational narrative of the prosecution case. Through his testimony, the prosecution sought to establish the initial demand, the subsequent complaint to the C.B.I., the trap operation, the acceptance of the tainted currency notes by appellant Mridha, the supply of the question papers and the role allegedly played by co-accused A.K. Das in facilitating the transaction. Despite prolonged and detailed cross-examination, the witness persisted in the central features of his account, namely the demand of Rs.10,000/-, the acceptance of the amount by Mridha and the prior knowledge of the transaction attributed by him. PW-1 acknowledged that on 17 September 1992 he was approximately twenty-four years and nine months of age and was aware that the prescribed upper age limit for the post in question was twenty-five years. He stated that upon receiving the interview letter he initially entertained no apprehension regarding his eligibility. Yet, he maintained that his visit to the C.P.W.D. office on 21 September 1992 was motivated by a desire to ascertain both the age-related eligibility criteria and the method and procedure of the examination. He conceded that his written complaint did not expressly record every aspect of this purpose. The witness further stated that several persons were present in the office when he visited, although he could not determine whether they were candidates for the same recruitment process. He clarified that no provision in the interview letter authorised candidates to obtain details regarding the examination procedure directly from the office. In relation to his movement within the office premises, PW-1 admitted

certain discrepancies between his complaint and his oral testimony. While the complaint suggested that a peon had escorted him to the chamber of A.K. Das, he clarified during cross-examination that he ultimately followed Mridha from the chamber of A.K. Das pursuant to directions allegedly given by Das. He candidly admitted that this latter detail did not find place in his written complaint.

- vii. PW-1 also furnished particulars of his domestic circumstances. His father was a retired railway employee. His elder brother served in the railway establishment in a legal capacity and was the principal earning member of the family. His mother maintained a fixed deposit account with the Bank of India, Salkia Branch. According to the witness, the sum of Rs.10,000/- utilised for the trap was arranged partly through premature encashment of that deposit and partly from other family sources. He conceded that he could not specify the exact amounts obtained from each source. He further admitted that neither his mother nor his brother was examined by the Investigating Officer despite both being alive and available. The witness stated that when he approached the C.B.I. office on 24 September 1992 he did not carry the trap money with him. The amount was arranged subsequently. He reiterated that he personally lodged the written complaint before the Superintendent of Police, C.B.I., and that the predetermined signal consisted of touching his hair. PW-1 also stated that after acceptance of the money, Mridha handed over an envelope containing the question papers. The envelope was later seized by the investigating agency. He recollected that A.K.

Das remained present at certain stages after the trap and was called upon to produce office records, though he admitted that some of these details had not been narrated by him to the Investigating Officer. The witness conceded that he had not informed the local police station, any superior departmental authority, or any person in his locality regarding the alleged demand for illegal gratification. Apart from the complaint lodged before the C.B.I., no other complaint was made by him. He also admitted that when the demand was first made by Mridha, he did not raise any alarm despite the presence of several employees in the office and despite the existence of a corridor and waiting area immediately outside the room.

- viii. During further cross-examination, PW-1 stated that he had no intention of parting with any money when the demand was initially raised. He denied the suggestion that he had visited the office with any ulterior design or for the purpose of collecting intelligence against the accused persons. The witness acknowledged that he did not accompany his mother to the bank when she withdrew money. He also accepted that he could not state whether any superior officer of Mridha had been contacted before the trap operation was executed. With regard to the actual apprehension of Mridha, PW-1 stated that the accused was surrounded by members of the raiding party and that a gentleman and a lady employee of the office were present in the vicinity. He admitted that he had not informed the Investigating Officer that the police caught hold of Mridha by his wrist, although the seizure documents referred to

the accused having been caught by both wrists. Throughout this extensive cross-examination, suggestions were repeatedly advanced that no demand for illegal gratification had been made, that no bribe had been accepted, that the recovery was manipulated, and that the witness had falsely implicated the accused. Each of those suggestions was emphatically repudiated. PW-1 steadfastly adhered to the central prosecution narrative that Mridha demanded Rs.10,000/- as illegal gratification, accepted the amount from him, supplied a set of question papers in return, and was thereafter apprehended in the course of the trap operation. When the entirety of his deposition is viewed as a whole, PW-1 emerges as the architect of the prosecution narrative. His testimony traverses the first encounter with the accused persons, the alleged demand of illegal gratification, the approach to the C.B.I., the laying of the trap, the delivery of tainted currency notes, the receipt of question papers, and the subsequent recovery proceedings.

- ix. Cross-examination succeeded in exposing omissions, embellishments and certain inconsistencies regarding peripheral matters such as the precise manner in which he reached the chambers of the accused, the exact source of the trap money, the details furnished in the complaint, and the sequence of events following the raid. Yet those discrepancies largely inhabit the margins of the narrative. On the core allegations—namely the demand of Rs.10,000/-, its acceptance by Mridha, the handing over of question papers, and the role attributed to A.K. Das in

directing him towards Mridha—the witness maintained a consistent stance throughout a prolonged and searching interrogation.

- x. PW-2, Shri O.P. Goel, deposed that during January, 1993 he was serving as Director General (Works), C.P.W.D., New Delhi. In that capacity he was the competent authority empowered to remove an Assistant Engineer from service. He stated that accused Apurba Kumar Das was serving as Assistant Engineer in the office of the Superintending Engineer, Co-ordination Circle, B-Region, C.P.W.D., Calcutta, and that he was competent to accord sanction for his prosecution. The witness testified that after the relevant papers and records had been placed before him, he examined the materials and accorded sanction for prosecution against accused Apurba Kumar Das. The sanction order was prepared under his directions, bore his signature and was issued after due consideration of the materials placed before him. He identified the sanction order marked Exhibit 6 and proved his signature thereon marked Exhibit 6/1.
- xi. In cross-examination, PW-2 stated that he possessed no personal knowledge regarding the incident forming the subject matter of the prosecution. The records had been forwarded through the Vigilance Department headed by the Chief Engineer. He acknowledged that he had no independent recollection beyond what appeared in the sanction order. He was unable to specify the individual documents examined by him or identify the person who had produced those records before him. He further stated that the sanction orders issued against the two

accused persons were substantially similar in form and content. Nevertheless, he firmly denied the suggestion that he had signed a ready-made sanction order prepared by the C.B.I. or that sanction had been granted without application of mind. According to him, the relevant records had been scrutinised before sanction was accorded.

- xii. PW-3, Shri L.C. Raha, deposed that in the year 1993 he was serving as Superintending Engineer (Co-ordination), C.P.W.D., Calcutta. At the relevant time accused Satya Ranjan Mridha was working as an Upper Division Clerk under his administrative control. Being the competent disciplinary authority, he was empowered to accord sanction for prosecution of the said accused. The witness stated that on 12th February, 1993 he granted sanction for prosecution of Satya Ranjan Mridha. Before doing so, he examined the relevant records and documents and applied his mind to the materials placed before him. The sanction order was prepared under his directions, bore his signature and was issued after due consideration of the records. He proved the sanction order marked Exhibit 7 and identified his signature thereon marked Exhibit 7/1.
- xiii. During cross-examination, PW-3 stated that he had no independent recollection of the matter apart from what had been recorded in the sanction order. He admitted that the sanction order did not specify the names of the documents considered by him and did not mention the persons who had produced those documents. He also admitted that the sanction orders issued against both accused persons were substantially

identical. Despite such admissions, he denied the defence suggestion that he had signed a sanction order mechanically at the instance of the C.B.I. or without examining the records. He maintained that the relevant documents had been considered and sanction was granted only after application of mind.

- xiv. PW-4, Shri S.C. Das, was serving as Deputy Manager (Vigilance), Andrew Yule & Company Limited, at the relevant time. His evidence constitutes that of an independent witness associated with the trap operation from its inception and extending to the subsequent searches and seizures. He deposed that on 24th and 25th September, 1992 he attended the office of the C.B.I. at 13, Lindsay Street, Calcutta, upon being requested to do so. There he met DSP S.K. Ghosh and was introduced to the complainant Santanu Maitra and another independent witness, S.C. Basu. Santanu Maitra produced Rs.10,000/- before the C.B.I. officers. The numbers of the currency notes were recorded and a pre-trap memorandum was prepared. PW-4 identified the pre-trap memorandum and proved his signatures as well as those of S.C. Basu thereon. Thereafter the trap party proceeded to Nizam Palace where the office of accused Satya Ranjan Mridha was situated. PW-4 stated that Santanu Maitra and S.C. Basu entered the office premises and waited on a bench in the corridor. After appellant Mridha arrived, he called Santanu Maitra inside. PW-4 witnessed appellant Mridha receiving the tainted currency notes from Santanu Maitra, placing them inside a drawer and

handing over an envelope to him. Following the predetermined signal from S.C. Basu, the C.B.I. officers entered the chamber.

- xv. According to PW-4, appellant Mridha pointed out the drawer in which the money had been kept. The tainted currency notes were recovered and their numbers were found to tally with those recorded earlier in the pre-trap memorandum. He identified the recovered notes and proved the seizure documents relating thereto. PW-4 further stated that the envelope handed over by appellant Mridha was seized and was found to contain five sheets of question papers. The envelope and question papers were seized under proper seizure lists, which he proved. The hands of appellant Mridha were thereafter washed in chemical solution and the solution turned pink. The solution was preserved in a bottle which was sealed and labelled in his presence. He identified the bottle and his signatures thereon. During evidence he observed that the bottle no longer contained liquid but contained a white powder-like residue, though he identified it as the bottle used during the trap proceedings. The witness further deposed that during interrogation appellant Mridha disclosed that the question papers had been obtained from accused Apurba Kumar Das. Thereafter the C.B.I. officers proceeded to the chamber of accused Das. PW-4 accompanied them. A search was conducted and an envelope lying on the table of accused Das was recovered. Upon opening the envelope, another set of question papers was found. The envelope and its contents were seized under a seizure list prepared in his presence. PW-4 stated that among the recovered

papers was a forwarding letter written by P. Chowdhury and addressed to the Superintending Engineer, Co-ordination Circle. P. Chowdhury was summoned by the C.B.I. and he arrived carrying another copy of the same question papers. The copy produced by him was compared with the seized question papers and was found identical. The documents produced by P. Chowdhury were also seized in the presence of PW-4.

- xvi. He further stated that on the following day searches were conducted in the chamber of accused Das and certain official records, including an attendance register and a file, were seized under another seizure list. He proved the relevant documents and signatures. PW-4 also accompanied the C.B.I. officers during the search of the residence of appellant Mridha at Joka. Nothing incriminating was recovered and a nil seizure list was prepared. After completion of the searches, the party returned to the C.B.I. office where a post-trap memorandum was prepared and signed by the witnesses. In a lengthy cross-examination extending over several sittings, PW-4 admitted inability to recollect numerous peripheral details relating to the layout of the office, the exact position of rooms and corridors, the number of persons present, timings of events, preparation of memoranda, and several ancillary procedural aspects. He acknowledged acquaintance with certain C.B.I. officers through official vigilance co-ordination meetings conducted between Andrew Yule & Co. Ltd. and the C.B.I. He nevertheless stated that he had not previously acted as a witness in C.B.I. trap cases and denied the suggestion that

he was a stock witness or a pocket witness of the investigating agency. He candidly admitted that with the passage of time many incidental details had faded from memory. However, he remained steadfast regarding the essential events witnessed by him, namely the pre-trap preparations, recovery of tainted money from the drawer indicated by appellant Mridha, seizure of question papers from the envelope delivered to the complainant, the positive hand-wash test, the disclosure made by appellant Mridha implicating accused Das, the recovery of another set of question papers from the chamber of accused Das, the comparison of those papers with the copy produced by P. Chowdhury, and the preparation of the connected seizure documents and memoranda. He denied the suggestion that he was deposing falsely at the behest of the C.B.I.

xvii. Thus, PW-4 furnished independent corroboration of the trap proceedings, the recovery of tainted money from accused Satya Ranjan Mridha, and the subsequent discovery of confidential examination papers and connected official records linking accused Apurba Kumar Das with the transaction under investigation.

xviii. PW-5, Shri Paritosh Chowdhury, was an Executive Engineer attached to the Valuation Cell of the Income Tax Department. He deposed that in the year 1992 he was serving as Executive Engineer, Valuation Cell, and his official responsibilities primarily related to valuation of properties referred by the Income Tax authorities. The witness stated that he was shown a letter dated 15 September 1992 issued from the

office of the Superintending Engineer, C.P.W.D., concerning the setting of question papers for recruitment to the post of Draftsman Grade-III. Although his name appeared in the said communication, he was unable to recollect whether he had actually received the letter. He further stated that he could no longer recall the details contained in the documents shown to him during trial, nor could he identify the author or signatory thereof. PW-5 nevertheless acknowledged that during the course of his service he had prepared question papers for recruitment examinations on several occasions, including examinations for the post of Draftsman. He, however, could not remember the particular years in which such question papers had been prepared. He knew Shri P.S. Chaddha, the Superintending Engineer of C.P.W.D., but could not recollect whether he had met him in connection with the setting of the question papers involved in the present case. The witness deposed that, as a matter of usual practice, after preparing question papers he would forward them to the requisitioning authority. According to him, such transmission was ordinarily effected personally by hand in a sealed cover addressed by name to the concerned officer. He also stated that he was acquainted with accused Apurba Kumar Das, who was serving as an Engineering Assistant in the office of the Superintending Engineer, C.P.W.D., and he identified the accused in Court. Yet he candidly admitted that he could not recollect whether he had ever met accused Das in connection with the delivery of any question paper.

- xix. In cross-examination, PW-5 displayed considerable lapse of memory regarding the events in issue. He could not remember whether he had been examined by the Investigating Officer, whether he had disclosed to the Investigating Officer the manner in which question papers were delivered, whether any specific cover had been addressed to a particular officer, or whether the question papers involved in the present case had been sent in the usual manner. He also could not recollect whether any statement had been made by him concerning the mode of delivery of the question papers. The tenor of his evidence reveals that although he proved the general practice prevailing in his office regarding preparation and transmission of confidential question papers, he was unable to furnish any direct recollection linking the preparation or delivery of the specific question papers involved in the prosecution case to either of the accused persons. His testimony, therefore, serves principally as background evidence concerning the normal procedure followed in the preparation and dispatch of recruitment examination papers.
- xx. PW-6, Shri Paramjit Singh Chaddha, deposed that at the time of giving evidence he was serving as Chief Engineer, C.P.W.D., at Chandigarh. In the year 1992 he was functioning as Superintending Engineer, Calcutta Central Circle-I and was additionally entrusted with the charge of the Co-ordination Circle. In that capacity he supervised recruitment to non-gazetted posts throughout the Eastern Region comprising West Bengal, Assam, Orissa, Bihar and the North-Eastern States. The witness stated that for recruitment to the post of Draftsman Grade-III, an examination

had been scheduled to be held on 26 September 1992. In connection therewith, he had issued a letter dated 15 September 1992 requesting Shri Paritosh Chowdhury, Executive Engineer, Valuation Cell, Income Tax Department, to prepare the question papers. He proved the said letter and identified his signature thereon.

- xxi. PW-6 further deposed that accused Apurba Kumar Das was working as his Engineering Assistant. According to him, accused Das used to visit his office every day at about 11 a.m., place important files and correspondence before him and obtain necessary instructions. The witness clarified that while he sat in M.S.O. Building No. 1 within the Nizam Palace campus, the Co-ordination Circle office was situated in M.S.O. Building No. 2 within the same complex. A significant aspect of his testimony concerns the custody of the confidential question papers. PW-6 stated that he had requisitioned Shri Paritosh Chowdhury to prepare the question papers, but the latter had not personally delivered any such papers to him. On 24 September 1992 he made enquiries from accused Apurba Kumar Das regarding the question papers. The accused informed him that the papers had been received and had been kept in safe custody in the office. PW-6 stated that he accepted that explanation and did not make any written record of the conversation. The witness identified photocopies of a letter dated 19 September 1992 issued by accused Das together with its enclosures. He stated that he had never personally seen the question papers which formed the subject matter of the case. He further admitted that no written record

existed in his office showing that Shri Paritosh Chowdhury had delivered the question papers to accused Das or that accused Das had reported their receipt and safe custody to him. Nor did he make any personal enquiry thereafter to verify the actual receipt or preservation of the question papers.

- xxii. During cross-examination on behalf of accused Apurba Kumar Das, PW-6 made several admissions of considerable significance. He stated that if the question papers had been delivered by Shri Paritosh Chowdhury, they ought ordinarily to have been handed over to him personally. He admitted that there was no mention in his letter of 15 September 1992 regarding the mode by which the question papers were to be delivered, nor was there any instruction directing personal delivery to him. He further stated that he had no discussion with Shri Paritosh Chowdhury regarding the matter and had never actually seen the question papers in question. The witness also acknowledged that he did not direct accused Das to hand over the question papers to him personally and that the alleged receipt and safe custody of the papers by accused Das had never been recorded in writing. Nevertheless, he maintained that accused Das had informed him that the papers had been received and preserved in safe custody. PW-6 further stated that, to the best of his knowledge, accused Das had discharged his duties diligently and honestly during the period he served under him. He admitted that he could not recollect whether any formal rules governed the preparation, custody or delivery of question papers. At the same time, he emphasised

that maintenance of safe custody of confidential question papers was an important administrative responsibility and that he was the final authority concerning the custody, distribution and utilisation of such papers.

xxiii. The evidence of PW-6 thus assumes importance not because it establishes any direct participation of the accused in the leakage of question papers, but because it delineates the chain of official custody. His testimony shows that accused Apurba Kumar Das occupied an intermediary administrative position through which confidential examination papers passed and that, according to the information furnished to PW-6 by the accused himself, the papers had been received and retained in office custody prior to the events that subsequently unfolded. At the same time, the witness candidly admitted the absence of documentary verification of such receipt and acknowledged that he never personally saw the question papers before the occurrence which gave rise to the prosecution.

xxiv. PW-7, Shri Mrinal Kanti Sarkar, a retired Upper Division Clerk of the Central Public Works Department, deposed that in the year 1992 he was serving as a U.D.C. in the Co-ordination Circle of the C.P.W.D. situated at Nizam Palace, Calcutta, functioning under the Superintending Engineer. He stated that he was acquainted with both the accused persons and identified them in Court. The witness proved the Attendance Register maintained in the office of the Superintending Engineer, Co-ordination Circle. Referring to the entries contained

therein, he identified the initials of appellant Satya Ranjan Mirdha recorded against 25 September 1992 showing attendance at 9:35 a.m. He also identified his own initials in the register reflecting his attendance on the same date.

xxv. In cross-examination on behalf of appellant S.R. Mirdha, PW-7 furnished a detailed description of the physical layout of the office and the seating arrangement prevailing therein. He stated that on 25 September 1992 he and appellant Mirdha worked in the same office hall. The office functioned between 9:30 a.m. and 6:00 p.m. and on the relevant date he himself had reported for duty at 9:50 a.m. and remained in office until closing hours. The witness explained that the office was situated on the seventeenth floor and was accessible through a lift and a corridor leading northward. Entry into the office was through a single east-facing door. A small passage existed immediately beyond the entrance and a swing door was fitted at the main entrance. He further described the location of various rooms, including the chambers of the Superintending Engineer, P.S. Chaddha, and Engineering Assistant A.K. Das.

xxvi. PW-7 stated that the clerical staff sat in two rows separated by a central passage. According to him, the table occupied by appellant S.R. Mirdha was located at the extreme southern end of the eastern row. He emphasised that the said table was not visible from the main entrance of the office. Even a person standing in the zig-zag passage leading to the office could not clearly see Mirdha's table without deliberately

peering into the interior of the room. Through this description the witness sought to demonstrate the relative seclusion of the place where appellant Mirdha performed his duties. The witness further stated that when he arrived at about 9:50 a.m. on 25 September 1992 he found several outsiders present in the office premises. He acknowledged that members of the staff generally did not record the time of arrival in the attendance register during the period from May 1992 to September 1992. Nevertheless, on 25 September 1992 both he and appellant Mirdha recorded their arrival times as 9:50 a.m. and 9:35 a.m. respectively.

xxvii. A significant admission emerged during cross-examination when PW-7 stated that the times of arrival reflected in the attendance register on that date had been entered at the instance of the Central Bureau of Investigation. He expressly stated that he noted his arrival time on 25 September 1992 pursuant to the direction of the C.B.I. The witness also denied the suggestion that the entries showing 9:50 a.m. and 9:35 a.m. had been made by the same person with the same pen and ink.

xxviii. The substance of PW-7's evidence is essentially formal and circumstantial in character. His testimony establishes the attendance entries relating to appellant S.R. Mirdha on 25 September 1992 and provides an elaborate description of the physical configuration of the office, the relative location of the accused's work station, and the general office environment. At the same time, his admission that the arrival times were entered in the attendance register at the instance of

the investigating agency inevitably bears upon the evidentiary weight of those entries and assumes relevance while assessing the reliability of the attendance record as an independent contemporaneous document.

xxix. PW-8, Shri Swapan Kumar Dasgupta, an Inspector of Police, deposed that at the time of his examination he was serving in the Detective Department, Calcutta Police, as Officer-in-Charge of the Special Cell. In September 1992 he was attached to the C.B.I., Anti-Corruption Branch, Calcutta, and participated as a member of the trap-laying party constituted pursuant to allegations of bribery against appellant S.R. Mridha, a U.D.C. attached to the C.P.W.D. The witness stated that on 24 September 1992 a written complaint was lodged by the complainant, Shantanu Mitra, before the Superintendent of Police, C.B.I., alleging that appellant S.R. Mridha had demanded illegal gratification of Rs.10,000/- in connection with supplying question papers relating to the Draftsman (Civil) Examination. The complaint was endorsed to Deputy Superintendent of Police S.K. Ghosh for arranging a trap. PW-8 identified the written complaint and the endorsement thereon.

xxx. According to the witness, on the following morning the complainant appeared at the C.B.I. office, where several officers, including himself, assembled in the chamber of D.S.P. S.K. Ghosh. Two independent witnesses were also present. The complainant produced Government Currency notes amounting to Rs.10,000/- in denominations of Rs.100/-. The currency notes were counted and their particulars recorded in the presence of the witnesses.

xxxi. PW-8 narrated the pre-trap formalities in detail. The currency notes were treated with phenolphthalein powder and a demonstration was conducted to explain the chemical reaction. It was shown that contact with the treated notes would leave traces of powder on the hands, which would subsequently turn a sodium carbonate solution pink. The demonstration solution was preserved. Thereafter the complainant was instructed to hand over the money only upon a specific demand from the accused. A pre-trap memorandum was prepared and signed by all concerned, including PW-8, who identified his signatures thereon. The witness further deposed that the trap party thereafter proceeded to Nizam Palace, where the office of the accused was situated on the seventeenth floor. As planned, the complainant and the independent witnesses waited near the office room of appellant Mridha, while members of the raiding team maintained surveillance from nearby positions.

xxxii. PW-8 stated that at about 9:30 a.m. appellant Mridha entered the office premises and after a brief interval called the complainant inside. One of the independent witnesses accompanied the complainant while another remained nearby to observe the occurrence. According to the witness, members of the raiding party kept a close watch upon the events unfolding inside the room. He stated that after some conversation the complainant handed over the tainted money to appellant Mridha, who accepted the same and placed it inside the drawer of the table at which he was seated. He further claimed to have observed appellant Mridha

handing over certain papers to the complainant after the conversation. The witness deposed that immediately thereafter the complainant gave the predetermined signal by combing his hair with his fingers. Upon receiving the signal, the raiding party entered the room. The hands of appellant Mridha were subjected to chemical testing and the hand-wash solution turned pink. Thereafter the accused was directed to produce the money kept in the drawer, which he did. The currency notes were counted and compared with the recorded numbers and were found to tally. The pink-coloured solution was preserved in a sealed bottle. The tainted currency notes and other articles were seized under a seizure memorandum.

xxxiii. PW-8 further stated that appellant Mridha made certain statements before the Investigating Officer concerning procurement of question papers, though the admissibility of that portion of evidence was objected to by the defence. He also deposed that Engineering Assistant A.K. Das was subsequently called and taken into custody after verification. Thereafter PW-8 was deputed to conduct a search at the residence of appellant Mridha, but no incriminating article or document was recovered. A post-trap memorandum was prepared, and he identified his signatures thereon. The accused persons were identified by him in Court.

xxxiv. During cross-examination, several aspects of the prosecution version were tested. PW-8 admitted that he had not been examined by the Investigating Officer and that he was narrating many of the facts for the

first time before the Court. He stated that he had been on deputation with the C.B.I. from January 1990 until November 1992 and had participated in numerous raids. He could not say when or where the written complaint had actually been drafted by the complainant and admitted that he was not present at the time of its submission to the Superintendent of Police. He further stated that he had been called by the Superintendent of Police only after the complaint had already been lodged. The witness acknowledged that he could not specify the exact time when he was instructed to participate in the raid and further stated that, to the best of his recollection, there was no written order directing him to join the trap-laying party. He also conceded that no General Diary was maintained in the C.B.I. regarding the movement of officers and that he was unaware of any contemporaneous record documenting his movements on 24 and 25 September 1992 apart from the attendance register. He admitted that he himself maintained no such record.

xxxv. PW-8 further stated that the trap party left the C.B.I. office at about 8:45 a.m. and reached Nizam Palace around 9:10 or 9:15 a.m. He could not recollect whether the members assembled at Nizam Palace after travelling in separate vehicles and admitted that they reached the seventeenth floor in two batches using two lifts. According to him, no person was initially present in the office room. He stated that the accused arrived after ten to fifteen minutes and that no outsider entered the office room before the trap was laid. He estimated that the trap

commenced around 9:45–9:50 a.m. and concluded after approximately one to one-and-a-half hours. In relation to visibility from the corridor and entrance, PW–8 asserted that it was possible to obtain a clear view of the transaction. He stated that the table of appellant Mridha was situated approximately five to six feet from the place where members of the raiding party stood and about three feet from the main entrance door. This part of his testimony assumes significance because it stands in noticeable tension with the account of PW–7, who had described the accused’s table as not visible from the entrance or corridor without peering into the room.

xxxvi. PW–8 denied the defence suggestions that no money had been handed over, that appellant Mridha had neither accepted nor retained the money in his drawer, that the recovery was fabricated, that no statement had been made by the accused regarding procurement of question papers, that the trap memoranda were falsely prepared, or that he had deposed falsely. The evidence of PW–8 constitutes one of the principal pillars of the prosecution case concerning the laying of the trap, the acceptance of the tainted currency notes, the chemical test, and the recovery of the money from the drawer of appellant S.R. Mridha. At the same time, his cross-examination brings into focus certain limitations, namely the absence of contemporaneous records regarding the constitution and movement of the raiding party, his admission that several facts were being narrated for the first time in Court, and the divergence between his description of visibility within the

office and that furnished by PW-7. These features bear directly upon the assessment of the weight and reliability of his testimony while appreciating the evidence as a whole.

xxxvii. PW-9, Shri Madan Mohan Chakraborty, a retired Employment Officer, deposed that he had retired from service in January 1996. During the relevant period in the year 1992, he was functioning as the Employment Officer attached to the Khidirpur Employment Exchange. The witness was examined principally to establish the documentary trail relating to the requisition and sponsorship of candidates for the Draftsman (Civil) examination, which formed the backdrop of the prosecution case. PW-9 stated that a forwarding letter dated 15 September 1992 had been issued from the Employment Exchange to the Superintending Engineer, Co-ordination Circle, C.P.W.D., Nizam Palace. According to him, the letter was prepared in cyclostyled format, filled up by a clerk and thereafter signed by him in his official capacity. He identified the document and proved his signature appearing thereon. While doing so, he candidly acknowledged that he could not recollect the identity of the clerk who had filled up the contents of the letter.

xxxviii. The witness further identified the list of candidates which had been enclosed with the said forwarding letter. He explained that the list had been typed by a clerk under his direction and forwarded as part of the official correspondence. He proved his signature on the relevant documents and affirmed that the communication had emanated from his office in the ordinary course of official business. PW-9 also identified

a photocopy of a requisition letter dated 19 August 1992 received from the office of the Superintending Engineer, Co-ordination Circle, seeking the names of suitable candidates. The witness marked the said document for identification and recognised it as part of the official records maintained by the Employment Exchange. He further proved a copy of a letter dated 10/14 September 1992 addressed to the candidates sponsored by the Employment Exchange. The witness identified his signature appearing thereon and affirmed that the communication had been issued under his authority.

xxxix. In addition, PW-9 identified two seizure memoranda dated 21 October 1992 and proved his signatures thereon. He stated that the signatures appearing on the documents were his own and were made in connection with the official proceedings undertaken by the investigating agency. The evidentiary value of PW-9's testimony lies essentially in the proof of official records and correspondence. His deposition establishes that the Employment Exchange had, upon receipt of a requisition from the C.P.W.D., sponsored and forwarded a list of candidates for the Draftsman (Civil) examination through official channels. The witness thereby furnishes documentary continuity connecting the requisition made by the C.P.W.D. with the process of selection and communication to the candidates.

xl. During cross-examination on behalf of accused A.K. Das, PW-9 stated with notable frankness that, owing to the passage of time, he could not recollect any further facts relating to the matter. No substantive

contradiction or infirmity was elicited from him. Cross-examination on behalf of appellant S.R. Mridha was adopted. Thus, PW-9 emerges as a formal witness whose evidence is confined to proving official documents generated and maintained in the Employment Exchange. His testimony neither advances nor diminishes the allegations relating to demand or acceptance of illegal gratification. Its significance rests in lending authenticity to the documentary records concerning the requisition of candidates and the forwarding of names for the Draftsman (Civil) examination, thereby supplying an administrative backdrop to the events that subsequently unfolded.

- xli. PW-10, Shri Subir Kumar Ghosh, a retired Deputy Superintendent of Police of the Central Bureau of Investigation, deposed that he retired from service in October, 1993. In the year 1992 he was posted in the Anti-Corruption Branch of the C.B.I., Calcutta and functioned as the Investigating Officer of R.C. Case No. 45 of 1992. He stated that the case came to be registered on the basis of a written complaint submitted before the Superintendent of Police, C.B.I., on 24 September 1992 alleging demand of illegal gratification in connection with the recruitment examination for the post of Draftsman (Civil), Grade-III. Pursuant to the endorsement of the Superintendent of Police, the matter was entrusted to him for investigation. He identified the endorsement made by the Superintendent of Police and proved the formal First Information Report prepared in his office and signed by him.

xlii. PW-10 deposed that immediately after registration of the case he requisitioned the services of two independent witnesses, namely Shri S.C. Das of M/s Andrew Yule & Co. Ltd. and Shri S.C. Basu attached to the office of the Regional Provident Fund Commissioner. They were directed to attend the C.B.I. office on the following morning. The complainant was also instructed to appear with the amount allegedly demanded by the accused. According to the witness, on 25 September 1992 the complainant produced one hundred Government Currency Notes of Rs.100/- denomination each, amounting to Rs.10,000/-, intended to be paid to appellant S.R. Mridha on demand. The complaint was explained to the independent witnesses, who satisfied themselves regarding its contents after putting questions to the complainant. A demonstration of the phenolphthalein powder test was thereafter conducted by dissolving sodium carbonate in water and illustrating the reaction produced upon contact with phenolphthalein powder. The witness stated that the numbers of all the currency notes were carefully recorded in the pre-trap memorandum and that the complainant was instructed to give a pre-arranged signal by combing his hair with his fingers immediately after the tainted money was demanded and accepted.

xliii. PW-10 further stated that one independent witness, Shri S.C. Basu, was directed to remain in close proximity to the complainant and overhear the conversation between the complainant and the accused, while the other witness, Shri S.C. Das, was instructed to observe the events from

a suitable distance. He proved the pre-trap memorandum prepared under his dictation and bearing his signatures. The witness deposed that the trap party thereafter proceeded to Nizam Palace, where the office of appellant S.R. Mridha was situated on the seventeenth floor. The complainant accompanied by the two independent witnesses entered the office chamber of the accused, while the C.B.I. officers occupied positions in the corridor and adjoining areas. Upon receipt of the predetermined signal, the raiding party rushed into the room of appellant S.R. Mridha and apprehended him.

- xliv. PW-10 stated that both hands of appellant S.R. Mridha were subjected to a wash in a solution of water and sodium carbonate, whereupon the solution turned pink. On being questioned, appellant S.R. Mridha disclosed that the money had been kept in the drawer of his table. Thereupon, in the presence of superior officers, the tainted currency notes were recovered from the table drawer of the accused. The complainant simultaneously disclosed that after receiving the money, appellant S.R. Mridha had handed over to him a set of probable examination questions relating to the forthcoming recruitment examination. The witness deposed that the hand-wash solution was preserved in sealed bottles, properly labelled and seized. The tainted currency notes were also seized under a search list. The envelope containing the currency notes and the set of probable questions allegedly supplied to the complainant by appellant S.R. Mridha were

seized under separate seizure memoranda. He identified the relevant exhibits and his signatures thereon.

xliv. PW-10 further stated that searches were subsequently conducted in the office chamber of accused A.K. Das. During such search various official records were recovered, including the original forwarding letter, the original question paper forwarded by the question setter, requisition letters, correspondence relating to the recruitment process and other connected documents. The witness proved the search lists and seizure memoranda prepared in respect of those recoveries. He also proved the post-trap memorandum prepared under his dictation, the seizure lists dated 21 October 1992, the envelope containing the recovered currency notes and other documents connected with the investigation. He deposed that both accused persons were arrested and that searches conducted at their residences did not yield any incriminating article or document. PW-10 further stated that during the course of investigation he examined several witnesses, collected documentary evidence, sent the preserved hand-wash solution to the Central Forensic Science Laboratory for examination, obtained the requisite sanction from the competent authority and thereafter submitted the charge-sheet against both accused persons.

xlvi. During cross-examination on behalf of accused A.K. Das, PW-10 admitted that he was not only the Investigating Officer but also the leader of the raiding party and the senior-most officer supervising the trap operation. He stated that the laying of the trap constituted the

most important aspect of the investigation and that in the absence of recovery the investigation would ordinarily have culminated without further proceedings. The witness acknowledged that he had recorded only one statement of accused A.K. Das and could not immediately recollect the precise time when such statement had been recorded. He admitted that although he had opened the sealed envelope containing the question paper and forwarding letter, he neither seized the seal affixed thereto nor sent the seal for chemical examination.

- xlvi. He further admitted that no sketch map of the office premises where the trap was conducted had been prepared. He stated that he did not enquire into the source from which the complainant procured Rs.10,000/- and did not examine any member of the complainant's family regarding the collection of such money. He also conceded that he had not examined certain employees connected with the offices of prosecution witnesses and that no separate statement of the complainant had been recorded under Section 161 of the Code of Criminal Procedure on certain aspects suggested during cross-examination. PW-10 acknowledged that the building at Nizam Palace accommodated numerous offices and employees. Yet, he could assign no particular reason why the independent witnesses were requisitioned from Andrew Yule & Co. Ltd. and the Regional Provident Fund Commissioner's Office rather than from among officers stationed in Nizam Palace itself. He admitted that the requisition documents by which those witnesses had been called were not produced before the

Court. He further stated that the two witnesses had reported at the C.B.I. office at about 7.30 a.m. on the day of the trap without carrying any introductory letters and that he had no prior acquaintance with either of them.

xlvi. In cross-examination on behalf of appellant S.R. Mridha, PW-10 stated that he could not say where the written complaint had actually been drafted. He admitted that after receiving the complaint he interrogated the complainant but did not record the questions put or the answers furnished during such interrogation. He accepted that he had instructed the complainant to come with money for the purpose of laying the trap. The witness further admitted that the trap money had not been supplied by the police. The currency notes brought by the complainant were in loose condition. The solution used during the preliminary demonstration was not preserved. The currency notes themselves were not dipped into the solution of water and sodium carbonate. He also admitted that the complainant's trouser was not seized.

xli. PW-10 stated that the trap party consisted of twelve persons, including the complainant and the two independent witnesses. Apart from himself, there were six officers holding the rank of Inspector, one Railway Section Officer and three constables. He acknowledged that the General Diary maintained in the C.B.I. office would contain the details of movement of the officers participating in the operation, but such General Diary had not been produced before the Court. He also stated

that the post-trap memorandum was prepared at about 3.00 p.m. in the C.B.I. office situated at Nizam Palace and that no prior permission had been obtained from the authorities of the concerned office before laying the trap. The witness further admitted that he had not seized the Employment Exchange call letter issued to the complainant. According to the complainant's statement made before him, the complainant had initially met accused A.K. Das and thereafter met appellant S.R. Mridha. PW-10 admitted that he had made no enquiry regarding the identity of the person who advised the complainant to approach A.K. Das. He stated that no one questioned the presence of the raiding party members in the corridor of the seventeenth floor before the trap was laid. Some members of the team remained in the corridor while others positioned themselves near the staircase. He also admitted that neither the table nor the drawer from which the money was recovered was seized, nor were they subjected to any wash with sodium carbonate solution. PW-10 denied each of the defence suggestions that he had falsely stated that appellant S.R. Mridha disclosed the location of the money, that the tainted money was recovered from the drawer of the accused, that the set of probable questions had been delivered by appellant S.R. Mridha to the complainant, that the seizure documents were manufactured, that the hand-wash solution did not turn pink, or that the entire story of bribery had been fabricated by interested persons. The witness also accepted that certain portions of the evidence subsequently deposed to by prosecution witnesses, including references

to the role played by the independent witnesses during the trap and the handing over of the question papers, did not find place in the statements recorded under Section 161 of the Code of Criminal Procedure.

1. The testimony of PW-10 thus constitutes the backbone of the prosecution case. Through him the prosecution sought to establish every stage of the investigation—from the receipt of the complaint and registration of the case, through the planning and execution of the trap, recovery of tainted currency notes, seizure of the alleged probable examination questions, search and seizure of official records, scientific examination of exhibits, and ultimately the filing of the charge-sheet. Simultaneously, his cross-examination brought on record several omissions and investigative lapses, including the absence of a sketch map, non-production of the General Diary entries, failure to investigate the source of the trap money, non-production of requisition documents relating to the independent witnesses, non-seizure of the drawer or seal, and the circumstance that the Investigating Officer himself acted as the leader of the raiding party. These features furnish the defence with grounds for criticism of the investigative process and therefore assume significance while assessing the evidentiary weight of the prosecution case.
- li. PW-11, Shri Sanat Kumar Mukhopadhyaya, was examined as the scientific expert attached to the Central Forensic Science Laboratory. At the time of his deposition he was serving as Assistant Director, C.F.S.L.,

Hyderabad. He stated that in the year 1992 he was functioning as Senior Scientific Officer at the Central Forensic Science Laboratory, Calcutta. The witness deposed that in connection with C.B.I. Case No. RC 45 of 1992 he received, under a forwarding letter issued by the Superintendent of Police, C.B.I., Anti-Corruption Branch, Calcutta, a sealed paper packet for scientific examination. Upon receipt, he assigned the laboratory mark "454" to the packet. After opening the packet, he found a glass bottle already marked by the investigating agency. He re-marked the bottle as "454A". According to him, the seal affixed on the bottle was intact and corresponded with the specimen seal impression supplied by the C.B.I. PW-11 stated that the bottle contained approximately 300 millilitres of pink-coloured liquid together with sediment. The contents of the bottle were subjected to appropriate chemical examination in the laboratory. Upon analysis, he detected the presence of sodium carbonate and phenolphthalein in the solution. On the basis of such examination he prepared and signed the scientific report. He identified the report marked as Exhibit 23 and proved his signature appearing thereon. He also proved the forwarding letter issued by the Acting Director of the laboratory and identified the bottle examined by him, bearing the laboratory mark "454A", as Material Exhibit IV. The testimony of PW-11 thus furnishes the scientific foundation of the prosecution case concerning the chemical examination of the hand-wash solution preserved during the trap operation. His opinion sought to establish that the liquid contained

phenolphthalein and sodium carbonate, thereby lending forensic support to the prosecution assertion that the tainted currency notes had come into contact with the hands of the accused.

- lii. During cross-examination, the witness elaborated upon his educational and professional qualifications. He stated that he possessed a B.Sc. (Honours) degree in Chemistry and held the qualification of A.I.C. (Associate of the Institute of Chemistry), which, according to him, had been recognised by the Union Public Service Commission as equivalent to a Master's degree in Chemistry. He further narrated his professional progression within the forensic establishment, commencing as a Scientific Assistant in 1967, thereafter serving as Senior Scientific Assistant at C.F.S.L., New Delhi, then as Junior Scientific Officer, and ultimately as Senior Scientific Officer from February 1990. The witness acknowledged that the report itself did not expressly record that the sample had been entrusted to him personally for examination. He further admitted that the report did not mention that it had been typed at his dictation, nor did it specify the identity of the person who typed it. He also accepted that the report did not expressly state that the opinion recorded therein had been formed by him after conducting the examination.
- liii. PW-11 stated that his report had been prepared on the basis of observations and data noted during laboratory examination. However, he admitted that the underlying notes and data upon which the opinion was founded had neither been annexed to the report nor produced

before the Court, and he expressed his inability to produce those materials at the time of his deposition. The witness further conceded that his initials appearing upon the bottle were not clearly visible. He also admitted that when the bottle was produced before the Court there was no longer any visible pink-coloured solution or sediment inside it. He volunteered that white particles were nevertheless visible in the residual liquid contained within the bottle. He maintained, however, that the seal affixed by him after completion of the examination appeared to remain intact. In response to suggestions put by the defence, PW-11 denied that the scientific examination undertaken by him was incapable of error. He repudiated the suggestion that he had merely signed the report without actually conducting any examination. He also clarified that he was not serving as Assistant Chemical Examiner at the relevant point of time. The evidence of PW-11 is confined to the scientific analysis of the hand-wash sample and the opinion rendered thereon. His testimony establishes the receipt of a sealed sample, preservation of the seal, detection of phenolphthalein and sodium carbonate in the examined solution, and preparation of the corresponding forensic report. At the same time, his cross-examination reveals certain limitations in the documentary foundation of the expert opinion, namely the absence of laboratory notes, the lack of an express recital in the report identifying him as the examining officer, the indistinct nature of his initials upon the bottle, and the circumstance that the pink coloration originally observed was no longer visible when

the material exhibit was produced before the Court. These aspects bear upon the weight to be attached to the expert evidence, though not upon its admissibility.

9. The Learned Advocate appearing for the appellant mounted a comprehensive and multi-layered challenge to the judgment of conviction and order of sentence, contending that the prosecution case, when tested against the touchstone of legal scrutiny and evidentiary reliability, reveals a narrative burdened with inherent improbabilities, material omissions, investigative lapses, and contradictions striking at its very foundation.
10. At the forefront of the challenge, learned counsel submitted that the genesis of the prosecution case itself inspires little confidence. The entire proceeding originated from a written complaint lodged by PW-1 on 24 September 1992 alleging that, upon visiting the office concerned in connection with an interview for the post of Draughtsman (Civil), he was induced to meet the appellant and was thereafter subjected to a demand of illegal gratification for supply of the interview question papers. Learned counsel argued that the conduct attributed to PW-1 is wholly inconsistent with that of a person genuinely aggrieved by a corrupt demand. Though claiming to be fundamentally opposed to bribery, PW-1 admittedly remained silent for nearly three days before approaching the investigating agency. No explanation of any convincing nature was furnished for such delay. The prolonged silence, according to learned counsel, casts a long shadow upon the spontaneity, authenticity and credibility of the complaint itself.

11. It was further contended that the very purpose of PW-1's visit to the office of the accused persons remained shrouded in uncertainty throughout the proceedings. The evidence disclosed that the interview itself was scheduled for 25 September 1992. Learned counsel submitted that if the alleged question papers were to be supplied on the date of the interview itself, the entire prosecution story becomes inherently implausible, for no meaningful advantage could reasonably be derived from obtaining such materials at the eleventh hour. Equally significant, according to the appellant, was the fact that PW-1 repeatedly altered his explanation regarding his visit to the office. At one stage he claimed that he had gone merely to ascertain the procedure of the interview; at another, he stated that he intended to verify the eligibility criteria and age requirements. Such shifting versions, it was urged, reveal uncertainty regarding the most fundamental aspect of the prosecution narrative.
12. The Learned Counsel laid particular emphasis upon the admitted date of birth of PW-1 and the age criteria governing the concerned recruitment process. It was argued that, by his own admission, PW-1 had already attained or substantially approached the maximum permissible age for the post. Yet, despite the centrality of this issue to the prosecution story, neither the investigating agency nor the prosecution undertook any meaningful inquiry regarding his actual eligibility. No birth certificate, educational record, or contemporaneous document was seized or verified. The omission to investigate a fact lying at the very root of the complainant's alleged

motivation, according to learned counsel, reflects a striking failure of investigation.

13. The source of the trap money also formed the subject matter of extensive criticism. Learned counsel submitted that the prosecution failed to establish how PW-1 or his family members arranged the sum of ₹10,000 allegedly utilised for the trap. Though PW-1 attempted to attribute the amount to contributions from family sources and premature encashment of investments, no independent verification was undertaken. Neither his mother nor any other family member was examined regarding procurement of such a substantial amount. The investigating agency remained conspicuously indifferent to a matter which, according to learned counsel, was indispensable for testing the truthfulness of the prosecution version.
14. Assailing the evidence relating to demand and acceptance of the alleged bribe, learned counsel submitted that the prosecution rested almost exclusively upon the testimony of PW-1. The person who could have furnished the most direct corroboration, namely Shri S.C. Bose, was no longer available for examination. PW-4, projected as an independent witness, admittedly remained outside the room and was positioned in such a manner that he could not have observed the alleged transaction. His own testimony disclosed an inability to narrate the sequence of events constituting the alleged occurrence. Consequently, the defence maintained that there exists no independent and reliable corroboration of either the alleged demand or the alleged acceptance.

15. The credibility of PW-4 was further questioned on the ground that he could not be regarded as a truly independent witness. Learned counsel highlighted his admission regarding familiarity and prior interaction with CBI officials. Such circumstances, according to the appellant, diminish the degree of independence ordinarily expected of a corroborative witness in a trap proceeding.
16. A substantial portion of the defence challenge centred upon the manner in which the trap was conducted and investigated. Learned counsel argued that the prosecution evidence itself reveals that the tainted currency notes were allegedly received with one hand, transferred to another hand, and thereafter placed inside a drawer. Yet, neither the drawer, nor the table, nor the trouser pocket of PW-1, nor the hands of PW-1 himself were subjected to chemical examination. The drawer was not washed. The table was not seized. The trouser worn by PW-1 was not seized. Even the solution prepared during the demonstration was not preserved. These omissions, according to learned counsel, deprived the Court of objective scientific evidence capable of confirming or disproving the prosecution version.
17. The defence further emphasised that several members of the raiding party were present in and around the place of occurrence, yet no independent employee working in the office was examined. The office, according to the prosecution witnesses themselves, was a large common hall occupied by numerous officials and staff members. Learned counsel submitted that if such a transaction had indeed taken place during working hours, there was

no plausible reason for the prosecution to abstain from examining even a single disinterested employee who could have corroborated the occurrence.

18. The role of PW-10, the Investigating Officer, also came under sustained attack. Learned counsel submitted that PW-10 was not merely the investigating officer but was himself an active participant in the raiding party. Such dual participation, though not per se illegal, was argued to be undesirable and detrimental to the appearance of impartiality. The defence pointed out that PW-10 was unable to produce any requisition or documentary basis explaining the selection of particular officers for participation in the trap. The General Diary entries reflecting the movement of the officers were also not produced before the Court. According to learned counsel, these omissions deprived the prosecution case of transparency and rendered the investigation susceptible to allegations of pre-determination and bias.

19. The sanction for prosecution was similarly assailed. Learned counsel submitted that the sanctioning authority had acted in a routine and mechanical manner without examining the entire body of relevant materials. The sanction order, according to the appellant, did not reflect genuine application of mind to the facts and circumstances of the case. Since sanction constitutes a jurisdictional safeguard intended to protect public servants from frivolous prosecution, its casual grant, it was urged, seriously undermines the validity of the proceedings.

20. Turning to the evidence concerning the alleged question papers, learned counsel submitted that the prosecution itself demonstrated that the

preparation, transmission and custody of such materials lay entirely within the domain of officials other than the appellant. PW-5 stated that the question papers were prepared by him and transmitted confidentially to the requisitioning authority. PW-6 acknowledged that the materials were received and retained by co-accused Shri A.K. Das. The appellant, an Upper Division Clerk, neither belonged to the recruitment section nor exercised any authority over the recruitment process. Learned counsel therefore contended that the prosecution failed to establish any nexus whatsoever between the appellant and the alleged leakage of question papers.

21. It was argued that the evidence on record, if accepted at its highest, would point towards the involvement of persons occupying positions directly connected with recruitment and custody of confidential materials. Yet, according to the appellant, no meaningful inquiry was directed towards those individuals. Instead, the appellant, occupying a comparatively subordinate position, was singled out and prosecuted. Learned counsel characterised this approach as selective and fundamentally unfair.
22. The testimony of PW-8 was also criticised on the ground that, despite being portrayed as a member of the raiding party, he had not been examined during investigation and surfaced as a witness only during trial. Such delayed introduction, according to learned counsel, raised legitimate concerns regarding embellishment and reconstruction.
23. The Learned Counsel devoted considerable attention to the evidence of PW-11, the scientific officer from the Central Forensic Science Laboratory. While PW-11 claimed to have detected the presence of sodium carbonate and

phenolphthalein in the sample received for examination, the defence highlighted several deficiencies in the forensic process. The report did not record that the sample had been specifically entrusted to him for examination. It did not indicate that the opinion expressed therein was formed pursuant to his personal analysis. Corrections appearing in the report were not authenticated. The identifying marks on the bottle were indistinct. Even PW-11 acknowledged that the bottle, when produced before the Court, no longer contained the pink solution and sediment described in his report. Learned counsel therefore submitted that the report could not be treated as an infallible or unimpeachable piece of evidence and that serious doubts persisted regarding its reliability and evidentiary value.

24. Reference was also made to the search conducted at the appellant's residence. Learned counsel submitted that despite a search having been undertaken, no incriminating material, document, question paper or other article was recovered. Such failure, according to the appellant, assumes significance when viewed alongside the allegation that he was allegedly engaged in supplying confidential recruitment materials.

25. The statement of the appellant under Section 313 of the Code of Criminal Procedure was also relied upon. Learned counsel submitted that throughout the proceedings the appellant consistently maintained that he had no connection with the recruitment section, no role in the interview process, and no access to confidential recruitment documents. His defence remained unwavering that he had been falsely implicated in circumstances beyond his control.

26. Drawing together the entire evidentiary landscape, learned counsel argued that the prosecution failed to establish the essential ingredients of the alleged offences beyond reasonable doubt. The evidence regarding demand was uncertain; the evidence regarding acceptance lacked independent corroboration; the investigation suffered from glaring omissions; the forensic evidence was vulnerable to challenge; the sanction order reflected inadequate application of mind; and the prosecution failed to establish any meaningful nexus between the appellant and the alleged leakage of question papers.
27. According to learned counsel, the cumulative effect of these infirmities is not merely the creation of a reasonable doubt but the emergence of a substantial and enduring uncertainty regarding the truthfulness of the prosecution case itself. The conviction, it was submitted, rests principally upon testimony marked by inconsistencies and unsupported by reliable independent evidence. The materials on record, when viewed in their entirety, disclose a prosecution story beset by improbabilities, investigative deficiencies and evidentiary gaps too significant to be ignored in a criminal trial.
28. On these premises, learned counsel urged that the judgment of conviction and the order of sentence cannot be sustained in law and ought to be set aside, the appellant being entitled to an honourable acquittal upon the cardinal principle that suspicion, however strong, can never assume the place of proof.
29. The Learned Counsel appearing for the Central Bureau of Investigation stoutly supported the judgment of conviction and order of sentence,

contending that the prosecution had succeeded in establishing, through cogent oral testimony, documentary evidence and scientific examination, every constituent element necessary to sustain the conviction of the appellant under the provisions of the Prevention of Corruption Act, 1988.

30. It was submitted that the prosecution case had its genesis in a written complaint lodged by PW-1, an unemployed candidate who had received an interview call for recruitment to the post of Draughtsman (Civil) under the Central Public Works Department. Upon visiting the office concerned on 21 September 1992 to obtain clarification regarding the forthcoming interview, PW-1 came into contact with the appellant. Taking advantage of the complainant's anxiety and aspiration to secure public employment, the appellant allegedly represented that the interview could be manipulated and demanded a sum of ₹10,000/- as illegal gratification for supplying the question papers relating to the interview. The complainant, being unwilling to succumb to such unlawful demand, approached the CBI and lodged a written complaint on 24 September 1992, which formed the basis of the First Information Report.

31. The Learned Counsel submitted that upon registration of the case, the investigating agency immediately organised a trap in accordance with established procedure. Independent witnesses were associated with the proceedings. The complainant produced the amount of ₹10,000/- in currency notes, which were treated with phenolphthalein powder and duly recorded in the pre-trap memorandum. Necessary instructions were furnished to the complainant regarding the manner in which the tainted

currency notes were to be handed over only upon a fresh demand by the appellant.

32. According to the prosecution, the trap unfolded precisely in the manner anticipated. On 25 September 1992, the complainant met the appellant in his office. Upon reiteration of the demand, the complainant handed over the tainted currency notes to the appellant, who accepted the same and placed the amount in the drawer of his office table. Immediately thereafter, members of the raiding party entered the room and apprehended the appellant. The tainted currency notes were recovered from the place where the appellant had kept them, and the recovery was documented in the presence of witnesses.

33. The Learned Counsel emphasised that the chemical test conducted immediately after the trap yielded positive results. The hand wash of the appellant, when subjected to sodium carbonate solution, produced the characteristic pink coloration indicating contact with phenolphthalein powder. The solution was preserved, sealed and subsequently sent for forensic examination. Such scientific evidence, according to the prosecution, furnished objective corroboration of the direct evidence relating to acceptance and handling of the tainted currency notes.

34. Particular reliance was placed upon the testimony of PW-1, the complainant, who consistently deposed regarding the initial demand, the subsequent reiteration of the demand and the eventual acceptance of the bribe amount by the appellant. Learned counsel argued that despite extensive cross-examination, the core of his testimony remained intact and unshaken. His

evidence clearly established the demand and acceptance of illegal gratification and therefore constituted substantive evidence sufficient to sustain the conviction.

35. The testimony of PW-4, an independent witness associated with the trap proceedings, was cited as significant corroboration. PW-4 not only witnessed the material events connected with the trap but also proved the pre-trap and post-trap memoranda and identified his signatures thereon. He further corroborated the recovery of the tainted currency notes and the seizure of the interview question papers recovered during the operation. Learned counsel contended that the evidence of PW-4 lent substantial assurance to the version of the complainant.
36. The prosecution further relied upon PW-8, a member of the raiding party, who supported the evidence relating to the demand, acceptance and recovery of the bribe amount. According to learned counsel, the testimonies of PW-1, PW-4 and PW-8 formed a consistent and mutually reinforcing chain of evidence, leaving no room for doubt regarding the appellant's participation in the offence.
37. Reference was also made to the evidence of PW-5, the Executive Engineer who had prepared the interview question papers. PW-5 identified the question papers recovered during the trap proceedings, thereby lending authenticity to the prosecution allegation that confidential recruitment materials had been illicitly procured and retained. The recovery of those documents from the possession and control of the appellant was highlighted as a highly incriminating circumstance corroborating the complainant's

version regarding the purpose for which the illegal gratification had been demanded.

38. The prosecution further relied upon the testimony of PW-7, who proved the attendance records of the appellant and established his presence in the office on the relevant date and time. The evidence of PW-10, the Investigating Officer, was also pressed into service to establish the manner in which the trap was organised, executed and investigated.
39. The Learned Counsel submitted that the forensic evidence adduced through PW-11, the Senior Scientific Officer of the Central Forensic Science Laboratory, furnished an additional layer of corroboration. PW-11 proved the chemical examination report and confirmed the presence of phenolphthalein, sodium carbonate and water in the exhibits sent for examination. The scientific findings, according to the prosecution, conclusively established contact between the appellant and the tainted currency notes.
40. The sanction for prosecution was proved through PW-3, the competent authority, who identified the sanction order and affirmed that sanction had been accorded after consideration of the relevant materials. It was argued that no legal infirmity existed in the sanction and that the prosecution had therefore satisfied all statutory prerequisites for launching criminal proceedings.
41. The Learned Counsel further submitted that the defence had failed to furnish any plausible explanation regarding the recovery of the tainted currency notes or the positive chemical test. The answers furnished by the appellant during his examination under Section 313 of the Code of Criminal

Procedure were described as vague, evasive and devoid of any convincing explanation regarding the incriminating circumstances appearing against him.

42. It was argued that the documentary exhibits relied upon by the prosecution had been duly proved and their genuineness remained substantially unchallenged during trial. The prosecution evidence, viewed cumulatively, disclosed an uninterrupted chain linking the initial demand, the subsequent acceptance, the recovery of the tainted amount, the positive chemical examination and the recovery of the confidential interview papers.
43. The Learned Counsel contended that in a prosecution under the Prevention of Corruption Act, proof of demand, acceptance and recovery constitutes the foundational requirement. In the present case, each of these indispensable ingredients stood affirmatively established through reliable evidence. Once demand and acceptance were proved and recovery of the tainted amount was demonstrated, the statutory presumption under the Prevention of Corruption Act arose against the appellant, and no satisfactory explanation was forthcoming to rebut the same.
44. Reliance was placed upon the principles repeatedly affirmed by the Hon'ble Supreme Court that where the prosecution succeeds in proving demand of illegal gratification, acceptance thereof and recovery from the accused, conviction under the Prevention of Corruption Act must ordinarily follow unless the presumption stands effectively displaced.
45. On the cumulative strength of the ocular, documentary and scientific evidence adduced during trial, learned counsel submitted that the

prosecution had proved the guilt of the appellant beyond all reasonable doubt. The findings recorded by the learned Trial Judge were stated to be fully supported by the evidence on record and free from any perversity or legal infirmity warranting appellate interference. It was therefore urged that the appeal be dismissed and the judgment of conviction and sentence be affirmed.

46. The edifice of the defence is constructed upon the assertion that the investigation suffered from such serious omissions, deficiencies and procedural imperfections that the conviction recorded by the learned Trial Court stands deprived of a legally sustainable foundation. The appellant's learned advocate painstakingly urged that the non-seizure of several material articles, the absence of scientific examination of certain objects, the failure to examine independent office personnel and the alleged inconsistencies appearing in the testimony of the prosecution witnesses collectively create a chasm in the prosecution case through which the presumption of innocence must necessarily prevail. The submission, though presented with considerable industry and forensic skill, does not withstand scrutiny when tested against the entirety of the evidentiary record.

47. PW-1, the complainant, narrated the genesis of the occurrence, the demand allegedly made by the appellant, the lodging of the written complaint, the pre-trap formalities and the ultimate payment of the tainted currency notes. Learned counsel for the appellant has drawn attention to various circumstances touching the witness's age, eligibility for the post in question,

the source of the trap money and the interval between the alleged demand and the lodging of the complaint.

48. Those circumstances undoubtedly furnish fertile ground for cross-examination. Yet, the law draws a distinction between discrepancies affecting the substratum of the prosecution case and those pertaining to collateral matters. The debate regarding the complainant's eligibility for the post of Draughtsman, the precise source from which the sum of ₹10,000/- was collected, or the prudence of his conduct prior to approaching the investigating agency does not eclipse the central assertion that a demand for illegal gratification was made and that the amount was thereafter paid in the course of a trap operation. Human testimony is seldom cast in the mould of mathematical precision. Minor incongruities, particularly when occurring after the passage of years, do not necessarily corrode the intrinsic worth of a witness whose evidence remains steadfast on material particulars.

49. PW-3 proved the sanction accorded for prosecution. The defence endeavoured to portray the sanction as a mechanical exercise bereft of application of mind. The materials on record, however, reveal that the competent authority had before it the relevant records and consciously accorded approval for prosecution. No circumstance has been demonstrated from which either incompetence of the sanctioning authority or failure of justice can reasonably be inferred. Mere assertion of arbitrariness, unsupported by substantive material, cannot invalidate a sanction which otherwise bears the imprimatur of lawful authority.

50. The evidence of PW-4 attracted extensive criticism. It was argued that the witness could not have observed the entire transaction from the place where he was positioned and that his testimony therefore lacked reliability. The criticism cannot be brushed aside altogether. The witness was not situated at every moment in immediate proximity to the appellant. Yet, the Court cannot lose sight of the fact that his evidence is not required to stand in splendid isolation. His testimony regarding the trap proceedings, the recovery and the contemporaneous documentation receives support from other witnesses and documentary exhibits. The limitations of his vantage point may diminish the extent of corroboration available from him, but they do not render his evidence wholly devoid of value.

51. PW-5, the Executive Engineer, established the preparation and identity of the interview question papers. Learned counsel for the appellant laid considerable emphasis upon the circumstance that the appellant had no official connection with the recruitment process and that the confidential papers were handled by other officers. The argument, attractive at first glance, ultimately misses the focal point of the prosecution case. The issue is not whether the appellant was formally entrusted with recruitment duties. The issue is whether confidential recruitment material was recovered from his possession and whether such possession stood linked with the demand and acceptance of illegal gratification. The evidence of PW-5 assumes significance precisely because it identifies the documents recovered during the trap as the very question papers prepared for the recruitment process.

52. PW-6, the Requisitioning Officer, spoke regarding the movement and custody of the question papers. The defence sought to suggest that greater suspicion ought to have fallen upon other officials who admittedly possessed access to those documents. Such a possibility, even if assumed, does not absolve the appellant. Criminal adjudication concerns itself with the culpability of the accused standing before the Court. The existence of a conceivable role of another person does not dilute incriminating circumstances independently established against the appellant.
53. PW-7 proved the appellant's attendance and presence in office on the relevant date. Though formal in nature, such evidence forms an important link in the chain of circumstances and excludes any speculation regarding absence from the place of occurrence.
54. PW-8, a member of the raiding team, corroborated the events relating to the trap, acceptance and recovery. Learned counsel criticised the circumstance that the witness was examined during trial despite not having been examined earlier in the course of investigation. Such criticism bears upon the weight of his testimony rather than its admissibility. His evidence cannot be discarded merely because the defence perceives the possibility of embellishment. It must be evaluated in conjunction with the remaining materials and not in isolation.
55. The principal attack was directed against PW-10, the Investigating Officer. It was argued that he simultaneously functioned as a member of the raiding team and the investigating agency, thereby compromising the fairness of the investigation. It was further contended that several articles which could have

yielded valuable scientific evidence were never seized or examined. Particular emphasis was placed upon the failure to seize the complainant's trouser pockets, the drawer in which the money was allegedly kept, the surface of the drawer, the office table and other surrounding articles.

56. The Court readily acknowledges that a more exhaustive investigation would have imparted greater forensic completeness to the prosecution case. Examination of additional articles and collection of supplementary scientific evidence would undoubtedly have strengthened the evidentiary foundation. Yet, criminal trials are adjudicated upon the evidence actually available and not upon hypothetical evidence that might have been collected. The omission to seize every conceivable article does not automatically translate into reasonable doubt. The decisive question is whether the omissions strike at the root of the prosecution narrative or merely reveal imperfections in the investigative process.

57. In the present case, the tainted currency notes were recovered. The recovery was documented contemporaneously. The hand-wash of the appellant yielded a positive reaction. The relevant memoranda were prepared in the presence of witnesses. These circumstances constitute substantive evidence. The failure to seize additional articles may deprive the prosecution of supplementary corroboration, but it does not obliterate the evidentiary force of the material that was actually collected.

58. The defence has also emphasised that the hands of PW-1 were not subjected to chemical examination and that the drawer itself was not scientifically tested. Such omissions certainly diminish the possibility of obtaining further

corroborative assurance. They do not, however, neutralise the positive result obtained from the appellant's hand-wash or erase the recovery of the tainted money from the place identified during the trap.

59. PW-11, the scientific expert, was subjected to a searching cross-examination. It was argued that he lacked authority to submit the report, that the report did not contain certain endorsements, that corrections were not initialed and that his initials on the bottle had become indistinct with the passage of time.
60. The Court finds that the witness candidly acknowledged every limitation placed before him. Such candour enhances rather than diminishes his credibility. He clearly deposed that upon examination of the solution contained in the bottle, he detected the presence of sodium carbonate and phenolphthalein. The report prepared by him was duly identified and proved. The criticisms advanced by the defence pertain more to the form of documentation than to the scientific conclusion itself. Nothing has emerged in cross-examination to demonstrate that the examination was either fabricated or scientifically unsound.
61. The Court has also considered the submission that independent employees working in the office hall were not examined. Such examination would undoubtedly have been desirable. Yet, criminal law does not prescribe any numerical standard for proof. Conviction does not depend upon the quantity of witnesses but upon the quality of their evidence. The testimony of a witness does not become unacceptable merely because another witness who might have been examined was not produced.

62. Equally devoid of merit is the contention that the appellant's lack of formal authority in the recruitment process completely demolishes the prosecution case. The allegation is not that he was the recruiting authority. The allegation is that he represented himself as being capable of facilitating access to confidential material and demanded illegal gratification on that basis. Formal absence of authority cannot, by itself, become a shield against criminal liability arising from abuse of perceived influence.
63. When the evidence is viewed as a composite whole rather than as isolated fragments, a consistent chain emerges. There is evidence of demand. There is evidence of payment. There is evidence of recovery of the tainted currency notes. There is evidence of a positive phenolphthalein.
64. The criminality contemplated under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 rests upon certain indispensable constituents, each of which must find support in legally admissible evidence before a conviction may follow. A mere recovery of currency notes, bereft of proof regarding the antecedent demand and conscious acceptance, cannot by itself furnish a secure foundation for criminal liability. Equally, suspicion, however grave, is no substitute for proof.
65. Section 7 of the aforesaid Act, as it stood at the relevant point of time, contemplated the following elements:
- (i) the accused must be a public servant;
 - (ii) there must be a demand for gratification other than legal remuneration;

(iii) such gratification must be accepted or obtained by the public servant;

(iv) the acceptance must be as a motive or reward for performing or forbearing to perform an official act.

66. Similarly, the offence under Section 13(1)(d), punishable under Section 13(2) of the Prevention of Corruption Act, 1988, required proof that the public servant, by corrupt or illegal means or by abuse of his position as a public servant, obtained for himself or for another any valuable thing or pecuniary advantage.

67. Examined in the backdrop of these statutory ingredients, the evidence on record reveals a distinct parity between the acts attributed to the appellant and the legal requirements constituting the offence.

68. Section 7 of the Prevention of Corruption Act, 1988 stated as follows:-

“7. Offence relating to public servant being bribed. -- Any public servant who,--

(a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or

(b) obtains or accepts or attempts to obtain, an undue advantage from any person as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or

(c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in consequence of accepting an undue advantage from any person,

shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

Explanation 1.--For the purpose of this section, the obtaining, accepting, or the attempting to obtain an undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper.

Illustration.--A public servant, 'S' asks a person, 'P' to give him an amount of five thousand rupees to process his routine ration card application on time. 'S' is guilty of an offence under this section.

Explanation 2.--For the purpose of this section,--

(i) the expressions "obtains" or "accepts" or "attempts to obtain" shall cover cases where a person being a public servant, obtains or "accepts" or attempts to obtain, any undue advantage for himself or for another person, by abusing his position as a public servant or by using his personal influence over another public servant; or by any other corrupt or illegal means;

(ii) it shall be immaterial whether such person being a public servant obtains or accepts, or attempts to obtain the undue advantage directly or through a third party."

69. Section 13(1)(d) of the Prevention of Corruption Act, 1988 stated as follows:-

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

.....

(d) if he,—

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or

....."

70. Section 13(2) of the Prevention of Corruption Act, 1988 replicated as follows:-

“13. Criminal misconduct by a public servant.— (2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than 3 [four years] but which may extend to 4 [ten years] and shall also be liable to fine.”

71. The Hon’ble Supreme Court, in the case of **State of Karnataka vs.**

Chandrasha¹, has made the following observations: -

“23. In view of the aforesaid analysis, we find that the trial Court based on the oral and documentary evidence adduced by the parties, rightly found the respondent guilty of the offences punishable under Sections 7 and 13(1)(d) r/w Section 13(2) of the Act and sentenced him for the same. However, the High Court by placing reliance on the decision of this Court in A. Subair's case (supra), held that since no work was pending with the respondent as on the date of trap, the ingredient to attract and complete the offences punishable under Sections 7, 13(1)(d) read with Section 13(2) of the Act was not met. The view so taken by the High Court is unsustainable as the decision of this Court in A. Subair's case (supra) did not support the view. It was a case where the complainant was not even examined and there were discrepancies in the evidence of the other witnesses. In the present case, we do not find such infirmities. Insofar as the reference to sub section (3) to Section 20 regarding the triviality of the gratification, the act sought or performed, and the amount demanded cannot be considered in isolation to each other. The value of gratification is to be considered in proportion to the act to be done or not done, to forbear or to not forebear, favour or disfavour sought, so as to be trivial to convince the Court, not to draw any presumption of corrupt practice. It is also not necessary that only if substantial amount is demanded, the presumption can be drawn. The overall circumstances and the evidence will also have to be looked into. Section 20 would come into operation only when there is no nexus between the demand and the action performed or sought to be performed. But, when the fact of receipt of payment or an agreement to receive the gratification stands proved, there is a clear case of nexus or corroboration and the presumption itself is irrelevant. Section 20 gets attracted when it is proved that the public servant has accepted or agreed to accept any gratification other than legal remuneration and in that case, presumption is that it is the motive or reward for any of the acts covered under Section 7, 11 or 13(1)(b)

¹2024 SCC OnLine SC 3469

of the Act. The presumption under Section 20 is similar to Section 118 of the Negotiable Instruments Act, 1881, where the onus is on the accused to prove that he is not guilty of the offences charged. The first two limbs under subsections (1) and (2) of Section 13 make it clear that adequacy of consideration is irrelevant to draw the presumption. That apart, sub-section (3) only grants a discretion to Court to decline from drawing any presumption if the amount is so trivial so that such inference of corruption is not fairly possible in the facts of the case. Therefore, it is not a rule but an exception available to the Court to exercise its discretionary power in the facts and circumstances of the case. In the present facts of the case, we are not inclined to exercise such discretion. As such, the judgment of acquittal passed by the High Court is illegal, erroneous and contrary to the materials on record.

24. We are conscious of the fact that in an appeal against acquittal, if two views are possible and the Court below has acquitted the accused, the appellate Court would not be justified in setting aside the acquittal merely because the other view is also possible. In the present case, the recovery of bribe amount from the respondent having been proved, the explanation offered by the respondent in the absence of any concrete material, is clearly of the wall. Once the aspects of ‘demand’ and ‘acceptance’ of the bribe amount having been established beyond doubt, in our opinion, no two views are possible in the matter, and thus the approach adopted by the High Court is perverse and liable to be interfered with.”

72. The Hon’ble Supreme Court, in the case of **Neeraj Dutta vs. State (NCT Of Delhi)**², has made the following observations: -

“12. The Constitution Bench [Neeraj Dutta v. State (NCT of Delhi), (2023) 4 SCC 731 : (2023) 2 SCC (Cri) 352] was called upon to decide the question which we have quoted earlier. In para 88, the conclusions of the Constitution Bench judgment [Neeraj Dutta v. State (NCT of Delhi), (2023) 4 SCC 731 : (2023) 2 SCC (Cri) 352] have been summarised, which read thus : (Neeraj Dutta case [Neeraj Dutta v. State (NCT of Delhi), (2023) 4 SCC 731 : (2023) 2 SCC (Cri) 352] , SCC pp. 775-77)

“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

²(2023) 18 SCC 251

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 Sections 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 Sections 13(1)(d)(i) and (ii), respectively of the Act. Therefore, under Section 7 of the Act, 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 Sections 13(1)(d)(i) and (ii) of the Act.”

73. The first ingredient admits of no controversy. Through the evidence of PW-3,

PW-6 and other official records, it stands established that the appellant

Satya Ranjan Mirdha was serving as an Upper Division Clerk under the Central Public Works Department and therefore answered the description of a public servant within the meaning of the Act.

74. The second ingredient concerns demand. PW-1 consistently deposed that the appellant demanded a sum of Rs.10,000/- for supplying confidential question papers relating to the forthcoming recruitment examination. Despite prolonged cross-examination, the substance of his assertion regarding demand remained intact. The defence succeeded in eliciting certain omissions and inconsistencies touching collateral matters, yet the nucleus of the accusation concerning demand remained undisturbed.

75. The third ingredient pertains to acceptance. The evidence of PW-1, supported by PW-4, PW-8 and PW-10, establishes that the tainted currency notes were handed over to the appellant and were consciously received by him. Recovery of the same from the drawer identified by the appellant constitutes a contemporaneous circumstance lending assurance to the ocular testimony.

76. The positive hand-wash test assumes considerable significance. PW-11 proved that the solution contained sodium carbonate and phenolphthalein. Scientific evidence, though corroborative in nature, provides objective assurance that the appellant had come into contact with the tainted notes. Thus, the acceptance spoken to by the witnesses finds support in forensic examination.

77. The fourth ingredient concerns the nexus between the gratification and the official favour sought. The prosecution case does not rest upon the

proposition that the appellant himself was the recruiting authority. Rather, the allegation is that he represented himself as capable of facilitating access to confidential question papers and thereby sought to obtain pecuniary advantage. The recovery of the question papers during the trap proceeding lends substantial assurance to the prosecution version and establishes the purpose for which the illegal gratification was allegedly demanded.

78. Turning to Section 13(1)(d) of the Prevention of Corruption Act, 1988, the acts proved by the prosecution disclose that the appellant, by exploiting his position in the department and by projecting access to confidential recruitment material, obtained pecuniary advantage for himself through corrupt means. The demand of Rs.10,000/-, the acceptance thereof, the recovery of the tainted amount and the contemporaneous seizure of question papers together constitute a chain of circumstances satisfying the ingredients of obtaining pecuniary advantage by abuse of official position.

79. The defence emphasised that several articles were not seized, that the drawer was not subjected to chemical examination and that the hands of the complainant were not washed. Those omissions certainly reveal investigative imperfections. Yet, the absence of supplementary evidence cannot obliterate substantive evidence already available. Deficiencies in investigation do not invariably corrode the prosecution case when the primary ingredients constituting the offence stand established through reliable testimony and contemporaneous documents.

80. Thus, the acts proved through the evidence on record bear complete parity with the statutory ingredients of Sections 7 and 13(1)(d) read with Section

13(2) of the Prevention of Corruption Act. Demand, acceptance and recovery do not appear as isolated fragments. They emerge as interconnected links forming an unbroken chain, each circumstance deriving assurance from the other. The prosecution has therefore succeeded in proving not merely possession of tainted money but the constituent elements that transform such possession into culpable conduct punishable under the statute. This style of analysis is particularly useful in a reported appellate judgment because it aligns each proved act with each statutory ingredient, thereby demonstrating why the evidentiary chain satisfies the legal definition of the offences. There is evidence regarding recovery of confidential interview papers. Each circumstance lends assurance to the other.

81. The deficiencies highlighted by the defence expose imperfections in investigation. They do not create a rupture in the prosecution case. The omissions identified by the appellant remain insufficient to dislodge the cumulative evidentiary force arising from the testimony of the prosecution witnesses and the documentary exhibits proved during trial.

82. Accordingly, this Court finds that the defence submissions, though elaborate and diligently presented, fail to generate such reasonable doubt as would justify interference with the findings recorded by the Learned Trial Court.

83. In view of the above discussions, the instant criminal appeal is dismissed. The sentence is modified to the extent of incarceration undergone by the appellant since 34 years have elapsed from the date of filing of the written complaint.

84. There is no order as to costs.

85. Trial Court records along with a copy of this judgment be sent down at once to the Learned Trial Court for necessary action.
86. Photostat certified copy of this judgment, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)