IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No. 328 of 2022

Binita Kumari aged about 49 years W/o Shri Rakesh Kumar, R/o Sneh Sadan, Road No.6C, Sough Sadhna Puri, P.O.- G.P.O., P.S.-Gardanibagh, Dist.- Patna (Bihar) …… Appellant

Versus

The State of Jharkhand through Vigilance …….Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant : Mr. Rajiv Ranjan, Sr. Advocate
Mr. Deepankar, Advocate
For the State :Mr. Vineet Kr.Vashistha, Spl.PP

CAV on:09th October, 2026 **Delivered on: 30/10/2026**

This Criminal Appeal has been filed on behalf of the appellant namely, Binita Kumari challenging the judgment of conviction dated 22.04.2022 and sentence dated 27.04.2022 passed by Sri Shatrunjay Kumar Singh, learned Special Judge, Vigilance (A.C.B.), Hazaribagh in Special Vigilance Case No.26 of 2012 arising out of VigilanceRanchi P.S. Case No.24 of 2012 by which the appellant namely, Binita Kumari has been convicted for committing the offence punishable under Section 7 and section 13 (2) read with section 13(1) (d) of the Prevention of Corruption Act and sentenced to undergo R.I for three (03) years and to pay the fine of Rs.5,000/- for the offence under section 7 of the Prevention of Corruption Act and R.I for four (4) years and to pay the fine of Rs.5,000/- for the offences under section 13(2) read with section 13(1) (d) of the Prevention of Corruption Act.

However, both the sentences have been directed to run concurrently.

2. The prosecution case, in brief, is thata written complaint was made by the complainant namely Basant Kumar Paswan before the Superintendent of Police, Vigilance Bureau

Jharkhand, Ranchi alleging therein that his wife Kumari Priyanka is Sewika with Anganwari Center bearing Center No-123. The accused Binita Kumari being CDPO had demanded Rs.1,000/- per month and gave threatening that on non-payment of said bribe, the wife of the complainant would be removed from her service. The wife of the complainant was then on maternity leave but she was harassed by repeated show-cause to her and by demanding money. It is stated that the wife of the complainant was not in position to move and hence she could not meet the accused. On request of his wife, the complainant met the accused and informed about the condition of his wife. The accused asked the complainant to bring a bribe of Rs.10,000/- in place of his wife otherwise the service of his wife would be terminated. The complainant did not wish to bribe the accused and hence he had made the complaint which was placed before the Superintendent of Police (in short to be referred as S.P.), Vigilance on 05.10.2012. The S.P., Vigilance, Ranchi directed the verifying officer Police Inspector Jitendra Kumar to submit verification report on the complaint so made by the complainant.

Then on direction of Superintendent of Police, the Verifying Officer Inspector Jitendra Kumar went to the C.D.P.O. Office situated at Block Office, Koderma along with the complainant on 09.10.2012. The accused CDPO was not present in her Office chamber and it was informed that she was out of office for some work. On the next day i.e. 10.10.2012 the verifying officer again went to CDPO Office, Koderma. The accused CDPO was in her office chamber. It was informed by the complainant that the accused CDPO does not demand bribe in presence of any other person and her talk should be heard after concealing himself. Accordingly, the complainant went

inside the office of the CDPO and the verifying officer heard the conversations between the accused and the complainant while standing by the side of the door of the office.

It is alleged that the accused asked whether the complainant had brought Rs. 10,000/- but the complainant told that he could not arrange the same but he will arrange and pay Rs.5,000/-, within a day or two and the rest amount of Rs.5,000/- would be paid later on. The accused agreed but informed the complainant to pay Rs.5,000/- in next two days and to give the rest amount later otherwise his wife Kumari Priyanka would be removed from her service. Thereafter the Verifying Officer found the allegation true and had submitted his verification report to the S.P., Vigilance Bureau, Ranchi on 11.10.2012.

On the basis of report submitted by the Verifying Officer, a formal FIR bearing Vigilance P.S. Case No. 24/2012 was registered on 11.10.2012 against the accused-appellant for the offences U/s.7 & 13(2) of Prevention of Corruption Act, 1988 and Dy. S.P. Sri R.N. Ram was appointed as the Investigating Officer (in short to be referred as the I.O.) to investigate the case.

Thereafter, a pre-trap meeting was convened after constitution of a raiding party on 11.10.2012 at about 18.00 hours in the office of Vigilance Bureau, Ranchi. The complainant was also present there who was introduced with the members of the raiding party and the complainant explained the reason for such assembly and his grievance against the accused. A physical demonstration of chemical reaction of sodium carbonate with phenolphthalein powder was done. During this process ASI Smt. Manti Minz soiled white paper with phenolphthalein powder and said paper was touched by the

fingers of Police Inspector Sri Shamim Ahmad Khan. The verifying Officer Sri Jitendra Kumar made a solution of water and sodium carbonate in a clean glass. Inspector Shamim Ahmad Khan was made to put his finger in the said solution and colour of the solution turned pink. Thereafter, the solution was sealed in a clean glass phial and the complainant, Dy. S.P. Sri R. N. Ram and Executive Magistrate present there, put their respective signatures over the same and which was marked as Ext. B, whereas the paper smeared with powder was signed by the said three and which was marked as Ext.A. The same were sealed and covered.

On request of members of the raiding party, the complainant produced one currency note of Rs.1,000/- and eight currency notes of denomination Rs.500/-, total amount of Rs.5,000/-. The said G.C. notes were rubbed with phenolphthalein powder and returned to the complainant with instruction that he has to give the said money to the accused only on her demand as bribe and not otherwise. Memorandum of GC note was prepared with complete description with number and denomination of the currency notes. All the members of the raiding party put their respective signatures on said GC note memorandum. The verifying officer Inspector Jitendra Kumar was directed to act as a shadow witness during the process of raid. It was also decided that after acceptance of bribe by the accused, the complainant would rub his face with his right hand as a signal to the members of raiding party regarding acceptance of the bribe amount.

3. Heard Mr. Rajiv Ranjan, learned Senior Counsel appearing for the appellant through Video Conferencing assisted by Mr. Deepankar, learned Advocate and Mr. Vineet Kr. Vashistha, learned Spl. P.P. on behalf of A.C.B-respondent.

4. Learned Senior Counsel for the appellanthas submitted that the impugned judgment dated 22.04.2022and sentence dated 27.04.2022 passed by the learned Trial Court is illegal, arbitrary and not sustainable in the eye of law. It is submitted that the appellant is innocent and has committed no offence and has been falsely implicated by the complainant-Informant by making a false complaint against her. It is submitted that there are several contradictions in the evidence of the prosecution witnesses and several prosecution witnesses contradict each other on the point of recovery of amount of Rs.5,000/- (Rs. Five Thousand) and turning Sodium Carbonate Solution into pink colour.

5. Learned Senior Counsel for the appellant has further submitted that the undated complaint was filed by the complainant before the Superintendent of Police, Vigilance Bureau Jharkhand, Ranchi but the FIR was lodged on 11.10.2012 after alleged demand of bribe which was allegedly verified by Sri Jitendra Kumar, Inspector, Vigilance. It is submitted that only pre-trap memorandum was prepared and no post-trap memorandum was prepared on the date of occurrence on 12.10.2012. It is submitted that even the appellant was illegally trapped on 12.10.2012 and Vigilance Team had prepared the arrest memo and seizure list and had seized one (01) note of Rs.1000/- (One Thousand) and eight (08) notes of Rs.500/- (Five Hundred) but no post-trap memorandum was prepared.

6. It is further submitted that the prosecution had got examined nine (09) witnesses and PW-1 is the Jitendra Kumar who had firstly verified the allegation and had justified the demand of bribe made by the appellant but his evidence is contradictory. It has comeduring his cross-examination made

at Para-17 to 22 that he had arrived at Vigilance Bureau Office on 12.10.2012 where the members of raiding party were present and they had proceeded for CDPO Office, Koderma and arrived there at around 11:00 A.M. and after making some distance he send the complainant and the complainant had entered into the office of CDPO and after some times, he came out and signaled the process of give and take then the raiding team had arrested the CDPO and several peoples had assembled and a sum of Rs.5,000/- (Five Thousand) was recovered from her possession from the body of the appellant which was verified from the G.C. note of memorandum and found correct and some files were seized and the hands of appellant was dipped into two glasses having solution and both the solution became pink. However, this fact has been contradicted by the other witnesses that only one glass of Sodium Carbonate became pink, which was stated by P.W-2- the complainant, P.W-4- Dy. S.P. and P.W-8 (i.e. the I.O.) and thus, the evidence of P.W-1 is contradicted from the evidence of P.W-2, P.W-4 and P.W-8 who stated that only colour of one glass had turned into pinkwhereas P.W-1 has stated that both the glasses became pink. It is submitted that even the P.W-1 had not seen the process of giving and taking of money to the appellant. Hence, the evidence of P.W-1 is not reliable.

7. It is submitted that the P.W-2 is the complainant and although he has tried to support his case during the evidence but during his cross-examination at Para-32 to 36 he has admitted that his wife was working in Anganwari Behradih-I Centre and the maternity leave of her wife was sanctioned and on the date of occurrence his wife was on maternity leave. He had admitted and stated that he has knowledge that CDPO Madam (i.e. the appellant) had demanded explanation from his wife and one

another lady Shanti Priya who were working as Sewika and Sahayika respectively and had denied the publication of news of closure of Behradih Centre in newspaper on 18.08.2012 to 22.09.2012 where his wife was working.

8. It is submitted that the show cause issued to the wife of the complainant- Informant was marked as Exhibit-D during trial. It is further submitted that even the appellant had recommended for removal of the wife of the Informant on 28.08.2012 which he stated in Para-49 of the cross-examination i.e. much prior to the date of occurrence and hence, it is clear that Informant had instituted a forged and fabricated case against the appellant. Hence, the P.W-2 is the highly interested witness and his evidence is not reliable.

9. It is submitted that even the Deputy Development Commissioner (DDC), Koderma had issued a letter of removal of the wife of the Informant and various other persons on 11.10.2012 which is marked as 'B' Series during trial.

10. It is further submitted that P.W-3 namely, Ramesh Prasad Saw @ Rameshwar Prasad Saw is the seizure list witness and and he has merely stated that while he had arrived near the office of CDPO on 12.10.2012 when he was going to Koderma Block then he was called for by the Police and they asked him to put his signature on some paper by informing him that a raid has been conducted in the office of CDPO and then he had put his signature on seizure list and his signature is marked as Exhibit-5 and he also put his signature on the search-cum-seizure list which is marked as Exhibit-6 and he also put his signature on the memorandum.

However, during cross-examination, he has stated that in Para-4 to 6 that he had put his signature on blank papers and

nothing was seized during his presence and no raid was conducted during his presence.

Thus, P.W-3 has not supported the prosecution case.

11. It is submitted that P.W-5 is Sri Bharat Kumar who is another seizure list witness and has not supported the prosecution case and he had merely identified his signature on the seizure list and both the seizure lists were marked as Exhibit-5/1 and Exhibit-6/1. However, during his cross-examination, he stated to have not seen the appellant namely, Binita Kumari for taking money and he had put his signature on several blank papers and nothing was written on those papers prior to his signature and no money was recovered from him.

Thus, even the P.W-5 had not supported the prosecution case.

12. It is submitted that P.W-4 is the DSP who was member of raiding party and had stated about the process of constitution of raiding team and also raid being conducted in the office of the appellant.

13. It is submitted that even P.W-4 who was member of raiding party, had also not seen taking Rs.5,000/- (Five Thousand) as bribe from the appellant. Even during cross-examination at Para-9 to 12, he could not remember that money was given to the complainant namely, Basant Kumar Paswan P.W-2 by wrapping in a paper or not? and he could not describe the place of the occurrence and could not remember as to whether the Anchal Office is situated near the office of CDPO and also he could not say the boundary of the office of CDPO office. He also admitted that he had notseen the giving and taking of money and hence the evidence of P.W-4 is also not reliable.

14. It is submitted that P.W-6 is Rajkumari Oraon i.e.the lady constable and she has been examined merely on the point of Sodium Carbonate solution kept in the glass and she had stated that when the fingers of right hand of the accused was dipped into the water then it remained the same and the colour did not change but when her left hand was dipped into another glass then the solution became pink and on search the money was found below the file.

Even during her cross-examination she has admitted for not having seen the transaction of giving and taking of money and hence the evidence of P.W-6 is also not reliable.

15. It is submitted that P.W-7 is Amit Kumar who was member of the raiding team and made Special Magistrate and had stated during evidence that he had arrived with the members of raiding team at CDPO Office, Koderma. He also stated that after the trap, two glasses of solution were prepared. However, when the right hand of the appellant namely, Binita Kumari was dipped then the solution of sodium carbonate remained white and did not change but when her left hand was dipped into the solution of sodium carbonate then the colour of water became pink. He also admitted in Para-15 that even the house of appellant namely, Binita Kumari was searched but no objectionable article was recovered from her house.

Thus, the evidence of P.W-7 contradicts the evidence of P.W-1who had stated that solution of sodium carbonate colour became pink in both the glasses when the right hand and left hand of the appellant were dipped into the same but P.W-7 also stated that only one glass of water became pink. Even, evidence of P.W-7 is also not reliable because he is not eye witness of giving and taking of money.

16. P.W-8 is Ramanand Ram who is Investigating Officer (i.e. the I.O.) and he stated about the process of conducting raid and identification of preparation of GC notes of memorandum and stated about recovery of money from the possession of the appellant namely, Binita Kumari at the time of conducting raid on 12.10.2012 but he has also admitted duringhis evidence at Para-22 that only glass of one water in which the left hand of the appellant namely, Binita Kumari was dipped, the solution of sodium carbonate became pink and the glass in which her right handfingers were dipped but the colour of sodium carbonate did not change and it remained white.

Thus, the evidence of P.W-8 also contradict the evidence of P.W-1. Even the IO has also stated that nothing was seized and no objectionable article was seized from the house of the appellant and he had also seized certain files from the office of the appellant namely, Binita Kumari.

17. It is further submitted that the Investigating Officer (P.W-8) during his cross-examination also admitted that he was the member of raiding team. However, he did not remember that Special Magistrate Amit Kumar (P.W-7), Inspector Jitendra Kumar- (P.W-1), Inspector Md. Shamim Ahmad Khan, A.S.I Manti Minz, Constable Raj Kumari Devi and Police Constable Prem Lal and others were member of raiding party or not.

He had stated in Para-39 that the money was not seized from the hand of the appellant rather it was kept in the file in the left side of the chair of CDPO and nothing was recovered from the conscious possession of the appellant and all the members of the raiding team were outside the place of occurrence of the office and he had also not seen the appellant taking money during Para-30 of his evidence.

Thus, the evidence of P.W-8 i.e. IO cannot be relied upon.

18. It is submitted that P.W-9 is a formal witness and he has merely produced the tainted nine (09) notes of total Rs.5,000/- (Five Thousand) which were marked as Material Exhibits.

19. It is submitted that Exhibit-D is the note of the office of CDPO and the finding of raiding team which reveal that when left hand finger of the appellant were dipped into the solution, marked as Exhibit-13, the colour of changed and became Pink but when the right hand fingers of the appellant were dipped into the solution then it remained in the same colour.

20. It is submitted that Exhibit-18 is the FSL report and the conclusion has been mentioned at the Serial No.3 and 4 of the FSL report which also reveals that the two glasses of solution of sodium carbonate became pink whereas it has come in the evidence that the glass of only one glass marked as Exhibit-D, the colour changed as pink where the colour of other glass had not changed. Thus this is a vital contradiction inthe prosecution evidence.

21. Learned Senior Counsel for the appellant has further submitted that mere recovery of tainted money is not a proof of taking bribe rather the same has to be established with cogent evidence and in absence of same the prosecution case cannot be sustained.

22. It is submitted that in order to sustain conviction under Section 7 and 13 of Prevention of Corruption Act the prosecution has to prove that the appellant has voluntarily accepted the money knowing it to be a bribe.

23. In support of his contention, learned Senior counsel for the appellant has placed reliance upon the judgments passed in the case of "***Ajit Kumar Vs. State of Jharkhand***" in ***Criminal Appeal No. 4573 of 2026*** vide judgment dated ***05.10.2026*** by the Hon'ble Supreme Court.

24. It is submitted that the case of the appellant is almost similar to the case decided in Criminal Appeal No. 4573 of 2026 by the Hon'ble Supreme Courton 05.10.2026.

25. It is submitted that there are several discrepancy and contradictions in the evidence of prosecution witnesses. Hence, the impugned judgment dated 22.04.2022 and sentence dated 27.04.2022 passed by the learned Trial Court may be set aside and the appellant may be acquitted and this Criminal Appeal (SJ) No. 328 of 2022 may be allowed.

26. On the other hand learned counsel for the State representing the A.C.B. has opposed the submission raised on behalf of the appellant.

27. Learned counsel for the State has submitted that the impugned judgment dated 22.04.2022 and sentence dated 27.04.2022 passed by the learned Trial Court, are proper and no interference is required from this Court.

28. It is submitted that there is no illegality and infirmity in the impugned judgment and sentence passed by the learned Trial Court as the same has been passed on the basis of materials adduced during trial by the prosecution.

29. It is submitted thatthere are several prosecution witnesses in this case who have proved the prosecution case and those eye witnesses were present at the place of occurrence when the raid was being conducted in the CDPO office of the appellant on 12.10.2012.

30. It is submitted that all the prosecution witnesses i.e. P.W-1 namely, Jitendra Kumar (Inspector), P.W-2 namely, Basant Kumar Paswan (Informant), P.W-3 namely, Ramesh Prasad Sao @ Rameshwar Prasad Sao, P.W-4 namely, Shamim Ahmad Khan (Dy. S.P.), P.W-5 namely, Bharat Kumar, P.W-6 namely, Rajkumari Oraon, P.W-7 namely, Amit Kumar (Special

Magistrate), P.W-8 namely, Ramanand Ram (IO) and P.W-9 namely, Arjun Gope (ASI) respectively have fully supported the prosecution case and there is no infirmity in their evidence.

31. It is submitted that P.W-1 is Jitendra Kumar was the Inspector in Vigilance Department and he was the verifying officer he had verified the information of the complainant-Informant on 09.10.2012 and 10.10.2012 and had stated that he had heard about the demand of bribe made by the appellant from the Informant- P.W-2 namely, Basant Kumar Paswan.

32. It is submitted that P.W-1 namely, Jitendra Kumar was the member of raiding team and he alongwith the Complainant, Investigating Officer (IO) and Special Magistrate (i.e. P.W-7) was present on the date of occurrence in the office of CDPO i.e. the appellant and after handing over money to the appellant, the trap was conducted in the office of appellant and he was present also when the appellant was apprehended by two ladies constable and Rs.5,000/- (Five Thousand) was recovered during his presence from the appellant and hence, P.W-1 has fully supported the case of the Complainant.

33. It is submitted that P.W-2 is Basant Kumar Paswan who is the complainant of this case and he has also fully supported the prosecution case and has stood the test of cross-examination and has fully supported the prosecution case.

34. It is submitted that the P.W-2 had handed over Rs.5,000/- (Five Thousand) as a bribe to the appellant, Binita Kumari and after coming out from her office on 12.10.2012, he had signaled the Vigilance Team and then the Vigilance Team had trapped the appellant with tainted notes of Rs.5,000/- (Five Thousand) and even one glass of water had become pink when the left hand of the appellant was dipped into the sodium carbonate solution.

35. It is submitted that the P.W-2 had complained because the appellant had demanded Rs.10,000/- (Ten Thousand) as a bribe from his wife and in order to save his wife, he had paid Rs.5,000/- (Five Thousand) on the instruction of the Vigilance Team. Mere issuance of show cause notice, issued by the appellant to his wife, will not make the prosecution doubtful and hence the evidence of P.W-2 is reliable.

36. It is submitted that P.W-3 and P.W-5 namely, Ramesh Prasad Sao @ Rameshwar Prasad Sao and Bharat Kumar are the seizure list witnesses and they have proved their respective signatures on the seizure lists which have been marked as Exhibit-5 and 5/1 respectively and search-cum-seizure list i.e. Exhibit-6 and they were present on 12.10.2012 near the CDPO office of the appellant and they are the independent witnesses.

Thus, the evidence of P.W-3 and P.W-5 namely, Ramesh Prasad Sao @ Rameshwar Prasad Sao and Bharat Kumar fully support the prosecution case.

37. It is further submitted that P.W-4 is Shamim Ahmad Khan i.e.the Dy. S.P. of Vigilance Department and he has fully supported the prosecution case and who was member of raiding team on 12.10.2012 and he was also acquainted with the Informant on the date of occurrence. He had also stated that Rs.5,000/- (Five Thousand) was recovered from the possession of the appellant and even when left hand of the appellant was dipped into the glass containing sodium carbonate solution then it became pink and thus, recovery of money is fully proved from the evidence of P.W-4. Hence, the evidence of P.W-4 is fully reliable and evidence cannot be discredited for some minor contradictions or discrepancy if any.

38. It is submitted that P.W-6 is the Constable, namely, Rajkumari Oraon who had caught the left hand of the appellant and when her the said left of the appellant was dipped into sodium carbonate solution then it became pink. She had also stated that Rs.5,000/- (Five Thousand) was recovered below the files kept on the table of the appellant. Thus, P.W-6 is the eye witness of the occurrence and she had caught the appellant by her left hand after taking tainted money of Rs.5,000/- (Five Thousand) from the complainant.

Thus, the evidence of P.W-6 is reliable.

39. It is further submitted that P.W-7 is the Special Magistrate and now posted as the Deputy Secretary in the office of Industry Department and he was also present on the date of occurrence at CDPO Office in Koderma.

40. It is submitted that P.W-7 has also supported the prosecution case and had stated that Rs.5,000/- (Five Thousand) was recovered from the files of the appellant and where her left hand were dipped into the glass containing sodium carbonate solution then it became pink.

Thus, the evidence of P.W-7 supports the prosecution case and he is an independent person from the different department and hence his evidence cannot be discredited for some minor contradictions.

41. It is submitted that P.W-9 although is a formal witness and he had also produced the tainted notes on behalf of the prosecution and which was marked as Material Exhibit-I to Material Exhibit-IX respectively and thus, the evidence of P.W-9 supports the prosecution case.

42. It is submitted that P.W-8 is the Investigating Officer of this case and he was also present on the date of occurrence in the CDPO Office at Koderma.

43. It is submitted that P.W-8 was also one of the members of raiding team and he alongwith P.W-1 namely, Jitendra Kumar and P.W-2 complainantand P.W-4 Dy.SP and P.W-7 Special Magistrate was present on the date of occurrence and had seen recovery of money from the files of the appellant. He is also supported the fact of one glass of water having sodium carbonate solution turning into pink colour when the left hand fingers of the appellant was dipped into.

44. It is submitted that Investigating Officer had investigated the case and had recorded the statement of prosecution witnesses i.e. P.W-1 to P.W-7 namely, Jitendra Kumar (Inspector), P.W-2 namely, Basant Kumar Paswan (Informant), P.W-3 namely, Ramesh Prasad Sao @ Rameshwar Prasad Sao, P.W-4 namely, Shamim Ahmad Khan (Dy. S.P.), P.W-5 namely, Bharat Kumar, P.W-6 namely, Rajkumari Oraon, P.W-7 namely, Amit Kumar (Special Magistrate) respectivelyand he had examined the documents seized from the office of the appellant and has submitted the charge-sheet against the appellant under Section 7 and 13(2) read with section 13(1)(d) of the Prevention of Corruption Act and hence, the evidence of P.W-8 fully supports and corroborates the prosecution case. It is submitted that even the provisions of Section 114 of Evidence Act is taken aid then the presumption is against the appellant as raid was conducted in her office and tainted amount of Rs.5,000/- (Five Thousand) was recovered from the files kept over a table. Thus, there is no illegality and irregularity in the impugned judgment and sentence passed by the learned Trial Court. Hence, there is no merit of this Criminal Appeal and as such this Cr. Appeal (SJ) No. 328 of 2022 may be dismissed.

45. Learned counsel for the State in support of his submission has relied upon the judgment in the case of "M***. Narsinga Rao Vs. State of A.P***." reported in ***(2001) 1 SCC 691***.

46. Perused the Trial Court Records and considered the submission of both the sides.

47. It transpires from the Trial Court Records that the complainant-Informant had gone to the office of the Superintendent of Police, Vigilance Bureau, Ranchi and submitted the application on 05.10.2012 regarding demand of bribe of Rs.5,000/- (Five Thousand) by the CDPO namely, Binita Kumari i.e. the appellant although the wife of the complainant was ill. Thereafter, the said information was verified by P.W-1 i.e. the Inspector Jitendra Kumar on 10.11.2012 and the FIR was lodged on 11.10.2012 by said Jitendra Kumar, Inspector, Vigilance Bureau by submitting the written application before the Superintendent of Police, Vigilance Bureau, Ranchi.

48. It transpires that a raiding team was constituted on 11.10.2012 by the DSP under the information and approval of the Superintendent of Police, Vigilance Bureau, Ranchi and altogether nine (09) persons namely, (i) P.W-7 namely, Amit Kumar (Special Magistrate), (ii) P.W-8 namely, Ramanand Ram (Dy. SP), (iii) P.W-1 namely, Jitendra Kumar (Police Inspector), (iv) P.W-4 namely, Shamim Ahmad Khan (Police Inspector), (v) Smt. Manti Minz (ASI), (vi) Sudhir Kumar Thakur (Constable- not examined), (vii) Prem Lal Mahto (Police Constable- not examined), (viii) Shri Chandan Kumar (Police Constable- not examined) and (ix) P.W-6 namely, Smt. Rajkumari Oraon (Police Constable) vide letter no.24 dated 11.10.2012, which is marked as Exhibit-11.

49. It further transpires that the process was acquainted to all the members of raiding team and a memorandum of G.C notes was prepared which is marked as Exhibit- 3 and all the members of raiding team were given specific instruction regarding the sodium carbonate solution and sodium carbonate solution become pink by way of demonstration to all the members before conducting the raid, thereafter, the raid was conducted.

50. It further transpires that a pre-trap memorandum was prepared on 11.10.2012 which is marked as Exhibit-2.

51. It further transpires that a raid was conducted in the office of the appellant i.e. CDPO Office, Koderma on 12.10.2012 and the tainted amount of Rs.5,000/- (Five Thousand) were said to be recovered below the files of the appellant kept over her table and then she was apprehended and brought to the Police Station.

It also transpires that during search and after conducting the raid when both hands of the appellant were dipped into two different glasses containing Sodium Carbonate Solution then the colour of one glass containing sodium carbonate solution became pink.

52. Thereafter, the I.O. after completing the investigation, had submitted the charge-sheet against the appellant for the offences under Section 7 and 13(2) read with section 13(1)(d) of the Prevention of Corruption Act on 11.12.2012.

However, the cognizance was taken against the appellant under Section 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Acton 20.03.2013 by the learned Special Judge, Vigilance.

53. The charges were framed against the appellant on 06.06.2017 for the offences under Section 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act by Sri Rajesh

Sharan Singh, then learned Special Judge, A.C.B., Hazaribagh and the appellant had pleaded not guilty and claimed to be tried.

54. During trial the prosecution got examined nine (09) witnesses who are as follows:-

(i). P.W-1 is Jitendra Kumar (Inspector),

(ii). P.W-2 is Basant Kumar Paswan (Complainant),

(iii) P.W-3 is Ramesh Prasad Sao @ Rameshwar Prasad Sao,

(iv) P.W-4 is Shamim Ahmad Khan (Dy.S.P.),

(v) P.W-5 is Bharat Kumar,

(vi) P.W-6 is Rajkumari Oraon (Constable),

(vii) P.W-7 is Amit Kumar (Special Magistrate),

(viii) P.W-8 is Ramanand Ram (IO) and

(ix) P.W-9 is Arjun Gope.

55. During trial, the prosecution got proved several documents which were marked as several exhibits as follows:-

(i) Ext.1 is Verification report,

(ii) Ext.2 is signature of P.W.1 in the list of raiding party,

(iii) Ext.2/1 is signature of P.W.4 on trap list,

(iv) Ext.2/2 is signature of P.W.7 on trap list,

(v) Ext.3 is G.C. note memorandum,

(vi) Ext.3/1 is signature of P.W.2 on GC note memorandum,

(vii) Ext.3/2 is signature of P.W.3 on GC note memorandum,

(viii) Ext.3/3 is signature of P.W.4 on GC note memorandum,

(ix) Ext.3/4 is signature of P.W.7 on GC note memorandum,

(x) Ext.4 application in signature of P.W.2 (Complainant) on the written report,

(xi) Ext.5 is signature of P.W.3 on seizure list,

(xii) Ext.5/1 is signature of P.W.5 on seizure list,

(xiii) Ext.5/2 is signature of P.W.7 on property search-cum-acquisition format,

(xiv) Ext.6 is signature of PW3 on search-cum-seizure,

(xv) Ext.6/1 is signature of P.W.5 on seizure list,

(xvi) Ext.6/2 is signature of P.W.7 on seizure list of house search,

(xvii) Ext.7is signature of P.W.8 on seizure list,

(xviii) Ext.8 is signature of P.W.7 on memo of arrest,

(xix) Ext.9 is signature of then Officer-in-charge Dhaneshwar Ram on formal FIR,

(xx) Ext.10 is endorsement for institution of FIR by then Officer-in-charge, ACB on the verification report for approving the list of raiding team,

(xxi) Ext. 10/1 is Order for institution of FIR by then S.P. R.K. Prasad,

(xxii) Ext. 11 is Trap list vide letter no. 24 dated 11.10.2012 approved by S.P.

(xxiii) Ext.12 is GC note Memorandum dated 11.10.2012,

(xxiv) Ext. 13 is Property search-cum-acquisition format dated 12.10.2012 prepared by P.W.8,

(xxv) Ext. 14 is Memo of arrest,

(xxvi) Ex.15 is Seizure-cum-search list of house search of appellant,

(xxvii) Ext. 16 is Seizure list of seized documents ofthe accused,

(xxviii) Ext.17 is Sanction order and

(xxix) Ext. 18 is State Forensic Science Laboratory Report (in short to be referred as SFSL) dated 08.01.2016.

56. The prosecution in support of its case also proved various material exhibits as follows:

(i) Material Ext.-I is currency note of Rs.1000 having No.7ET014066,

(ii) Material Ext.-Il to Material Ext.-IX are currency notes of Rs.500/- bearing No.4TN995669, 9GP103631, 6RQ033702, 3CN661758, IEL088318, 4QP300771, 7UF460523 and IEW783416, respectively.

57. No defence was examined on behalf of the appellant.

58. However various documents were marked as Exhibits on behalf of the appellant, which are as follows:

(i) Ext.A is Letter of District Public Relation Officer, Koderma addressed to the accused in reply to her application under Right to Information Act in which it is mentioned that the office of District Public Relation Officer do not have the paper cutting of newspaper from January 2012 to December 2017 as newspaper of the said period has been auctioned and the money thereon was deposited with the account of Government,

(ii) Ext.B is the letter No.71 dated 22.1.2020 of office Dy. Commissioner, Koderma issued by Public Relation Officer whereby the information under Right to Information Act has been furnished to the accused,

(iii) Ext.C and C/1 are inspection note of the Anganwari Center made by the accused wherein the wife of the complainant was working as Sewika. From perusal of Ext.C it would appear that the center was found closed with attendance of no children on 09.08.2012at about 10.15 am whereas the center was found open with having eight children present on 11.01.2012 at about 12.10 pm as per inspection report which is Ext.C/1.

(iv) Ext.C/2 is show-cause issued to the wife of the complainant vide Letter dated 24.01.2012 as only 8 kids out of 15 werefound present at the center.

(v) Ext.C/3 is report dated 20.07.2012 made by the accused wherein it is mentioned that Anganwari Center of the wife of the complainant is having pathetic condition. The kids are not

being given Poshahar. At some occasions the center was found closed. The work of Sahayika and Sewika are not satisfactory,

(vi) Ext.C/4 is an application for maternity leave dated03.08.2012 (illegible) made by the wife of the complainant before office of the accused-appellant,

(vii) Ext. C/5 is medical prescription attached with Ext.C/4,

(viii) Ext.C/6 is the report of pathology regarding examination of blood of wife of the complainant Smt. Priyanka Kumari,

(ix) Ext.C/7 is the show-cause issued by C.D.P.O., Koderma Sadar upon the wife of the complainant,

(x) Ext.C/8 is two show-cause issued to the wife of the complainant,

(xi) Ext.D is the information furnished by District Social Welfare Officer under Right to Information Act vide Letter No.193 dated 08.03.2021 which runs over 29 sheets whereas (xii) Ext. E is the information furnished by C.D.P.O., Koderma vide Letter No.73 dated 08.03.2021 which is in 15 sheets,

59. Apart from this, the defense has also got marked following documents for identification:-

(i) Document-X is copy of maternity leave application submitted by Kumari Priyanka to CDPO letter no. 1188 dated 03.08.2012 issued by Deputy Commissioner.

(ii) Document- X/1 is inspection note of Anganbari Centre.

60. Thereafter, the appellant was examined under Section 313 of Cr. PC on 25.01.2021 by the learned Trial Court and to which she denied the circumstances put forth before her.

61. Thereafter the learned Trial Court, after hearing both the sides, has convicted the appellant for the offences under Section 7 of the P.C. Act and Section 13 (2) read with section 13(1) (d) of the Prevention of Corruption Act and sentenced her to undergo imprisonment and fines on different counts as mentioned earlier. Hence, the present Criminal Appeal has been filed.

62. It transpires from the record that the Complainant-Informant namely, Basant Kumar Paswan had filed a written complaint before the Superintendent of Police, Vigilance Bureau, Ranchi on 05.10.2012 against the appellant namely, Binita Kumari, CDPOfor demanding the bribe. He had alleged that the appellant was demanding Rs.1,000/- (One Thousand) per month from his wife Kumari Priyanka who is posted in Anganwari Centre, Behardih-I, Centre No.123 as Sewika and threatening her to remove from the post of Sewika. He also alleged that although his wife is on maternity leave but repeated show cause noticesare being issued for payment of money and as his wife was not able to move and hence she could not met CDPO, Binita Kumari and on the instruction of his wife, he met with the CDPO and apprised her of the condition of his wife. Thereafter the appellant Binita Kumari is said to have demanded Rs.10,000/- (Ten Thousand) otherwise his wife may be terminated from the services.

63. Thuson the application filed by Basant Kumar Paswan (P.W-2), P.W-1, Jitendra Kumar was directed to submit report on the application filed by the said Basant Kumar Paswan addressed to Superintendent of Police, Vigilance Bureau, Ranchi.

64. As per direction, P.W-1 Jitendra Kumar alongwith the complainant Basant Kumar Paswan arrived at CDPO Office,

Koderma at in Block office in the afternoon on 09.10.2012 for verifying the contents of the applicationbut on the said date (i.e. 09.10.2012) Smt. Binita Kumari was not present in her office and it was informed that she had gone outside from some official work.

Thereafter on the next date i.e.10.10.2012, he again arrived at CDPO Office, Koderma and CDPO was in her official chamber but she was informed by the Complainant (P.W-2) that she does not talk with any other person with regard to acceptance of bribe and he has to hear the matter by hiding himself. As per plan, when the P.W-2 entered into the CDPO Office then he i.e. P.W-1, Jitendra Kumar stood near the door and heard the talk between the Complainant- Basant Kumar Paswan (P.W-2)and CDPO, Koderma Smt. Binita Kumari and who was said to have demanded Rs.10,000/- (Ten Thousand) and in case of non-payment of money, his wife- Kumari Priyanka will be removed from the services. When the Complainant showed his difficulty and stated that he will manage to pay Rs.5,000/- (Five Thousand) in 1-2 days and remaining Rs.5,000/- (Five Thousand) will be paid later on, then CDPO asked him to pay Rs.5,000/- (Five Thousand) in two (02) days and remaining amount to be paid later on. This written application has been marked as Exhibit-1 on behalf of the prosecution before the learned Trial Court.

65. It transpires that on the direction of Superintendent of Police, Vigilance Bureau, amember of trap team was constituted by one Ramanand Ram then Dy.S.P. (P.W-8), Vigilance Bureau on 11.10.2012 consisting of nine (09) members of raiding team namely, Jitendra Kumar (P.W-1), Basant Kumar Paswan (Complainant) i.e. P.W-2, Shamim Ahmad Khan(P.W-4), Rajkumari Oraon (P.W-6), Amit Kumar

(Special Magistrate) i.e. P.W-7, Ramanand Ram (IO) i.e. P.W-8 and Smt. Malti Minz (Not Examined). Thereafter the said constitution of raiding team is marked as Exhibit-11 before the learned Trial Court.

66. Thereafter, memorandum of G.C. Notes was prepared, in which, the names of members of raiding party were mentioned and process of trap was acquainted to all the members of raiding party and even the process of using chemical process were discussed and physical demonstration of phenolphthalein powder and Sodium Carbonate Solution were demonstrated and even phenolphthalein powder was pasted on a blank paper by ASI- Smt. Manti Minz and said blank paper having phenolphthalein paste who was touched by a Police Inspector Shamim Ahmad Khan by his right hand fingers and the verifier Jitendra Kumar had prepared the solution of Sodium Carbonate in water in one clean glass and when Police Inspector Shamim Ahmad Khan dipped his right hand fingers in the said solution then solution became pink and then the pink colour's solution was sealed in a small bottle and upon which Ramanand Ram, DSP, Special Magistrate and Complainant put their respective signatures and even they put their respective signatures on blank paper of having phenolphthalein and which was marked as Exhibit-A and it was sealed in a clean envelope even the sealed small bottle of pink colour solution who was marked as Exhibit-B. Thereafter one (01) note of Rs.1,000/- (One Thousand) and denomination number of eight (08) notes of Rs.5,00/- (Five Hundred) each were mentioned and nine (09) members of raiding party put their respective signatures on 11.10.2012 and which is in the said memorandum, G.C. Notes marked Exhibit-12.

67. Thereafter a trap was made and the appellant was apprehendedon 12.10.2012 however no post trap memorandum was prepared on behalf of the prosecution i.e.Vigilance Bureau and members of the raiding team.Thus it is not clear as to how trap was done on 12.10.2012 in the Chamber of the CDPO, Koderma i.e. the appellant.

However, the format of property and seizure format Exhibit-C was prepared in which the right hand fingers of Smt. Binita Kumari, Child Development Project Officer, Koderma was dipped into solution but the colour did not change and it remained the same. Then the Exhibit-D was prepared when the lefthand fingers of Smt. Binita Kumari, CDPO was dipped into solution and the colour of which became pink. This search and seizure format marked is Exhibit-13 before learned Trial Court.

68. It further reveals that the signature of Ramesh Prasad Sao @ Rameshwar Prasad Sao (P.W-3) and Bharat Kumar (P.W-5) were marked as Exhibit-5 and 5/1 respectively and the signature of Special Magistrate was marked as Exhibit-5/2. Thereafter the I.O., after completing investigation,had submitted charge-sheet under Section 7/13 (2) read with section 13(1)(d) of the Prevention of Corruption Act against the appellant on 11.12.2012 before the learned Special Judge, Vigilance. Thereafter, learned Special Vigilance is taken cognizance under Section 7/13 (2) read with section 13(1)(d) of the Prevention of Corruption Act against the appellant on 20.03.2013 after having received the sanction order.

69. So far as evidence of prosecution witnesses is concerned, P.W-1 is Jitendra Kumar who was posted on 05.10.2012 as the Police Inspector in Vigilance Bureau, Ranchi and on that day he had received an application from the Complainant Basant Kumar Paswan and upon which the Superintendent of Police,

Vigilance Bureau, Ranchi had directed him to verify the information. Thereafter he alongwith the Complainant Basant Kumar Paswan went to CDPO Office situated at Block Office, Koderma on 09.10.2012 but CDPO was not present in her office. Then again on 10.10.2012 he alongwith the Complainant went to CDPO Office, Koderma then he was informed by the Complainant that the CDPO will not take with giving and taking of money in presence of other person and hence he stood outside the door of the chamber of CDPO and started listening the talk. When the Complainant stated before the CDPO that his wife Priyanka Kumari, working as Sewika, is in maternity leave and he has come in her place to know difficulty then the CDPO told him that if he wanted to save job of his wife then he has to pay Rs.1,000/- (One Thousand) per month and apart from this she further demanded Rs.10,000/- (Ten Thousand) as the bribe and the accused asked him to pay Rs.5,000/- (Five Thousand) in 1-2 days. He heard the talkbetween the Complainant and the CDPO outside the door and after verifying the allegation, he returned to Ranchi and submitted his verifying report on 11.10.2012 before Superintendent of Police, Vigilance Bureau. He proved his verifying report which was marked as Exhibit-1.

Thereafter, the matter was handed over for investigation to Sri Ramanand Ram, Deputy Superintendent of Police, Vigilance Bureau then the investigating Officer on the same day constituted a raiding team at around 05:30 PM which was approved by Superintendent of Police, Vigilance Bureau Ranchi and he proved his signature as one of the raiding party marked as Exhibit-2. On the same day at around 06:00 PM evening all members of raiding party were directed to report in the office of Officer In-charge, VigilanceBureau and then he acquainted with all the members of raiding party and met them acquainted also

with the allegation of the Complainant. Thereafter, ASI Malti Minz produced one blank paper pasted with phenolphthalein powder and which was touched by Police Inspector Shamim Ahmad Khan through his right hand fingers and he had kept one Sodium Carbonate Solution in clean one transparent glass and in which the right hand fingers of Shamim Ahmad Khan were dipped then solution became pink and the said solution was sealed in a clean small bottle and Special Magistrate, IOShri Ramanand Ram and Complainant Basant Kumar Paswan put their respective signature on blank paper having pest of phenolphthalein powder.

70. Thereafter the IO asked the complainant to produce the amount to be given for graft and upon which the complainant produced one note of Rs.1,000/- (One Thousand) and eight (08) notes of Rs.500/- (Five Hundred) each, Total Rs.5,000/- (Five Thousand) were produced and upon which IO pasted phenolphthalein powder and kept the same in one envelope and returned to the complainant by directing him to give the said amount in bribe to CDPO otherwise it has not to be given. This P.W-1 was directed by the IO to remain with the complainant and to watch the process of giving and taking of money and the complainant was informed to signal by rubbing his face by his right hand after completion of gratification process. Thereafter IO has prepared G.C Note memorandum and asked them to arrive tomorrow at 07:00 AM and the P.W-1 had identified his signature as Exhibit-3 on G.C. Note memorandum.

He also alleged on 12.10.2012 i.e. the next day he alongwith members of raiding party left for CDPO Office, Koderma in the morning at 07:30 hours and arrived there at around 11:00 hours and the IO had instructed and given some directions to all the members of raiding party. Thereafter, he

i.e. P.W-1, followed the complainant at some distance and then the complainant went inside the office Chamber of CDPO and after some time his signaled by rubbing his face through his right hand by signaling the completion of gratification and then he alongwith other members of raiding party entered into the chamber of CDPO and introduced themselves by informing the purpose of their arrival and female members of raiding party had caught handsof CDPO and on hearing alarm nearby people assembled there and then the Investigating Officer introduced themselves to other people and apprised them the reasons for arriving there and requested two persons from the crowd assembled there. Thereafter two independent persons became present from the crowd and in whose presence the body of CDPO Binita Kumari was searched then Rs.5,000/- (Five Thousand) amount given was recovered from her which was given as the bribe and said recovered notes were compared with G.C Note memorandum and both had tallied.

Thereafter two small bottles having Sodium Carbonate Solution were brought and fingers of both hands of the accused CDPO were dipped then the solution kept in both the small bottles became pink. Both solutions were kept separately and sealed and the signatures of Special Magistrate, IO and both independent witnesses were obtained onthose two small bottles/glasses.

Thereafter the office of CDPO was searched and in course of search two independent witnesses Sidharth Pathak and Bharat Bhusan Lal were called and in whose presence some files/Sanchika were seized and signature of both witnesses (Sidharth Pathak and Bharat Bhusan Lal), Special Magistrate and IO were taken and thereafter the accused Binita Kumari was

arrested in presence of Sidharth Pathak and Bharat Bhusan Lal by preparing arrest memo.

Thereafter even the house of accused Binita Kumari was searched but no article was seized for the purpose of this case. He claimed to identify the appellant- Binita Kumari.

71. So far as cross-examination is concerned, P.W-1 namely, Jitendra Kumar hasstated that he does not remember as to in how many casehe had made verification and in how many cases he was member of raiding team and he does not remember the dates of all such cases. He also does not remember the dates of the date of occurrence in which he has given his evidence.

On being confronted about the date of occurrence of any case instituted in the year 2013 he could not say the any date and he could not remember the date. He also would not remember the date of occurrence of vigilance cases except this case of the year 2012.

He stated to be not acquainted with the Complainant-Basant Kumar Paswan prior to occurrence and he had not made verification of the Aadhar Card of the complainant Basant Kumar Paswan.

He further stated that he does not remember the area of CDPO Office and he also does not remember as to whether the office of CDPO is single storey or double storey and how many chambers were there. He does not remember as to whether there used to remain crowd in the CDPO Office or not. He had not even verified the said room of CDPO in which she was sitting. He stated and admitted in Para-32 that talk held between the parties would not be audible to the people outside the chamber.

He does not remember the doors and windows of the office of the CDPO and he had not even measured size of the room of CDPO. Acurtain was affixed on the door. Although the

talk of giving and taking who was being made slowly but it was audible to him.

He also did not remember the time when he had gone from Ranchi to verify the information but even on that day he had not entered into inside the office. On the next day, he again had gone for verifying the information but he neither remember the time of verifying nor the time for returning from the office. He also would not remember the time on 10.10.2012 when he had returned to office after verifying. He has shown ignorance about the boundary of the PO. He had returned in the morning after the raid but even on that day Priyanka Devi had not appeared before him and even till the date of his evidence said Priyanka Devi (wife of Complainant- Basant Kumar Paswan) had never remained present before him.

He admitted that they had not given their separate search prior to pasting phenolphthaleinpowder but after pasting phenolphthalein notes were handed over to the Complainant and he had also not seen the prior search of the Complainant during Para-41 of his cross-examination.

He stated that even after the process of bribe, neither the hands of Complainant nor the hands of members of raiding party were washed.

In Para-42, he admitted to her not seen the complainant handing over notes from his hands to the CDPO Madam and giving and taking of money was not done during his presence. The notes were seized from the files of Madam CDPO. However, he does not remember the files which were seized and that file from which the money was seized which was not marked as Exhibit.

He could not say as to whether the tainted money was kept inside the file or not. He denied the suggestion for performing

table work of verification and he also denied suggestion for doing wrong verification.

72. Thus, from scrutinizing the evidence of P.W-1 Jitendra Kumar, it is evident that P.W-1 was verifier of the allegation of the Complainant Basant Kumar Paswan and who had alleged that the appellant was demanding money from his wife and threatened her to remove from the service in case of non-payment of money. However, Kumari Priyanka, who is the wife of Complainant Basant Kumar Paswan, was never produced before him and he had not verified any allegation regarding demand of money from the wife of the Complainant.

From the evidence of P.W-1 it would appear that he has claimed that both bottles/glasses of Sodium Carbonate Solution became pink when both the hands of appellant namely, Binita Kumariwere dipped into those small glasses whereas Exhibit-13 reveals that colour of only one glass has changed into pink colour when the left hand fingers of the appellant namely, Binita Kumari were dipped into the Sodium Carbonate Solution which became pink and the Sodium Carbonate Solution kept in other glass did not change and its colour remained the same.

Thus, the evidence of P.W-1 is contradictory on the point of colour change of Sodium Carbonate Solution.

It is further evident that he had not seen the giving and taking away of money from the Complainant Basant Kumar Paswan to the appellant CDPO which he has admitted in Para-42 of his cross-examination.

The evidence of P.W-1 is also contradictory on the point of recovery of money from the appellant as he stated during his examination-in-chief at Para-20 that Rs.5,000/- (Five Thousand) was seized from the body of the appellant CDPO Binita Kumari

whereas in Para-42 he stated that the tainted money was seized from the files but even the said fileswere not seized.

Thus the evidence of P.W-1 Jitendra Kumar is not reliable.

73. P.W-2 Basant Kumar Paswan is the complainant of this case and stated that he had filed case against the appellant Binita Kumari who was working asthe CDPO in the Office of Block Development Office, Koderma and his wife Kumari Priyanka was posted as the Sewika at Anganwari Centre, Behradih-I, Centre No. 123. He alleged that the CDPO Binita Kumari was demanding Rs.1,000/- (One Thousand) per month from all Anganwari Centres and in case of non-payment of money, she used to threaten them for removing from their posts by issuing show cause notices.

He also stated that the appellant was putting pressure upon his wife for giving Rs.1,000/- per month as bribe but at that time, his wife was on maternity leave but inspite of above his wife was being harassed by showing show cause notices against her and as his wife was unable to walk and hence his wife asked him to meet with the CDPO. When the Complainant met the CDPO and questioned her for harassing his wife then she asked him to pay Rs.10,000/- (Ten Thousand) otherwise his wife will be removed from the service.

Then he had complained in the office of Vigilance on 05.10.2012 and proved his writing on application which was marked as Exhibit-4. Thereafter, on filing of such application he alongwith Inspector Jitendra Kumar had gone to CDPO Office, Koderma on 09.10.2012 but the CDPO was not found in her Chamber and hence they returned and on the next day on 10.10.2012 the CDPO was present in her office and then he asked the Verifier P.W-1 Jitendra Kumar to remain outside behind the curtain of the office of the appellant as she does not

talk about money in presence of any other person. The CDPO is said to have demanded Rs.10,000/- (Ten Thousand) from the Informant but he took time to arrange the money in few days. The CDPO asked the Complainant to pay the amount in question otherwise his wife will be removed from the selection. On the next day, he went to Ranchi where members of raiding party were present and he got acquainted with them. He further stated that a memorandum of notes were prepared and his signature is marked on the said memorandum as Exhibit-3/1. Thereafter, they assembled in the Vigilance Bureau Office on 12.10.2012 at 07:30 morning hours and left for CDPO Office, Koderma and arrived there by around 13:00 hours and the complainant was asked to make signal if money is demanded by CDPO. Two female constables were also the member of raiding party and they had taken their possessions. Thereafter, then he entered inside the office of CDPO then she demanded Rs.10,000/- (Ten Thousand) from him upon which he informed her for bringing Rs.5,000/- (Five Thousand) and remaining amount will be made available after 1-2 days.

He then signaled the members of raiding party by rubbing his face and then two female constables camebefore the CDPO and introduced themselves and caught both the hands of the appellant. He further stated that he went inside the office of the CDPO Binita Kumari who enquired as to whether he had brought Rs.10,000/- (Ten Thousand) then he stated to have brought Rs.5,000/- (Five Thousand) only and remaining will be arranged in 1-2 days. At that time CDPO was writing something with her right hand and she forwarded put her left hand for taking money then he handed over money to her and she kept the money below the files over the table where she was writing. She further asked him to bring the remaining amount within two

days. Thereafter he came outside and rubbed his face and signaled the members of raiding party. Then, two female constables went near the CDPO by introducing themselves and they caught her both the hands. Several people, who had come in block office, had assembled and members of raiding party had also assembled there. Thereafter the Special Magistrate introduced himself before the crowd and informed them that the CDPO has been caught while taking bribe and if some persons are willing to become witnessthen they should come forward and then two persons (Ramesh Prasad Sao @ Rameshwar Prasad Sao i.e. P.W-3 and Bharat Kumar i.e. P.W-5 came there and became witnesses. Then both the witnesses and officers gave their respective searches and the tainted money, which he had given to the CDPO, were recovered below the file and said notes were compared with the notes of memorandum which were found correct. Thereafter both the hands of accused were dipped in the Sodium Carbonate Solutions kept into different small glass then there was no change of colour in solution of the right hand of the accused but the solution became pink of the left hand of the accused was dipped and hence both the solutions were seized by closing in separate clean glasses. The signatures of witnesses and officers were taken on the seized notes and those notes were sealed in one envelope even one file of the appellant was recovered and seized and then the appellant Binita Kumari was arrested.

74. During his cross-examination, he stated that his wife was Sewika of Anganwari, Behradih-I Centre No. 123 and one Shanti Priya was Sahayika (i.e. Helper) and both Shanti Priya and his wife are Gotiya in relation and his wife and Shanti Priya have the relationship of Gotni.

He asserted that his wife was on maternity leave which was sanctioned and maternity leave of his wife was sanctioned in October for three (03) months because his wife hadapplied for approval of maternity leave for the months of October, November and December and the occurrence took place in October month while his wife was in maternity leave.

He denied for looking after the work of his wife and also denied of strained relationship between Sahayika (Helper) and Sewika. He admitted in Para-34 of his cross-examination that CDPO Madam (i.e. appellant) had called for explanation from Sahayika (i.e. Shanti Priya) and Sewika (i.e. wife of the Complainant). However, he replied in evasive manner by showing ignorance that he does not know as to whether show cause notice/explanation was issued on 24.07.2012 or does not know as to whether its reply was filed or not. He also admitted that reply of show cause notice dated 03.08.2012 was given but he does not remember as to whether explanation of the show cause notice was issued on 16.08.2012 or not?

He also admitted in Para-35 of his cross-examination that he is acquainted with the constitution of inquiry committee prepared by the Deputy Commissioner of District and in which 17 children were found present at Behradih-I, Centre No. 123. There is a register and attendance is filled in the attendance seat by Sewika and Sahayika themselves and attendance of children is filled by the Sewika.

In Para-36 he denied the question that centre of the wife of the Complainant was found closed. He admitted for reading newspaper but he denied the publication of news in newspaper that Behardih Centre was found closed. He also shown ignorance in Para-36 that news item was published in newspapers for closure of Behardih Centre (i.e. the Centre

where the wife of Complainant was working) was published in the newspaper on 18.08.2012, 09.09.2012, 04.09.2012 and 22.09.2012 respectively.

In Para-37 the cross-examination of P.W-2 was done in question and answer format and when it was questioned that District Deputy Commissioner had issued show cause notices to those centres which were found closed and where irregularities were found and direction for removing the person in case of unsatisfactory reply from the incumbent then the witness flatly stated that no such order was issued by the District Deputy Commissioner and which is falsified from Exhibit-'B' Series which is letter no.1188/GO dated 03.08.2012 issued by the Deputy Commissioner, Koderma to DSWO, Koderma directing him to submit his report regarding irregularities found in the Anganwari Centres during the inspection by the enquiring officers and who had submitted their reports and which is kept at page-72 of the learned Trial Court Record being part of Exhibit-B .

He has also shown ignorance as to how many show cause notices were issued upon his wife by the CDPO i.e. the appellant and has no information as to whether how many times his wife has given explanation to such show cause notices because his wife does not show a letter or record to him and which is also falsified from Exhibit-C to C/4 Series.

P.W-2 further admitted in Para-39 of his cross-examination that his wife was terminated/removed from selection on the next day after raid in the office of CDPO and on that day even Sahayika (Helper) were also removed from the selection. He admitted that approx 9-10 Sewika and Sahayika were removed from selection/terminated from the whole district

but he does not remember as to who has power to terminate/remove the Sewika and Sahayika from selection.

He has also shown ignorance as to who had terminated/removed his wife from selection then he showed ignorance in Para-40 of his cross-examination. In Para-41 he admitted for having seen the paper of termination but he does not remember as to who had put their signature or mohar on the termination order.

He had demanded inquiry report of constituted team of DC from District Social Welfare Officer through RTI and which was also made available to him.

In Para-42 he admitted to have read over the allegations for which his wife Sewika and Sahayika were charged. His wife has given application in writing to District Social Welfare Officer (in short to be referred as DSWO) against the inquiry report and a copy of which was also given to CDPO and this fact is admitted in Para-42 of his cross-examination.

He further admitted in Para-45 that he used to purchase ration of Anganwari Centre and bill was prepared by the shop keeper. He also could not say the names and details of those Anganwari Centres from which CDPO i.e. appellant had allegedly demanded money. He also admitted that his wife has not submitted any application before any officer with regard to demand of money by the C.D.P.O.

During further cross-examination in Para-46 to 48 he stated that CDPO was demanding money from the month of September and he was demanding money from all Anganwari Centres but he does not have any documentary paper of the same and thus P.W-2 was making only bald allegations against the appellant then CDPO.

In Para-49 he could not remember as to on which date CDPOi.e. appellant had demanded money from him. He has shown ignorance that inquiry was done against his wife and he also shown ignorance regarding show cause explanation from his wife. He also shown ignorance that the CDPO Madam i.e. appellant had sent her inquiry report vide letter No.495 dated 28.08.2012 before District Social Welfare Officer (i.e. part of Exhibit-B).

He stated that his wife is a graduate on being shown the application signed by the wife of the Complainant (P.W-2), which was marked as 'X' for identification, he admitted and identified the signature of his wife on the application marked as 'X'. However, he could not recognize the writing on another application in Para-50 of his cross-examination.

Para-51 of his cross-examination reveals the details of offices situated in Block Office, Koderma and he stated that there are offices of BDO, CO, Block Education Officer and CDPO in block premises and the block premises is a single storey building and he also could not state the time as to when he arrived at Ranchi on 10.10.2012. He also stated that Block Premises is an open field and where the crowd remains.

He denied the suggestion that disciplinary proceeding was initiated against his wife. He also denied the suggestion that centre was found closed due to absence of his wife and for this reason the Deputy Commissioner had constituted 18 (eighteen) team for verification of all centres. He denied the suggestion that CDPO had enquired on the basis of said direction of the DC and had submitted her inquiry report to the Senior Officer. He denied the suggestion for falsely implicating her by fabricating animaginary case for demanding money.

75. Thus, from scrutinizing the evidence of P.W-2 it is evident that he is the Complainant and he is only witness on the point of giving tainted money to the appellant on the date of occurrence on 12.10.2012. However, his evidence shows that after he came out from the chamberof CDPO then only two female constables went there and had apprehended the appellant by introducing themselves and this also contradicts the evidence of P.W-1 who had claimed that he had followed the complainant before the chamber of CDPO on the date of occurrence on 12.10.2012. He admitted in Para-35 that the DC had constituted an inquiry committee in respect of Behradih Centre-I in Para-35 of his cross-examination. However, he flatly denied the direction of DC for removing the Sewika and Sahayika whose explanations were found incorrect including the wife of the Complainant who was working as the Sewika of Anganwari Centre. He also failed to state the name of any person or any Anganwari Centre from whom the appellant had demanded money. However, he admitted for bringing the ration of Anganwari Centre where his wife was working. The evidence of P.W-2 will be again considered later on after evidence of other prosecution witnesses.However the evidence of P.W-2 is full of lies and concoction and does not inspire confidence and hence evidence of P.W-2 is not reliable.

76. P.W-3 is Ramesh Prasad Sao @ Ramehwar Prasad Sao who is an independent witness and driver. He stated during his evidence that on 12.10.2012 while he was going from the road to Koderma Block and on way he arrived near CDPO Office then he found the police standing there and the police called him. He further stated that the Police Personnels had some papers in their hands and they asked him to put signature on the paper as a raid is conducted here in the office of CDPO and

hence he put his signature on the seizure list which was marked as Exhibit-5. He also put his signature on the search-cum-seizure list which was marked as Exhibit-6.

He further stated that the memorandum of G.C. Note was prepared at the place of occurrence upon which he put his signature and which was marked as Exhibit-3/2.

77. During cross-examination he stated that he was crossing from place of occurrence at around 01:30 – 02:00 PM and had stayed there around five minutes and he left after five minutes. He further stated that the paper, on which he had signed, some were blank and some were written but he had not read those papers. He further stated that while he was crossing then the police called him and asked to put his signature and on the instruction of the police, he put his signature on the paper which he stated in Para-5 of his cross-examination. He further stated in Para-6 that neither any notes were recovered during his presence nor any raid was conducted during his presence nor the hands of anyone had washed or dipped into the glass/bottles.

Thus from scrutinizing the evidence of P.W-3, it is evident that he had put his signature on the seizure list and search-cum-seizure list and memorandum of G.C Notes which were marked as Exhibit-5, Exhibit-6 and Exhibit-3/2 respectively on the instruction of the Police without reading the same and even some of the papers were blank.

Even during cross-examination he stated that he had put his signature on the blank papers and they were writing in some papers but it was not read by him. He also stated that neither any note was seized before him nor any raid was conducted nor anyone had dipped their hands into the solution i.e. Sodium Carbonate Solution during his presence.

Thus P.W-3 namely, Ramesh Prasad Sao @ Ramehwar Prasad Sao has not supported the prosecution case on the point of recovery of money and on the point of raid and he contradicts the evidence of P.W-2 i.e. the Complainant who had stated in Para-26 of examination-in-chief that both hands of accused person were dipped into Sodium Carbonate Solution and solution of the bottle in which left hand was dipped it became of pink colour and G.C. memorandum notes was prepared in presence of witnesses in Para-26 and 28 of his examination-in-chief and also contradicts the evidence of P.W-1. He further contradicts the evidence of P.W-1 who had stated in Para-20 and 21 that before search of the CDPO body two independent witnesses were present and during presence of two witnesses, Rs.5,000/- (Five Thousand) tainted notes were recovered and which were compared with the memorandum of G.C. Notes. Thereafter two glass of Sodium Carbonate Solutions were brought and both hands of CDPO were dipped and colours of both solution became pink.

Thus, the evidence of P.W-3 does not support the prosecution case and hence evidence of P.W-3 is not reliable.

78. P.W-4 is Shamim Ahmad Khan who is DSP and stated during evidence that he was posted as an Inspector in the office on 11.10.2012 in Vigilance Bureau, Ranchi and on that day he learnt at about 05:00 to 05:30 pm that a raiding team is being constituted and he is one of the members of the same. Then he went to chamber and where he was got acquainted with the Complainant Basant Kumar Paswan by Inspector Jitendra Kumar P.W-1 and who stated that his wife is Anganwari Sewika but CDPO Binita Kumari is demanding bribe from her and then a raiding team was constituted and which was approved by the Superintendent of Police. He has further proved the format of

constitution of raiding team and in which he had also signed and which was marked as Exhibit-2/1. Thereafter a demonstration of chemical process was shown and one paper having pasted with phenolphthalein powder was dipped into Sodium Carbonate Solution and then solution became pink. Thereafter the complainant had produced currency notes of Rs.5,000/- (Five Thousand) and for which a memorandum of G.C. Notes was prepared after noting there denomination and number. He identified his signature on the G.C. Notes memorandum which was marked as Exhibit-3/3. Thereafter the phenolphthalein powder was pasted in all the notes and handed over to the complainant with the direction that this money has to be given to the accused on demand only. It was decided that all member will assemble on 12.10.2012 then on said date he went to Bureau Office and found all members of raiding party to be present there and they went to Koderma by two Government vehicles and the Complainant and Police Inspector Jitendra Kumar went ahead of them and the Complainant handed over tainted money to the accused and on the signal of Complainant, the members of raiding party apprehended the CDPO who had concealed the tainted money below the files. Thereafter the IO in presence of two independent witnesses dipped the hands of the CDPO inSodium Carbonate Solution which became pink and Solution and recovered tainted money were seized and the tainted money was matching in number and denomination on G.C. Notes memorandum then they arrested the accused and arrived at Ranchi.

79. During cross-examination, he stated that at the time of constitution of raiding party 10-11 persons were present and he was not acquainted with Basant Kumar Paswan prior to occurrence.

They left from Ranchi on 12.10.2012 between 07:00 to 07:15 hours in morning. However, G.C. Notes, having pasted with chemical substance were not sealed in the paper. He does not remember as to whether the money was given to Basant Kumar Paswan by wrapping in paper or not. He could not say as to whether the hands of Basant Kumar Paswan were washed or not at the time of preparing memorandum of G.C. Notes. He does not remember the road condition from Hazaribagh to Barhi and Barhi to Koderma in the year 2012. He could not say as to when he arrived at Koderma. He does not remember that there is Anchal Office near the Office of the CDPO.

He does not remember the direction and boundary of the office of CDPO. He does not remember also about curtain and he had not taken any note of the place of occurrence.

He also stated that he was also outside the office when tainted money was given and no transaction of tainted money was done during in his presence. He does not remember as to how many files were kept on the table. He also does not remember as to whether the file was seized or not which was discussed.

He further stated in Para-12 of his cross-examination that nothing was searched from the body and handbag of CDPO. He also does not remember as to whether the money which was recovered, was wrapped in a paper or kept in the open condition.

He also does not remember as to whether the hands of the Complainant Basant Kumar Paswan were washed or not at the time of raid but both the hands of CDPO were washed.

Evenhe does not remember as to which colour was found from which hand which was dipped. He denied the suggestion for not having gone to Koderma and for not seen having any recovery from CDPO.

80. Thus, from scrutinizing the evidence of P.W-4, it is evident that he was posted as the Inspector in Vigilance Bureau on 11.10.2012 then the raiding team constituted. However, he does not remember at the time of raid as to from which hand the money was recovered and he does not remember as to from which hand was dipped into Sodium Carbonate Solution had become pink. He even does not remember as to how the money was recovered from the CDPO. He has himself admitted that he was also outside the office when tainted money was said to be given by the complainant. Thus apart from the evidence of P.W-4 to member of a raiding party, his evidence do not supportthe prosecution case as he has not supported the manner of recovery of money from the appellant.

The evidence of P.W-4 also contradicts the evidence of P.W-3 and P.W-5 who had stated that nothing was seized during their presence and no recovery of notes was made during their presence and even they had denied that the hands of the appellant were dipped into the Sodium Carbonate Solution in two glasses, whereas P.W-4 had stated during his examination-in-chief at Para-6 that after seizure of money independent witnesses were called and both hands of the CDPO were dipped into Sodium Carbonate Solution. He also could not remember as to whether the hands of the Complainant Basant Kumar Paswan were washed or not at the time of raid and thus the evidence of P.W-4 does not support the prosecution case.

81. P.W-5 is Bharat Kumar and he is also independent witness and the business man. He stated during his evidence that the occurrence took place in the year 2012 and he was going to Block from his house and then he heard noise near the office of CDPO where huge crowdhad assembled and he also went there and then he learnt that the CDPO, Binita Kumari has been

caught with tainted money. Then he had put his signature on the seizure list and which was also signed by his friend Ramesh Prasad Sao @ Rameshwar Prasad Sao and he had identified his signature on seizure lists marked as Exhibit-5/1 and Exhibit-6/1 respectively.

82. However during cross-examination he stated that he had not seen Binita Kumari i.e. the appellant taking money and had stayed at the place of occurrence for about 4-5 minutes only. He also stated that he had put his signature on 3-4 blank papers in Para-4 of his cross-examination. He also stated that 5-6 females were present and standing at the place of occurrence but he does not know as to whether Binita Kumari waspresent or not? He had left the PO after put his signature on 3-4 blank paper. He further stated in Para-5 that nothing was written on the papers which were signed by him. No money was recovered before him and hands of none were dipped/washed into solution. He had not seen the seized money also.

83. Thus from scrutinizing the evidence of P.W-5, it is evident that he is also an independent witness and he had put his signatures on the seizure lists which were marked as Exhibit-5/1 and Exhibit-6/1 and he had put signatures on the blank papers only and nothing was written on it. Therefore, it is evident that the evidence of P.W-5 contradicts the evidence of P.W-1 at Para-20 and 21 of his evidence and also contradicts the evidence of P.W-2 Complainant Basant Kumar Paswan at Para-26 and 28.

Thus the evidence of P.W-5 does not support the prosecution case and hence evidence of P.W-5 is not reliable.

84. P.W-6 is Rajkumari Oraon who is member of the raiding party and she is Constable No.127 and she stated during her evidence that she was posted as constable on 11.10.2012 in Vigilance Bureau, Ranchi and on that day a raiding team was

constituted and she was informed that a trap is to be made for the CDPO Binita Kumari, Koderma. On next day i.e.on 12.10.2012 they had left with the full team at around 07:30 morning and she proceeded with Inspector Jitendra Kumar, ASI Manti Minz and they were guarding the office of the CDPO situated in Koderma Block from the outside. Where the Complainant Basant Kumar Paswan signaled for handing over the bribe then they went inside and she introduced herself to the CDPO and caught her left hand and Manti Minz caught her right hand and then all members of team introduced themselves to the CDPO and enquiredfrom CDPO who denied from taking any money. Thereafter two glasses/bottles of waterwere brought and the right hand fingers of accused were dipped into one glass but the water remain cleaned and it did not change the colour but when left hand was dipped into second water glass then solution became pink and then the solution of both hands were sealed in one bottle.

She further stated that on searching the tainted money, the same was found inside the file. The paper works at the place of occurrence was done by her officers and then the appellant was brought with seized articles.

She further stated that she cannot identify the appellant on account of gap of time.

85. During cross-examination, she stated to have noprior acquaintance with the Complainant Basant Kumar Paswan and she could not say the size of the room of the office of CDPO. She was outside the room of CDPObut she does not remember the direction of the door and she does not remember as to whether there was curtain in the room of the CDPO or not. She admitted that the CDPO had not taken money during her presence and she had not seen from her own eyes taking money

by the CDPO. There were 3-4 files where money was kept below but she does not know as to whether those files were seized or not?

She also stated that her hands were not washed and even the hands of Basant Kumar Paswan were not washed. However, the hand of one staff was washed but she does not remember his name. She is not aware of seizure list for the Sodium Carbonate Solution.

She is not aware as to what papers works was being done by the officers and she does not remember as to whether note was opened or wrapped in a paper. She also admitted that she had seen the Complainant Basant Kumar Paswan in the CDPO Office for the first time and she had seen Basant Kumar Paswan on the date of occurrence and not prior to the date of occurrence. She had not searched the CDPO and she had caught the left hand of CDPO. She denied the suggestion for not taking money was a CDPO.

Thus, P.W-6 contradicts the evidence of P.W-1, P.W-4 and P.W-8.

86. Thus, from scrutinizing the evidence of P.W-6 who was lady constable and was a member of raiding team, it reveals that she was one of the members of raiding party and on the signal of informant she had caught the left hand of the CDPO and one Manti Minz (Not Examined) had caught her right hand of CDPO but nothing was seized from the hands of CDPO. She further stated in Para-5 that on search, the tainted money was found below the files.

Thus, the examination-in-chief of P.W-6 reveals that nothing was recovered from the hands of CDPO when she was caught by her left hand.

However, even during her cross-examination, she stated that she was outside the room of CDPO in Para-8 and 9 and had stated that CDPO had not taken money during her presence and she had not seen whether the CDPO had taken money from her own eyes rather the money was kept below the files. She also stated that neither her hands nor the hands of Basant Kumar Paswan were washed prior to search.

This amounts to be a lacuna on the part of prosecution as it was mandatory that the hands of the member of raiding party and the complainant ought to have been washed in presence of some independent witness before making raid in the office of the CDPO under the provision of Section 100 of Cr.P.C.

She i.e. P.W-6 has shown ignorance about the paper work and had stated that paper works were being done by a superior officer. She had also not stated about the presence of independent witnesses i.e. P.W-3 Ramesh Prasad Sao @ Rameshwar Prasad Sao and P.W-5 Bharat Kumar for the purpose of putting signature on the seizure list and search-cum-seizure list and also preparation of memorandum of G.C. Notes. Even she had not stated the presence of P.W-3 and P.W-5 and when both the hands of the appellant were dipped into two glasses containing Sodium Carbonate Solution and also she had denied the presence of Sidharth Pathak (Not Examined) and Bharat Bhusan Lall (Not Examined) regarding seizure of files from the office of the CDPO.

Thus, the evidence of P.W-6 has been taken only on the point of making raid in the office of the CDPO and presence of P.W-6 at the time of raid.

87. P.W-7 is Amit Kumar who was posted as a Special Magistrate in Vigilance Bureau, Ranchi on 11.10.2012 and at present working as Deputy Secretary, Industry Department. He

stated during evidence on 11.10.2012 he learnt about constitution of raiding team in the evening at 05:00 PM and he was asked to the member and he put his signature on the list of member which was marked as Exhibit-2/2. Then the Complainant Basant Kumar Paswan was acquainted with the members of raiding team and who informed i.e. wife Smt. Priyanka Kumari is Anganwari Sewikain Behardih-I Centre No.123 but CDPO Smt. Binita Kumari is demanding Rs. 1,000/- (One Thousand) bribe per month from his wife. As his wife is pregnant and hence he met the CDPO Binita Kumari who asked him to pay Rs.10,000/- (Ten Thousand) otherwise his wife will be removed from the services and on his request the CDPO agreed to Rs.5,000/- (Rs. Five Thousand) in the first installment and remaining amount was to be paid later on. Then he instituted complaint in Vigilance Bureau and the Police Inspector Jitendra Kumar P.W-1 informed them that he has verified the allegation on 10.05.2012 (it appears to be typographical error as it should be 10.10.2012 instead of 10.05.2012 on the part of Presiding Officer concerned). Thereafter the complainant had produced one note of Rs. 1,000/- (One Thousand) and eight (08) notes of Rs.500/-(Five Hundred) and which was handed over to IO for preparing G.C. Note memorandum and he identified his signature on G.C. note memorandum which was marked as Exhibit-3/4. Thereafter physical demonstration was done as stated by the other prosecution witnesses earlier, hence the same is not being repeated here. He further stated that the complainant was apprised to hand over phenolphthalein powder pasted notes to the accused on demand only.

Thereafter on 12.10.2012 i.e.on the next day they proceeded for Koderma by two vehicles and arrived at Koderma Block Office between 11:00 to 11:30 AM and they remained in

their position as per instruction given to the members of raiding party before the office of CDPO. On getting signal at around 12:00 noon they went to the office of CDPO and he had seen that ASI Manti Minz had caught the right hand of the appellant and Smt. Rajkumari Oraon had caught the left hand of the appellant and a crowd had assembled on their request two any independent witnesses came forward who were Ramesh Prasad Sao i.e.P.W-3 and Bharat Kumar i.e. P.W-5. Thereafter they had given their search to those independent witnesses and they had also searched those independent witnesses but no objectionable article was found except the wearing glove. Thereafter Smt. Binita Kumari was searched in presence of the independent witnesses and Rs.5,000/- (Five Thousand) was recovered below the files kept on table of the official chamber of CDPO and which was compared with G.C. memorandum and notes were found to be similar and then he, Investigating Officer and two independent witnesses had put their respective signatures on those notes. Thereafter the right hand of CDPO Binita Kumari, was dipped into Sodium Carbonate Solution but its colour remained white i.e.it does not change and it was sealed in glass bottle which was marked as Exhibit-C and then he i.e. P.W-7 &P.W-8 (i.e. I.O.) and two independent witnesses put their respective signatures. Thereafter the left hand of the accused was again dipped into Sodium Carbonate Solution and the colour of water became pink which was sealed in a glass bottle and he alongwith the IO and two independent witnesses put their respective signatures.

Thereafter property search and acquisition format were prepared having his signature which was marked as Exhibit-5/2 then the house of the accused Binita Kumari was searched but no objectionable article was seized from her house and his paper

was prepared having his signature which was marked as Exhibit-6/2. Thereafter one file was seized from her office which was District Level Inquiry Report and for which Production-cum-Seizure list was prepared in his signature which was marked as Exhibit-7. Thereafter one arrest memo was prepared in his signature which was marked as Exhibit-8 and then accused was apprehended and brought to Ranchi.

88. During cross-examination he stated that he was present in the office on 11.10.2012 but on 11.10.2012 Priyanka Kumari who was not present before the members of raiding party. He has no prior acquaintance with the complainant- Basant Kumar Paswan.

He alongwith Basant Kumar Paswan had arrived the office of CDPO at around 11:30 hours and there is a block premises near her office. The Office of CDPO is consisting of 3-4 rooms and they were some crowd also. The CDPO arrived at 12:00 noon. He further stated in Para-21 and 22 that he was outside the campus and he was not in a building. He also stated that no transaction was taken place during his presence. He also stated that hands of Complainant Basant Kumar Paswan was not washed and even on the date of occurrence the hands of none of the members of raiding party were washed. He does not remember as to whether the money was wrapped in a paper or blank. He also could not state about number of files kept over the table of the CDPO. All files were not seized. He admitted that no money was recovered from the body or bag of the accused-appellant. He also admitted that prior to giving tainted money the hands of Complainant Basant Kumar Paswan were not washed.

He further stated that he does not remember as to whether the hands of Basant Kumar Paswan were washed or not after

pasting chemical on the notes. The notes given by Basant Kumar Paswan were pasted with phenolphthalein powder and it was given in the hands of Basant Kumar Paswan by wrapping in the white paper but it was not sealed and seizure list of white paper was not prepared and the said white paper was of A/4 size.

He further stated in Para- 24 that the accused was arrested at around 05:30 in the evening. However, the house of accused was searched but nothing was seized from her house. He was member of raiding team and but he was not the Investigating Officer.

He further stated in Para-25 that his statement was recorded 1-2 days after 12.10.2012. However, Basant Kumar Paswan has not returned with him to Ranchi nor Priyanka Kumari was ever present at the place of occurrence. He denied the suggestion for giving false evidence.

Thus, from scrutinizing the evidence of P.W-7, it is evident that he was the Special Magistrate on the date of occurrence when tainted money was recovered allegedly from the hands of accused/appellant. He has been examined on the point of recovery of tainted money from the appellant and preparation of seizure list and search-cum-seizure list and also Sodium Carbonate Solution of one class which became pink.

However, during cross-examination he stated in Para-21 and Para-22 that he was outside the campus and not in a building of CDPO and no transaction was done during his presence thus P.W-7 had not seen the occurrence. He further admitted in Para-21 that neither the hand of Complainant Basant Kumar Paswan i.e. P.W-2 nor none of the members of raiding party (i.e. P.W-1, P.W-2, P.W-4, P.W-6 and P.W-8) had been washed prior to conducting raid of tainted money in the office of

CDPO. He also admitted in Para-22 that nothing was seized from the body and bag of the accused/appellant.

89. The evidence of P.W-7 is further contradicted from the evidence of P.W-3 and P.W-5 because P.W-7 has stated that the appellant was searched in presence of two independent witnesses and then tainted money was recovered below the files kept on the table of the appellant and then both hands of the accused were dipped into two water glass solution containing Sodium Carbonate Solution and one of them became pink when left hand of the accused-appellant was dipped into one of the two glasses. However, P.W-3 has stated in Para-4 and Para-5 that he had put his signature on some blank papers and some written paper but he had not written on the said paper and he was called by the police and instructed to put his signature and then he left. P.W-3 also stated in Para-6 that no note was recovered during his presence and no raid was conducted during his presence and none had washed the hand of anyone during his presence.

Similarly, P.W-5 Bharat Kumar also stated in Para-4 and Para-5 of his cross examination that he had put his signature 3-4 blank papers and has stayed at the place of occurrence for around 4-5 minutes. He further stated that nothing was written on the paper when he had put his signature and the paperswere blank. He further stated that no money was recovered during his presence. He also stated that none had washed his hands during his presence nor he had seen the seized money.

Thus, the evidence of P.W-7 is contradicted from the evidence of P.W-3 namely, Ramesh Prasad Sao @ Rameshwar Prasad Sao and P.W-5 namely, Bharat Kumar even the evidence of P.W-7 is not convincing as he was present outside the campus and building of the CDPO which he had admitted that the office

chamber of the CDPO was consisting of 3-4 rooms and it was not clear as to from which door, the P.W-1 was listening the talk between the Complainant Basant Kumar Paswan i.e. P.W-2 and the accusedBinita Kumari.

90. P.W-8 is Ramanand Ram who was the Investigating Officer of this case and he was posted as DSP on 11.10.2012 in Vigilance Bureau, Ranchi. He stated that on the direction of Shri R.K. Prasad, thenS.P., Vigilance, Ranchi. The present case was instituted by Dhanweshwar Ram then DSP-cum-Officer In-charge and investigation of this case was hand over to him.

He has proved the formal FIR and the signature of said Dhanweshwar Ram which was marked as Exhibit-9 and also proved the endorsement on certified copy of report writing and signature of Dhanweshwar Ram, Officer In-charge which was marked as Exhibit-10. He further proved the direction of then S.P.R.K. Prasad in his writing and signature which was marked as Exhibit-10/1.

He further stated that after taking investigation of this case, he had constituted the raiding team and the list of raiding team was approved by than Superintendent of Police, R.K. Prasad and which was typed by the typist Jal Sagar Ram on his direction and which bears his signature as well as the signature of other members and list of raiding team was marked as Exhibit-11. Thereafter he had prepared memorandum of G.C. Notes and all the members of raiding team assembled in the office of Vigilance Bureau which also include than Police Inspector Jitendra Kumar i.e. P.W-1 and the Complainant Basant Kumar Paswan i.e. P.W.-2. All the members of raiding team gave their introduction to the Complainant and all members were informed the reason for their assembling and it was informed to the members of raiding party that Basant

Kumar Paswan has informed i.e. wife Kumari Priyanka his Sewika in Behradih-I, Centre No. 123 however CDPO Smt. Binita Kumari, Block Office, Koderma is demanding Rs.1,000/- (One Thousand) per month as bribe from said Kumari Priyanka and due to non-payment she is threatening to remove her from the services. She is presently wife of Complainant is the maternity leave but she is being harassed by the repeatedly issuing show cause notices again for paying the bribe money and due to inability of his wife she sent her husband for meeting with CDPO and even after meeting of CDPO then accused-appellant threatened the complainant to the extent that if he wants to save the job of his wife then he has to pay Rs.10,000/- (Ten Thousand) bribe and he filed an application to this effect and which was verified by Police Inspector Jitendra Kumar by going with the complainant at the place of occurrence and even it was found correct thereafter the case has been instituted by finding the occurrence to be correct.

Thereafter he further described the process of demonstration of chemical process like P.W-1 and P.W-2 and hence the same is not being repeated here.

He further demonstrated the process of chemical action of Phenolphthalein powder and Sodium Carbonate and Smt. Manti Minz, ASI pasted Phenolphthalein powder on a blank paper and said paper who was touched by Shamim Ahmad Khan, Police Inspector by his right hand and verifier Jitendra Kumar Paswan had prepared solution of Sodium Carbonate in a clean glass and when Police Inspector Shamim Ahmad Khan (P.W-4) dipped his fingers of the right hand in the said solution then the solution became pink and the said pink colour solution was sealed in a clean glass and a paper pasted on it having signed by him i.e. P.W-8 Special Magistrate and the complainant and which

was marked as Exhibit-A. Thereafter it was sealed in a clean envelope and the solution of the pink colour in the sealed glass was marked as Exhibit-B.

Thereafter the complainant was directed to produce the bribe amount before the members of raiding party and then the complainant produced upon note of Rs.1,000/- (One Thousand) and eight notes of Rs.500/- each. Then a memorandum was prepared by mentioning the denomination number of the notes produced by the complainant and which was prepared by Constable Chandan Kumar in his signature and the said memorandum G.C. Notes was signed by him i.e. P.W-8, members of raiding party and two independent witnesses (Not Examined) and the signature of complainant and the memorandum of G.C. notes were marked as Exhibit-12. Thereafter the complainant was directed to hand over those G.C. notes to FIR named accused Binita Kumari, then CDPO, Prakhand Block, Koderma on demand of bribe otherwise it was not to be given and then members of raiding party and armed forces and vehicle drivers who were directed to remain present at 07:00 AM in the morning on 12.10.2012.

Thereafter the members of raiding party, Special Magistrate and armed forces had assembled at 07.00 AM on 12.10.2012 and they proceeded for the office of the CDPO, Koderma. The Complainant Basant Kumar Paswan was again directed to hand over bribe money to the accused on demand only otherwise it is not to be given and if bribe is accepted by the accused then he will come out from the room and will rub his face by both hands as signal and then further process will be done and the Inspector Jitendra Kumar (P.W-1) and Inspector Shamim Ahmad Khan (P.W-4) will remain outside the office and Smt. Manti Minz, ASI (Not Examined) and Smt. Rajkumari

Oraon (P.W-6) will remain with the complainant at the distance of 10-15 yards then they will keep watch on each other and as soon as the accused will receive the money then both Police Personnel will do further process.

He further stated that on the signal of Basant Kumar Paswan all the members of raiding team became active and both Police Personnels, after introducing themselves to CDPO Smt. Binita Kumari by showing their identity cards caught her hands and Rajkumari Oraon (P.W-6) caught her left hand whereas right hand was caught by ASI Manti Minz (Not Examined) and then members of raiding team and Special Magistrate Amit Kumar and he arrived at CDPO Office, Koderma where he had seen that the Police Constable Rajkumari Oraon (P.W-6) had caught the left hand of accused Smt. Binita Kumari and female ASI had caught her right hand. Due to activity of members of raiding party, and alarmraised by them they introduced themselves to the crowd by showing their identity cards and the Complainant Basant Kumar Paswan (P.W-2) apprised that accused Binita Kumari, CDPO had demanded bribe and he had kept the tainted money below the file by her left hand. Then he requested the people of assembled crowd that search of the accused Binita Kumari CDPO has to be done as she was caught red handed by taking the bribe from Basant Kumar Paswan who is husband of Aanganwari Sewika Kumari Priyanka and hence two witnesses are required for her search. On the request of Investigating Officer two persons came forward to become the witnesses and who disclosed their name as Bharat Kumar i.e. P.W-5 and Ramesh Prasad Sao @ Rameshwar Prasad Sao i.e. P.W-3. Thereafter in presence of those two witnesses i.e. P.W-3 and P.W-5 and after following the process of rules of seizure in presence of Special Magistrate, Female Police

Personnel had searched the body of CDPO Smt. Binita Kumari but nothing was found from her body except the wearing glovebut a sum of tainted money of Rs.5,000/- was recovered below the files kept over the table having one note of Rs.1,000/- and eight notes of Rs.500/- total Rs.5,000/- .

Thereafter Inspector Jitendra Kumar (P.W-1) brought two glass of water and he prepared solution of Sodium Carbonate and the right hand fingers of accused Binita Kumari were dipped but there was no change in colour and which was marked as Exhibit-C and the said solution was sealed in one clean glass and paper was pasted which was signed by two independent witnesses, Special Magistrate and him i.e. P.W-8.

He further stated that in the second glass the hand of accused Binita Kumari was dipped then solution became pink and which was marked as Exhibit-'Ka' (it appears to be clerical and typographical error by the PA concerned as it is marked as Exhibit-'Ka' instead of 'Exhibit-D') and the said solution was sealed in a another clean glass by pasting paper bearing the signature of two independent witnesses, Special Magistrate and him.

Thereafter said recovered G.C Notes were compared with G.C. Notes memorandum by the two independent witnesses and which were found correct. He also further stated that the witnesses had compared the numbers of G.C. Notes and then it was mentioned in G.C. note memorandum.

The IO has further deposed in Para-26 that these are the notes which were produced by the Complainant Basant Kumar Paswan in the bribe and signature of both independent witnesses, Special Magistrate and him were taken on recovered G.C. Notes. The said recovered G.C. Notes were seized by mentioning there denomination number by preparing the

property search and acquisition format and which were signed by him and two independent witnesses and the Magistrate. He has proved the property search and acquisition format prepared by Chandan Kumar on his direction marked as Exhibit-13.

Thereafter the accused was arrested and he has proved the arrest memo prepared in the writing of Chandan Kumar and signed by him i.e.P.W-8 and which was marked as Exhibit-14.

Thereafter the house of the accused was searched but no objectionable article was found. He has further produced this seizure-cum-search list format in writing of Chandan Kumar and signed by him which was marked as Exhibit-15.

He has further proved the seizure list prepared by Chandan Kumar regarding seizure of one file (Page-01 to 56) submitted byaccused Binita Kumari before District Level Enquiry Committee and which was marked as Exhibit-16.

He has further described the place of occurrence which is the Chamber of the office of CDPO situated in Koderma Block-cum-Anchal Office Premises. He stated that building of office is pacca having western direction and there are three rooms in the office building and the chamber of CDPO is situated in South West room which is the place of occurrence of this case and there were table and chair in that chamber upon which the CDPO sits and Rs.5,000/- (Five Thousand) has been recovered from the files of CDPO kept on the table. There is ceiling fan attached with the roof and there is one attached bathroom and there are two windows in the room. There is building of Anchal Karyalaya (i.e. Anchal Office) towards the South region of the office and there is building of Block Health Centre in north direction, Government quarter in East direction and there is big field in the Western side.

Thereafter he had sent the seized notes and solution to Forensic Science Laboratory, Ranchi with the permission of the Court and then vide Letter No.7447/AP dated 10.11.2012. He had sent requisition for prosecution sanctioned against the accused Binita Kumari before the Secretary, Social Welfare, Government &Child Welfare Department (Social Welfare Directorate) Jharkhand, Ranchi which was obtained by him in Para-33 of his evidence.

Thereafter he had submitted charge-sheet against the accused Binita Kumari, CDPO under Section 7/13(2) read with section 13(1)(d) of PC Act, 1988 on 11.12.2012.

91. The IO during cross-examination stated that he was not acquainted with the complainant prior to this case and he had not investigated on the point which was given in writing by Basant Kumar Paswan i.e. P.W-2. He stated that the wife of Basant Kumar Paswan P.W-2 never came before him even the show cause/explanation called from the wife of the complainant, the said letter was not produced before him.

During cross-examination he further stated in Para-37 that he was present with the raiding team but he does not remember that the Special Magistrate Amit Kumar (P.W-7), Inspector Jitendra Kumar (P.W-1), Inspector Shamim Ahmad Khan (P.W-4), ASI Smt. Manti Minz (Not Examined), Constable Rajkumari Oraon (P.W.6), Constable Prem Lall (Not Examined) and others were present in the member of raiding team. He also stated that Basant Kumar Paswan had not accompanied him when they left from Ranchi rather he was in another vehicle and they had left at around 07:00 AM in the morning and they arrived Koderma as 11 O'clock and at that time madam i.e. CDPO was in the office.

He further stated that the appellant-accused Madam was in office and the office was one storey and there is office of Block-cum-Anchal Office near her house and hence it is natural that there was crowd. There is distance of 100 Kilometer from Ranchi to Koderma and took around four hours for arriving at Koderma and they had taken break-fast in line hotel on way to Koderma.

He further stated that tainted money was kept in the envelope and the envelope was not sealed. He admitted in para-39 and 40 that the amount was not recovered from the hands of the CDPO and it was kept below in front of chair at the left side there was several files on the table in the office of CDPO but those files were not seized. He further stated in Para-39 and 40 that money was not received from the hand of the Madam i.e.the CDPO and nothing was recovered from the conscious possession of the accused and all the members of raiding team were outside the office of the place of occurrence and he had not seen from his own eyes the tainted money being taken by the CDPO.

He further stated in Para-41 that the hands of Basant Kumar Paswan were not washed at the place of occurrence and all of them hadsearched the money below the file and they had not also washed their handsat the place of occurrence. He tried to clarify by stating that they had not touched the money and hence they had not washed their hands but he admitted that the amount, which was touched by the person their hands, were also not washed. The recovered amount was sealed at the place of occurrence and even the envelope was sealed at the place of occurrence by keeping the seized money.

He had not prepared the seizure list from his hands rather it was prepared by his associates. They had searched the

residential house of the CDPO situated in Koderma and the right and left hand of the CDPO were washed however the glass in which the hands of accused were washed, was not produced during his evidence.

He had also not made investigation on the file seized by him as it was not related with this said case.

The said IO P.W-8 was further cross-examined on 16.08.2019 i.e.after gape of 16 days as he was examined and partly cross-examined on 30.07.2019.

During further cross-examination he further stated that after complete all formalities he left from Koderma Anchal that around 2 O' Clock i.e. 02:00 PM. He had conducted raid at 12 Noon and then he had gone to the house of the accused which is situated at the distance of 5 Kilometer from the place of occurrence and they arrived Ranchi at 07:30 PM.

He further stated that he had recorded the statements of two independent witnesses on 12th (Twelve) day i.e.12.10.2012. He further stated that on the same date on which he had investigated and proceeded and the diary was written alongwith the raid. He had also kept computer operator with him and even the computer and printer were taken by him but he does not remember the name of typist. After completing all formalities, he had taken the statement of all the witnesses on the same day but he cannot say the time taken in completing the said process even the subsequent statement of informant was recorded on 12.10.2012 and also recorded the statement of Special Magistrate and all the witnesses within two hours of raid and he has recorded the statement of witnesses in seriatim and he had not taken the statement of any witness in Ranchi. He further stated that Smt. Binita Kumari was arrested at 12 Noon and it was typed whenever he spoke and even the seizure list was

prepared during the said process. However, he could not say the time taken in handwash and preparing the seizure list.

He stated in Para-50 of his cross-examination that the typist was private however this fact has not been stated in the case diary. He further stated that he had gone with the computer operator, computer machine and printer but this fact has not been mentioned in the case diary. He has also not mentioned in the case diary that the note was kept in the envelope when they left from Ranchi. He further admitted in Para-51 that the notes which he had got marked as exhibits in the Court, have not been produced before this Court when he was giving evidence before the Trial Court on the last date (i.e. on 30.07.2019). He also admitted that chemical solution and water were also not produced before this Court. He also admitted and stated that he had not met with the wife of the Informant and he had also not seen any paper which may reveal that the wife of the Informant was pregnant.

He denied for giving false evidence and also denied for doing table work and in proper investigation.

92. Thus from scrutinizingthe evidence of P.W-8, it is evident that he was the investigating officer of this case and he was also present at the time of occurrence with the members of raiding team. This witness P.W-8 had also prepared the members of raiding team which was approved by the than Superintendent of Police, R.K. Prasad. The investigation of IO also shows that the right hand of the accused Binita Kumari was caught by Manti Minz.

It further transpires from the evidence of P.W-8 in Para-18 to 20 that P.W-6 Rajkumari Oraon, Constable had caught the left hand of the accused-appellant whereas the right hand of the accused was caught by ASI Manti Minz. The

envelope containing Rs.5,000/- tainted money was recovered in Para-22 of his evidence.

However during cross-examination he stated in Para-39 and 40 that tainted money was kept in the envelope and the envelope was not sealed and it was recovered from the file in front of chair of the accused. Thus, the recovery of Rs.5,000/- and recovery of money amount of Rs.5,000/- kept in the envelope have two different angles. The evidence of P.W-8 is also contradictory to the evidence of P.W-3 Ramesh Prasad Sao @ Rameshwar Prasad Sao and P.W-5 Bharat Kumar who had stated that in para-6 (i.e. PW-3) and in para-4 (i.e. PW-5) that neither raid nor money amount were recovered before them. However, P.W-8 has supported and the prosecution case during his evidence.

93. P.W-9 is Arjun Gope who is Sub-Inspector of Vigilance Bureau and had produced the Material Exhibits of Nigrani P.S. Case No. 24/12 which has been stapled by affixing tape on one white envelope and in which Nigrani P.S. Case No. 24/12, MR No.37/12 Ranchi, MR 97/18 dated 11.06.2018 and SD entry No. 77/18 dated 11.06.2018 have been written. The said envelope was opened in presence of both sides with the permission of Trial Court and then it was found one note of Rs.1,000/- and eight notes of Rs.500 each. He has mentioned the denomination number notes as follows:

> "The number of Rs.1,000 note is 7ET014066 whereas the numbers of currency notes of Rs.500/- were having number - 4TN995669, 9GP103631, 6RQ033702, 3CN661758, IEL088318, 4QP300771, 7UF460523 and IEW783416."

He further stated that all the notes were signed by witness Bharat Kumar i.e. P.W-5 and Ramesh Prasad Sao @ Rameshwar Prasad Sao i.e. P.W-3, Special Magistrate i.e. P.W-7 and

Investigating Officer i.e. P.W-8 and thosenotes were marked as Material Ext.-I is currency note of Rs.1000 having No.7ET014066, (ii) Material Ext.-Il to Material Ext.-IX are currency notes of Rs.500/- bearing No.4TN995669, 9GP103631, 6RQ033702, 3CN661758, IEL088318, 4QP300771, 7UF460523 and IEW783416, respectively.

94. During cross-examination he stated that he had not participated in this case. He had received letter from the learned Trial Court for producing the Exhibit and in which MR No.37/12 is mentioned but date is not mentioned. He also stated that the envelope was not sealed before him and he had not seen the sealing because at that time his posting was not done.

He further stated in Para-5 that he had received this envelope from Ranchi Malkhana on 11.06.2018 and had seen that envelope in Ranchi Malkhana which was kept by the investigating officer. There was entry from arriving to Hazaribagh from Ranchi but no mohar is affixed on the envelope and he does not contain the signature of any person and no one has written over the envelope.

Thus P.W-9 Arjun Gope is a formal witness and who was produced the letter exhibitsi.e. tainted money which was marked as Material Exhibit-IX respectively.

95. It further transpires from the Trial Court Records and evidence of witnesses that the documents were marked as Exhibit-1 to Exhibit-16 respectively. During evidence of prosecution witnesses including P.W-1 to P.W-8 and even the document of defence was marked as X and X/1 during cross-examination of P.W-2 Basant Kumar Paswan.

96. It further transpires from the record that although the charge-sheet was submitted in this case against appellant on 11.12.2012 under Section 7 and section 13(2) read with section

13(1) (d) of the Prevention of Corruption Act. However the sanction order was not received by the learned Trial Court i.e. learned Special Judge, Vigilance, Ranchi and as such cognizance was not taken on the date of receiving the charge-sheet under Section 7/13(2) read with section 13(1)(d) of the Prevention of Corruption Act by the learned Trial Court.

97. It further reveals that sanction order was received and sent before the Trial Court on 20.03.2013 and thereafter the learned Special Judge (Vigilance), Ranchi has taken cognizance against the appellant under Section 7/13 (2) read with section 13(1) (d) of the Prevention of Corruption Act on 20.03.2013 against the accused-appellant Binita Kumari.

Thereafter vide order dated 20.03.2013 the learned Special Judge (Vigilance), Ranchi directed the office to write a letter to the learned Principal Judicial Commissioner, Ranchi for order the transfer this case record to the Court of learned Special Judge (Vigilance), Hazaribag for trial and disposal as this case is related to territorial jurisdiction of District, Koderma.

98. It further transpires that sanction order was not produced before the learned Trial Court even after closure of evidence of P.W-9 namely, Arjun Gope on 07.09.2019.

99. Thereafter a petition was filed before the learned Special PP before the learned Trial Court on 07.09.2019 for which a rejoinder was filed by the defence-appellant on 17.12.2019 and thereafter vide order dated 09.01.2020 the learned Special Judge, ACB, Hazaribag has marked the sanction order as Exhibit-17 and FSL report as Exhibit-18 respectively in the light of provision of Section 293 of Cr. PC by placing reliance upon the judgment reported in AIR 1972 SC 975 and also reported in the case of State Vs Gangula in 1977 (1) SCC 272.

100. Exhibit-17 is the sanction order given by then Secretary to Government-cum-Legal Remembrances, Department of Law and Justice, Jharkhand, Ranchi.

101. Exhibit-18 is SFSL report dated 08.01.2016 and which was issued in the signature of R.S. Singh, I/c Director, State Forensic Science Laboratory, Jharkhand, Ranchi and Dr. K. Kumari, Assistant Director, FSL, Jharkhand, Ranchi and the description which is mentioned as follows:

> "1. The envelope Marked A contained a plain piece of paper of length 10.2 cm and width 8.7 cm bearing the signatures of Ramanand. Basant Kumar Paswan and the Special Magistrate on 11.10.12.
>
> 2. The glass phial Marked B was having a label bearing the signatures of Ramanand, Basant Kumar Paswan and the Special Magistrate on 11.10.12. It contained 175 ml of pink coloured solution with white sediments.
>
> 3. The glass phial Marked C was having a label bearing the signatures of Ramanan, Ramesh Prasad Sao, the Special Magistrate and one other person on 12.10.12. It contained 174 ml of light pink coloured solution having white sediments.
>
> 4. The glass phial Marked D was having a label bearing the signatures of Ramanand. Ramesh Prasad Sao, the Special Magistrate and one other person on 12.10.12. It contained 172 ml of pink coloured solution having white sediments.
>
> <u>Result of Examination(s)</u>
>
> 1. Phenolphthalein was detected on the paper Marked A contained in the envelope Marked A, described above.

2. Phenolphthalein and Sodium Carbonate were detected in the contents of all the three glass phials Mark B, C and D, described above."

102. Therefore, from the perusal of SFSL report dated 8.01.2016 issued by SFSL, Jharkhand, Ranchi it would appear the same is also contradictory to Exhibit-13 which was prepared on 12.10.2012 on the date of occurrence because in Exhibit-18 Phenolphthalein and Sodium Carbonate were detected in the contents of all the three glass phials which were marked as Mark B, C, D (i.e. glass file mark C and mark D both were containing 174 ml of light pink colour solution and 172 ml of pink colour solution both having white sediments whereas Exhibit-13 reveals that glass file marked-C it reveal that no colour was changed when the right hand of fingers of Smt. Binita Kumari, CDPO was dipped into Sodium Carbonate Solution and Exhibit-D reveals that when left hand fingers were dipped into Sodium Carbonate Solution then it became light pink which was marked as Exhibit-D.

103. Therefore it is evident that there is contradiction even in the chemical examination report of the tainted money i.e. Ext.-18 because Exhibit-13 reveals that colour of only one glass was changed when the left hand fingers of the accused were dipped into solution whereas Exhibit-18 reveals that colours of both glasses glass i.e. phial marked as Exhibit-C and Exhibit-D changed. Even in the Exhibit-13 the prosecution has mentioned solution but not mentioned Sodium Carbonate Solution and Phenolphthalein whereas the Exhibit-18 reveals that Exhibit-C and Exhibit-D contained Phenolphthalein and Sodium Carbonate Solution. Then Ex.t-18 is a doubted report and prepared on account of lapses of the investigating officer and prosecution witnesses.

104. So far as documents of the defence i.e. appellant is concerned, it reveals that Exhibit-A is letter dated 25.01.2020 sent by District Public Relation Officer, Koderma to Binita Kumari, CDPO which relates to deposit of amount with the Government Exchequer by auctioning the newspapers from January, 12 to December, 17 and it was informed that the record is not available.

Exhibit-B letter dated 22.01.2020issued by District Social Welfare Officer to Binita Kumari, CDPO by which informations with regard to 16 items have been furnished by supplying the photo copies of the same and in which it is mentioned that except item No. 6 and 14 the photo copies of all informations are being supplied to the query and which runs in approx- 59 pages and which is enclosed at Page 70 to 128 of the Trial Courtrecord in the list of defense exhibits.

From perusal of Page-72 and 73 of Exhibit-B of LCR, it reveals that Deputy Commissioner, Koderma had called for report from District Social Welfare Officer regarding action on inquiry report vide letter No.1188 dated 03.08.2012 and Page-73 reveals at Behardih Centre-1 (Code-123) the condition is not good and there is lack of noticeable material poshahar and Sewika (i.e. wife of the Complainant Basant Kumar Paswan, P.W-2) never remains present regularly.

105. It further reveals from Page-85letter dated 07.08.2012 issued by DSWO, Koderma to all CDPOs' of Koderma District that Anganwari Centres are not being conducted properly which is matter of concern and hence all the CDPOs' of Koderma District including the appellant was directed to call for explanation from the concerned Sewika/Sahayika with regard to schemes and sent their opinion after obtaining their explanations.

Page-86 reveals that it is Memo no.430 dated 16.08.2012 issued by CDPO to Smt. Priyanka, Sewika of Anganwari Centre, Behardih Centre-1 (Centre Code No. 123) by which the CDPO i.e. the appellant had issued show cause notice to wife of the Complainant Basant Kumar Paswan in the name of Priyanka, Sewika by informing her that enquiry team constituted by the order of DC, Koderma had submitted report by which it has been informed that work culture of Anganwari Centres were not found proper at Behardih Anganwari Centre-1 by referring 14 clauses of irregularity particularly and it was found in Serial No.1 that the registers of Anganwari Centre were not maintained whereas Serial No.4 reveals that presence of children were found comparatively low at Child Centre, Serial No.7 reveals that growth chart who was not available, Serial No.8 reveals that weight machine is not being used, Serial No.17 reveals that maintenance cleanliness and child care condition were found miserable whereas Serial No.14 reveals that centre is being managed in autocratic, irregular and miserable condition and not as per norms of Government Guideline.

106. Page-96 of Exhibit-B of LCR reveals about the conduct of Smt. Priyanka Kumari, Sewika (wife of complainant) and Sahayika Smt. Shanti Devi, it was found even by the CDPO i.e. appellant that children were not found and centre was closed without any reason and several explanations submitted by both Sewika and Sahayika were found unsatisfactory. Both Sewika and Sahayika belong to one family in this centre and there is tension between both of them with regard to Central Fund and both charge each other for conducting the maintenance of the centre and even at the time of inspection and supervision they used to quarrel with each other in presence of Inspecting Officer.

The CDPO vide letter no. 367 dated 03.08.2012 had called for explanation from them as to why the centre was found closed on 03.08.2012 then they admitted that the centre is closed due to non-ability of fund of THR. Thereafter the CDPO i.e. appellant had directed for removal of selection/termination of Sewika and Sahayika from the centre so that the welfare of common people may be done.

107. It further reveals from Page-96 of Exhibit-B of LCR which is the order of DDC, Koderma on 11.10.2012 by which recommendation was made for removal of Sewika (wife of the complainant) and Sahayika from Behardih Centre-1 (Code-123) due to closure of Centre and irregularity at the Centre.

108. Page-104 of Exhibit-B contains another show cause notice dated 03.08.2012 issued by CDPOi.e. the appellant to Priyanka Kumari (wife of complainant Basant Kumar Paswan) and Shanti Devi for noticing that theCentre was closed there was no maintenance of store register and they were found absent and children were not present and time table is not being maintained.

109. Page-112 of Exhibit-B of LCR reveals the information given by M.O. addressed to CDPO on 20.07.2012 that Behardih Centre-1 was inspected and found in bad condition and only five children were present. Due to dispute of Sewika and Sahayika no noticeable material is supplied to the children on 11.07.2012 and both Sewika and Sahayika are relation but there is no coordination between them even earlier on 04.02.2012 the Centre was found closed.

110. Page-113 of Exhibit-B is another show cause notice dated 24.01.2012 issued by the CDPO i.e. appellant to Kumari Priyanka, Sewika by which show cause notice issued to the wife of complainant for committing various irregularities at her Behardih Centre-1.

111. Exhibit-C is the inspection report dated 03.08.2012 issued by Binita Kumari i.e. the CDPO to Kumari Priyanka by which it was informed that the Centre was found closed at the time of inspection and both Sewika and Sahayika were absent and condition of Behardih Centre is miserable due to personal dispute between Sewika and Sahayika and hence recommendation will be made for initiating necessary proceeding against them before Senior Officer.

Exhibit-C/1 is another inspection report dated 11.01.2012 referred to Kumari Priyanka, Sewika (wife of complainant) and also Sahayika Shanti Priya for maintaining the register and the presence of children is unsatisfactory and no noticeable article i.e. rice and pulse were not found.

Exhibit-C/2 is show cause notice dated 24.01.2012 issued by CDPO-appellant upon Kumari Priyanka, Sewika (wife of complainant) for various irregularities found at Behardih Centre-1.

Exhibit-C/3 is report dated 20.07.2012 sent by Municipal Officer to CDPO, Koderma Sadar regarding improper and badly conducting of Behardih Centre-1 showing dispute between the Sewika and Sahayika and bad track record of maintaining food items.

Exhibit-C/4 is the application dated 16.08.2012 (with interpolation of date) submitted by Sewika Kumari Priyanka (wife of the complainant) before CDPO, Domchanch, Koderma for maternity leave and which was forwarded by the appellant on 16.08.2012 in favour of Sewika and thus the appellant had not even rejected the application of the wife of the complainant for maternity leave which had applied by Kumari Priyanka (wife of complainant).

Exhibit-C-5 and C-6 are the prescriptions and test report and same is not relevant as it relates to Priyanka Devi who was not produced during trial.

Exhibit-C/7 is another show cause notice dated 03.08.2012 issued by CDPO to Priyanka Kumari, Sewika and Shanti Devi, Sahayika regarding various irregularity and closure of Centre on 03.08.2012 at the time of inspection.

Exhibit-C/8 is the explanation furnished by Kumari Priyanka (Sewika) who was wife of the complainant to CDPO i.e.the appellant by which she had shown difficulty for not maintaining the centre and has admitted her dispute with her relative Shanti Devi who is Sahayika of Behardih Centre.

Exhibit-D is memo no. 193 dated 03.08.2012 issued by DSWO, Koderma from the office of Deputy Commissioner which relates to sending information no.1 to 5 in total 28 sheets to one Rakesh Kumar of Akashdeep Apartment and by which it reveals from Page-167 of Exhibit-D of LCR that the Aanganwari Centre Behardih (Code No-123) were inspected on 03.08.2012 but Sewika (wife of complainant Basant Kumar Paswan) and Sahayika were found absent and the Centre was closed.

112. It further reveals from Exhibit-E is letter no.73 dated 08.03.2012 sent bythe CDPO, Koderma to Smt. Binita Kumari, CDPO, Ormanjhi by which the certified copy of application of Case No.26/12 was made available to them and which runs from Page-169 to 184.

It reveals that Page-176 is the same letter dated 20.07.2012 sent by Municipal Officer to CDPO, Koderma Sadar informing him about dispute between Sewika and Sahayika and they quarrel with each other in his presence.

Page-184 is the letter no. 577 dated 13.10.2012 issued by the office of Deputy Commissioner Office, Koderma under the signature of District Social Welfare Officer, Koderma to CDPO, Koderma by informing that in the light of inquiry report submitted by District Level Officers several Sewikas' and Sahayikas' were terminated due to irregularities at the Centre and Kumari Priyanka, Sewika (wife of the complainant Basant Kumar Paswan) and Shanti Devi, Sahayika of AnganwariCentre, Behardih Centre-1 (Code No.123) were removed from selection/terminated and various other Sewika and Sahayika were also terminated by the said letter dated 13.10.2012 and the name of Kumari Priyanka is mentioned at serial no.1 of the said letter.

113. It transpires that Sidharth Pathak and Bharat Bhusan Lal were not examined on behalf of the prosecution, although it was claimed that some files of the CDPO were seized in their presence and they had put their signature on the arrest memo of the appellant.

114. The reason for filing this case is falsified from the evidence of P.W-2, P.W-4, P.W-7 and P.W-8 because DDC had issued show cause notice vide letter no. 452 dated 07.08.2012 marked as Exhibit-B Series and the appellant had also issued show cause notice to the wife of the complainant Basant Kumar Paswan Memo No.430 dated 16.08.2012 marked as Exhibit-B Series and on 11.10.2012 itself the DDC had issued office order by which various Sewikas including Kumari Priyanka (the wife of the Complainant Basant Kumar Paswan) were removed from their services/selection and which has been marked as Exhibit-B series dated 13.10.2012 at page- 184 of LCR.

115. The evidence of P.W-2 further reveals that even he does not remember the date on which bribe money was demanded by

the appellant and he could not say the name of any Anganwari Centre from which the appellant had allegedly demanded Rs.1,000/- (One Thousand) per month. He had flatly denied the inquiry report vide letter no. 495 dated 28.08.2012 sent by the appellant to DSWO.

116. The IO has stated this fact for the first time during his evidence that two independent witnesses i.e. P.W-3 namely, Ramesh Prasad Sao @ Rameshwar Prasad Sao and P.W-5 namely, Bharat Kumar had compared the recovered notes with the G.C. Notes memorandum marked as Exhibit-12. The above facts have not been stated by P.W-1 Jitendra Kumar, P.W-2 Basant Kumar Paswan Complainant, P.W-4Shamim Ahmad Khan, DSP than Inspector, P.W-6 Rajkumari Oraon and even i.e. P.W-3 Ramesh Prasad Sao @ Rameshwar Prasad Sao and P.W-5 Bharat Kumar.

This is improvement of prosecution case on the part of the IO regarding the process of comparing the recovered note with the G.C. memorandum notes i.e. Exhibit-12 by the independent witnesses.

117. The evidence of P.W-8 contradicts the evidence of P.W-7 Amit Kumar Special Magistrate made in Para-20 of his cross-examination who had stated that the Madam CDPO was not present in the office and had arrived late at around 12 O' clock noon.

118. It has been held by the Hon'ble the Supreme Court in the case of "Ajit Kumar Vs. State of Jharkhand" vide judgment dated 05.10.2026 passed in Criminal Appeal No. 4573 of 2026 at Para-18 to 21 as follows:

> "Para-18:-From an analysis of the evidence as extracted above, what transpires is that PW-1 had approached the vigilance office on 19.04.2010 and lodged the complaint regarding demand of bribe by the

accused. PW-2 was assigned the task of verifying the complaint and to submit report. It appears that he had accompanied PW-1 on 22.04.2010 to the office of the accused where he is stated to have overheard the demand of bribe made by the accused to PW-1. However, there was considerable delay in the submission of his report, which was submitted on 19.05.2010. He explained the delay by saying that PW-1 could not immediately arrange the bribe money. But that had nothing to do with the truthfulness or otherwise of the complaint. Be that as it may, the trap operation was carried out on 20.05.2010 but there are inconsistencies galore in the narration of facts. Without getting bogged down on the inconsistencies, what is startling to note is that on 20.05.2010 when PW-1 offered to pay the bribe money to the accused in his office, both of them left for the residence of the accused where it is alleged that the bribe money was given to the accused. According to the version of some witnesses, the accused was apprehended in his residence; on the other hand, as per the version of some other witnesses, after PW-1 and accused came back to the office from the residence and on PW-1 signaling to the vigilance team that he had paid the bribe money, the vigilance team barged into the office of the accused and apprehended him. As per this version, accused was then taken to his residence from where the bribe money was allegedly recovered from under his pillow. But what is uniformly common is that none of the witnesses have seen the accused demanding bribe or PW-1 handing over the bribe money to the accused. There is no evidence in this regard. It is only the uncorroborated testimony of PW-1. A couple of witnesses have even gone to the extent of saying that they had signed the seizure list on being directed to do so by the vigilance officials.

Para-19:- In P. Satyanarayana Murthy Vs. State of A.P.1, this Court held that proof of demand of illegal gratification is the sine qua non for constituting an offence under Sections 7 and 13 of the PC Act. In the

absence thereof, the charge would fail. Failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of alleged bribe money from the accused would not be sufficient for a conviction under Sections 7 or 13 of the PC Act. This Court held thus:

> 23. The proof of demand of illegal gratification, thus, is the gravamen of the offence under Sections 7 and 13(1)(d)(i) and (ii) of the Act and in absence thereof, unmistakably the charge therefor, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, dehors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Section 7 or 13 of the Act would not entail his conviction thereunder.

Para-20:- This aspect was also gone into by a Constitution Bench of this Court in Neeraj Dutta Vs. State (Government of NCT of Delhi)2. The Constitution Bench declared that proof of demand and acceptance of illegal gratification by a public servant as a fact in issue has to be proved by the prosecution. It is essential to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of the PC Act. This Court declared amongst others, as follows:

> 88.1. (a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of the Act.
>
> 88.2. (b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue

> can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.

Para-21:- A two-Judge Bench of this Court in Aman Bhatia Vs. State3, surveyed the law on this aspect and came to the conclusion that mere recovery of tainted money, by itself, is insufficient to establish the charge(s) against an accused under the PC Act. The Bench held that to sustain a conviction under Sections 7 and 13 of the PC Act, the prosecution must prove beyond reasonable doubt that the public servant voluntarily accepted the money, knowing it to be a bribe. Thus, the demand for bribe is the sine qua non for establishing an offence under Sections 7 and 13 of the PC Act. The Bench held as under:

> 52. It is well-settled that mere recovery of tainted money, by itself, is insufficient to establish the charges against an accused under the PC Act. To sustain a conviction under Sections 7 and 13(1)(d) of the Act respectively, it must be proved beyond reasonable doubt that the public servant voluntarily accepted the money, knowing it to be a bribe. The courts have consistently reiterated that the demand for a bribe is sine qua non for establishing an offence under Section 7 of the PC Act.

21.1. Finally, the Bench concluded as follows:

> 55. From the above exposition of law, it may be safely concluded that mere possession and recovery of tainted currency notes from a public servant, in the absence of proof of demand, is not sufficient to establish an offence under Sections 7 and 13(1)(d) of the PC Act respectively. Consequently, without evidence of demand for illegal gratification, it cannot be said that the public servant used corrupt or illegal means, or abused his position, to obtain any valuable thing or pecuniary advantage in terms of Section 13(1)(d) of the PC Act."

119. It has been held in the case of "M. Narsinga Rao Vs. State of A.P." reported in (2001) 1 SCC 691 at Para-22 as follows:

> "Para-22:-In Raghubir Singh v. State of Haryana5 V.R. Krishna Iyer, J. speaking for a three-Judge Bench, observed that the very fact of an Assistant Station Master being in possession of the marked currency notes against an allegation that he demanded and received that amount is "res ipsa loquitur". In this context the decision of a two-Judge Bench of this Court (R.S. Sarkaria and O. Chinnappa Reddy, JJ.) in Hazari Lal v. State (Delhi Admn.) can usefully be referred to. A police constable was convicted under Section 5(2) of the Prevention of Corruption Act, 1947, on the allegation that he demanded and received Rs 60 from one Sriram who was examined as PW 3 in that case. In the trial court PW 3 resiled from his previous statement and was declared hostile by the prosecution. The official witnesses including PW 8 have spoken to the prosecution version. The Court found that phenolphthalein-smeared currency notes were recovered from the pocket of the police constable. A contention was raised in the said case that in the absence of direct evidence to show that the police constable demanded or accepted bribery no presumption under Section 4 of the Act of 1947 could be drawn merely on the strength of recovery of the marked currency notes from the said police constable. Dealing with the said contention Chinnappa Reddy, J. (who spoke for the two-Judge Bench observed as follows: (SCC p. 396, Para 10)
>
> > "It is not necessary that the passing of money should be proved by direct evidence. It may also be proved by circumstantial evidence. The events which followed in quick succession in the present case lead to the only inference that the money was obtained by the accused from PW 3. Under Section 114 of the Evidence Act the court may presume the existence of any fact which it thinks likely to have happened, regard being had to the

> common course of natural events, human conduct and public and private business, in their relation to facts of the particular case. One of the illustrations to Section 114 of the Evidence Act is that the court may presume that a person who is in possession of the stolen goods soon after the theft, is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession. So too, in the facts and circumstances of the present case the court may presume that the accused who took out the currency notes from his pocket and flung them across the wall had obtained them from PW 3, who a few minutes earlier was shown to have been in possession of the notes. Once we arrive at the finding that the accused had obtained the money from PW 3, the presumption under Section 4(1) of the Prevention of Corruption Act is immediately attracted. The presumption is of course rebuttable but in the present case there is no material to rebut the presumption. The accused was, therefore, rightly convicted by the courts below."

120. It transpires from the impugned judgment passed by the learned Trial Court that the learned Trial Court has convicted the appellant on the basis of evidence of P.W-1 i.e. a Verifier namely, Jitendra Kumar, P.W-2 i.e. Complainant namely, Basant Kumar Paswan, P.W-3 namely, Ramesh Prasad Sao @ Rameshwar Prasad Sao and also P.W-5 namely, Bharat Kumar.

However the learned Trial Court has further held in Para-25 that the money was recovered not from the person ofthe accused but from under a file on the table of accused. It was also held that the alleged trap was led on 12.10.2012 whereas the evidence of this witness i.e. P.W-1 namely, Jitendra Kumar was recorded on 30.05.2018 after a lapse of more than five years and

as per evidence of this witness he has been member of the raiding parties in money trap cases of ACB. Hence there is room for natural loss of memory regarding a particular case and he has not expected to give mirror like picture of the entire occurrence.

This observation of the learned Trial Court is absurd and not sustainable.

121. It is further evident that P.W-1 has failed to give picture of place of occurrence where he has visited thrice. He could not say about even the room where the money was recovered of the office of appellant than Block Office, Koderma and even he failed to say at Para-31 during cross-examination as to whether the office of the CDPO is single storey or double storey and how many chambers were there. It has come in the evidence of P.W-8 at Para-31 that there was Chamber of the CDPO consisting of 3-4 rooms. Therefore, this Court is of the view that the Verifier P.W-1 namely, Jitendra Kumar had not even visited the premises of the Office of the CDPO, Koderma i.e. the appellant on 09.10.2012 and 10.10.2012. Although he had gone there on 12.10.2012, had P.W-1 really visited the office of CDPO Office, Koderma on 09.10.2012 and 10.10.2012 continuously, he must be awareabouts some details of the office of CDPO and there cannot be a loss of such huge memory that he could not remember anything as to whether the building was single storey or double storey or consisting of some rooms. Therefore, the reliance upon the evidence of P.W-1 by the learned Trial Court is wholly illegal, arbitrary and not sustainable in law. The evidence of P.W-1 namely, Jitendra Kumar is full of contradiction and inconsistencies and cannot be relied upon.

122. The learned Trial Court has relied upon the evidence of P.W-2 namely, Basant Kumar Paswan and held that version of

P.W-2 is free from false and the same is reliable. Even the learned Trial Court held that the irregularities were found with the Anganwari Centre of the wife of the complainant and the same has been proved by the defense by through cross-examination/prosecution witnesses and also by the documentary evidence produced on behalf of the defense but the same does not falsify the case of the prosecution regarding demand of bribe.

The learned Trial Court has completely ignored the defence of the appellant which was confronted to P.W-2 in para-34, 35, 36, 37, 39, 40, 41, 42 and 46 to 51 during his cross-examination.

123. The learned Trial Court further noticed that the appellant was the immediate Superior and Supervising Officer of the wife of the Complainant and she had made inspections of Anganwari Centre of Behardih-Ion 03.08.2011 and 11.01.2011 which was evident from Exhibit-C and Exhibit-C/1. Even the appellant had issued show cause notice vide Exhibit-C/2 against the wife of the Complainant. She had forwarded even the application of maternity leave of the wife of the Complainant vide Exhibit-C/4, C/7 and C/8 respectively and the wife had also filed explanation before the appellant.

124. The learned Trial Court further held that P.W-4, P.W-6, P.W-7 and P.W-8 namely, Shamim Ahmad Khan, Rajkumari Oraon, Amit Kumar and Ramanand Ram have given evidence in favour of the prosecution and have proved the fact that they were member of raiding party and had participated in the trial and had supported the recovery of Rs.5,000/- (Five Thousand) under the file of the table of the appellant. However, it was also noticed by the learned Trial Court that the first witness has been examined on 30.05.2018 and P.W-8 i.e. IO examined on

18.08.2021 and these witnesses came for the deposition after lapse of about six (06) years from the date of alleged trapped. All the members of raiding party are officials of Vigilance Bureau and they have monotony of conducting similar raids and going to similar procedure in different cases of similar nature. Hence there is room for the possibility that they would not remember of a particular case and its fact in toto.

125. Thus the learned Trial Court has convicted the appellant only on absurd grounds and in an illegal manner.

126. It is further evident that no post trap memorandum who was prepared by the prosecution. Neither the verifier namely, Jitendra Kumar (P.W-1) nor the IO (P.W-8) namely, Ramanand Ram had prepared any document to show the factum of incident regarding trap which trap conduct against the appellant namely, Binita Kumari on 12.10.2012. Except the document marked as Exhibit-13 on 12.10.2012 which is the Property Search-cum-Acquisition Format showing dipping of left hand fingers and right hand fingers in the Sodium Carbonate Solution and the glass in which right hand dipped into remained as usual in white colour without any change in the nature of colour whereas left hand fingers dipped into Sodium Carbonate Solution became pink.

However the seizure list witnesses P.W-3 namely, Ramesh Prasad Sao @ Rameshwar Prasad Sao and P.W-5 namely, Bharat Kumar had denied to have seen any occurrence or incident of dipping into left hand fingers/right hand fingers into the glass. They had simply stated to put their respective signatures on the papers and they had denied the contents of the papers. Thus Exhibits-13 has also been prepared without the proper knowledge of a P.W-3 namely, Ramesh Prasad Sao

@ Rameshwar Prasad Sao and P.W-5 namely, Bharat Kumar for the incident taking place on 12.10.2012.

127. Therefore the non-preparation of post trap memorandum is a vital lacuna on the part of the prosecution and will goes to the route of the matter as to how the raid was conducted and as to how the money was recovered and there is gape of around six (06) years when the witnesses started giving deposition in Court in the year 2018 as P.W-1 namely, Jitendra Kumar was examined on 30.05.2018, P.W-2 namely, Basant Kumar Paswan was examined on 28.06.2018 and 24.07.2018, P.W-4 namely, Shamim Ahmad Khan (DSP) was examined on 21.01.2019even P.W-8 i.e. IO namely, Ramanand Ram was examined on 30.07.2019. Thusthe witnesses were examined in the period of six (06) to nine (09) years and there is an ample time to state the evidence in the own ways.

128. It is further evident from the evidence of P.W-8 namely, Ramanand Ram (IO) that he was also the member of raiding team on 12.10.2012 in Para-37 of his evidence during cross examination and he is even the IO of the trap case. The IO and member of a raiding team become the same person in a trap case is a serious lacuna on the prosecution case as the IO will support and justify his investigation.

129. The Hon'ble Supreme Court has further held in the case of ***Megha Singh vs. State of Haryana*** reported in ***(1996) 11 SCC 70915*** that the officer who had arrested the accused should not have proceed with the investigation of this case and should not be made I.O. The above judgment has been followed in the case of ***State By Inspector of Police, Narcotic Intelligence Bureau, Madurai, Tamil Nadu vs. Rajangam*** reported in ***(2010) 15 SCC 369.***

130. It has been held by Hon'ble Supreme Court in the case of ***State By Inspector of Police, Narcotic Intelligence Bureau, Madurai, Tamil Nadu vs. Rajangam*** reported in ***(2010) 15 SCC 369*** at para nos.8, 9 and 10 as follows:-

> "**Para-8:-** The short question which falls for consideration of this Court is: whether PW 6 who registered the crime could have investigated the case or an independent officer ought to have investigated the case?
>
> **Para-9:-** The learned counsel appearing for the accused submitted that the controversy involved in this case is no longer res integra. In Megha Singh v. State of Haryana [(1996) 11 SCC 709 : 1997 SCC (Cri) 267] , this Court has taken a categorical view that the officer who arrested the accused should not have proceeded with the investigation of the case. The relevant paragraph reads as under: (SCC p. 711, para 4)
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> > "4. … We have also noted another disturbing feature in this case. PW 3, Siri Chand, Head Constable arrested the accused and on search being conducted by him a pistol and the cartridges were recovered from the accused. It was on his complaint a formal first information report was lodged and the case was initiated. He being complainant should not have proceeded with the investigation of the case. But it appears to us that he was not only the complainant in the case but he carried on with the investigation and examined witnesses under Section 161 CrPC. Such practice, to say the least, should not be resorted to so that there may not be any occasion to suspect fair and impartial investigation."
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> **Para-10:-** The ratio of Megha case [(1996) 11 SCC 709: 1997 SCC (Cri) 267] has been followed by other cases. In another case in Balasundaran v. State [(1999) 113 ELT 785 (Mad)] , in para 16, the Madras High Court took the

same view. The relevant portion reads as under: (ELT p. 790, para 16)

> "16. Learned counsel for the appellants also stated that PW 5 being the Inspector of Police who was present at the time of search and he was the investigating officer and as such it is fatal to the case of the prosecution. PW 5, according to the prosecution, was present with PWs 3 and 4 at the time of search. In fact, PW 5 alone took up investigation in the case and he had examined the witnesses. No doubt the successor to PW 5 alone had filed the charge-sheet. But there is no material to show that he had examined any other witness. It therefore follows that PW 5 was the person who really investigated the case. PW 5 was the person who had searched the appellants in question and he being the investigation officer, certainly it is not proper and correct. The investigation ought to have been done by any other investigating agency. On this score also, the investigation is bound to suffer and as such the entire proceedings will be vitiated."

131. It is evident that P.W-8 Ramanand Ram who is the I.O of this case, was earlier a member of Trap Team and who had also arrested the appellant on 12.10.2012 and who had got constituted the pre-trap memorandum dated 11.10.2012 vide Exhibit-2.Thus the irregularities made by the I.O. i.e. P.W-8 namely, Ramanand Ram is clearly vitiated in the light of judgment of Hon'ble Supreme Court reported in (2010) 15 SCC 369.

132. It has been held by the Hon'ble Supreme Court in the case of "**P. Somaraju v. State of Andhra Pradesh**" reported in **2025 INSC 1263** equivalent to **[2025] 10 S.C.R. 1217** at para-17, 18 and 19 as follows:

"Para-17:- We are unable to appreciate the reasoning adopted by the High Court in this regard. In the first place, the negative result of the 'hand-wash' test was only one of several suspicious circumstances considered by the Trial Court, not the first or most determinative one. More importantly, it is not the case of either side that the appellant physically handled the tainted notes, and the same has been accepted by the High Court. The prosecution maintains that the notes were dropped into the drawer at the appellant's instance, while the defence asserts that they were placed there without his knowledge. For either side, the 'handwash' test and the negative result thereof is of no consequence as it cannot advance the case one way or the other. What is troubling is that the High Court has nevertheless seized upon this circumstance and gone on to attribute wrongful intent to the appellant. We take this opportunity to reiterate that suspicion, however strong, cannot take the place of proof.

Para-18:- The statutory presumption under Section 20 of the PC Act is not automatic and arises only once the foundational facts of demand and acceptance are proved. The same has been reiterated time and again by this Court; in the recent decision of Rajesh Gupta vs. State through Central Bureau of Investigation,9 it was held:

> "17. For an offence under Section 7 of PC Act, the demand of illegal gratification is a sine qua non to prove the guilt. Mere recovery of currency notes cannot constitute an offence under Section 7 of PC Act, unless it is proved beyond reasonable doubt that accused voluntarily accepted the money, knowing it to be a bribe. The proof of acceptance of illegal gratification can follow only if there is proof of demand."

> Para-19:- It is therefore vital to examine these elements before the circumstance of recovery can assume any significance. We once again rely on the observation of this Court in Rajesh Gupta (supra):
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> > "16. ….The law is well-settled by the judgments of this Court in Panna Damodar Rathi vs. State of Maharashtra (1979) 4 SCC 526 and Ayyasami vs. State of Tamil Nadu (1992) 1 SCC 304, whereby it has been clarified that the sole testimony of the complainant, who is the interested witness, cannot be relied upon without having corroboration with the independent evidence."

133. In the case of "**P. Somaraju v. State of Andhra Pradesh**" reported in **2025 INSC 1263** equivalent to **[2025] 10 S.C.R. 1217**, the Hon'ble Supreme Court has held that mere recovery of currency amount cannot constitute an offence under Section 7 of PC Act unless it is proved beyond reasonable doubt that the accused voluntarily accepted the money knowing it to be a bribe. In the said case, Rs.6,000/- (Six Thousand) was kept in the drawer of the accused-appellant by the complainant and it was not recovered from the possession of the accused-appellant.

In the above case, the learned Trial Court had acquitted the accused under Section 7 and 13(1)(d) r/w 13(2) of PC Act. However the Hon'ble Andhra Pradesh High Court had reversed the order of acquittal of the learned Trial Court and had convicted the accused/appellant under Section 7 and 13(1)(d) r/w 13(2) of PC Act.

Thereafter, the Hon'ble Supreme Court had reversed the finding of the High Court and the Hon'ble Supreme Court had acquitted the accused/appellant.

134. It has been held by the Hon'ble Supreme Court in the case of "**Rajesh Gupta v. State Through Central Bureau of Investigation**" reported in **[2022] 2 S.C.C. 864** at para-19 and 20 as follows:

> "Para-19:- Reverting to the issue of acceptance of demand, it is not out of place to refer the judgment of **Meena (Smt) w/o Balwant Hemke vs. State of Maharashtra (2000) 5 SCC 21** wherein this Court held that mere recovery of the currency notes and positive result of the phenolphthalein test is not enough in the peculiar circumstances of the case to establish guilt of the appellant. The charge must be proved beyond reasonable doubt. In absence of proving the recovery from the person or the drawer of the table or acceptance of the currency notes by accused with relevant material on record in furtherance to the proved demand, the guilt cannot be proved. In the case at hand, the currency notes were found on the table underneath dak-pad towards the visitors side. According to the prosecution, the currency notes were laced with phenolphthalein powder. As per the testimonies of PW3- Madhu Bala, PW4-Virendra Prasad and PW5-B.S. Chauhan, it is clear that the recovery of currency notes was made after calling PW3-Madhu Bala again in the chamber of the appellant by the trap party and on her indication that the money was lying at that particular place. When the hands of appellants were dipped in the solution of sodium carbonate, the colour did not change into pink. It is merely alleged that the said currency notes were wrapped in a note sheet on which the traces of the finger prints of the appellant were found, which is treated as acceptance by the appellant. In addition to the aforesaid, the note sheet paper, in which the currency notes were wrapped, on being dipped in the solution of

sodium carbonate turned pink. After evaluation of the evidence, it is to be observed, safe seizure of the solution of sodium carbonate has not been brought on record. Merely the note sheet, in which the money was wrapped, on dipping in the Sodium Carbonate solution turned pink, traces of which were found in CFSL report, is not sufficient to prove the guilt of the appellant, in particular, when the currency notes laced with phenolphthalein powder were found towards the visitors side on the table and not recovered from the person or drawer of his table and the solution in which the hands of appellant were dipped, did not turn pink. In the facts and circumstances of the case, in our opinion, the evidence so brought is not cogent and sufficient to prove the acceptance of bribe by the accused/ appellant.

Para-20:- On the said issue, the judgments of this Court in **B. Jayaraj vs. State of Andhra Pradesh** (2014) 13 SCC 55 **C.M. Girish Babu vs. CBI** (2009) 3 SCC 779 are relevant, whereby this Court has clearly spelt out that the recovery shall follow the proof of demand. The presumption under Section 20 of PC Act can be drawn only when the demand is proved and the money is voluntarily accepted, knowing the fact that the said money has been delivered by way of bribe. In absence of proof of demand for illegal gratification and mere possession or recovery of the currency notes is not sufficient to constitute such offence. It is clarified that presumption under Section 20 PC Act can be drawn only after demand and acceptance of illegal gratification is proved beyond reasonable doubt. In our considered opinion, the findings as recorded by the Trial Court and the High Court, drawing presumption under Section 20 of the PC Act, are completely perverse in law. There is

> no evidence to prove the demand and the acceptance. The theory of preponderance of probabilities, as applied in this case, is not sustainable and the finding of the High Court is liable to be set-aside"

135. It has been held by the Hon'ble Supreme Court in the case of "**K. Shanthamma v. State of Telangana**" reported in **[2022] 4 S.C.C. 574** at para-11 as follows:

> "Para-11:-In P.Satyanarayana Murthy v.State of A.P, this Court has summarized the well-settled law om the subject in para 23 which reads thus: (SCC p. 159)
>
> > "23.The proof of demand of illegal gratification, thus, is the gravamen of the oftence under Sections 7 and 13(1)(d)(i) and (ii) of the Act and in absence thereof, unmistakably the charge therefor, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, dehors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Section7 or 13 of the Act would not entail his conviction thereunder."

136. Apart from this, it is evident that the learned Trial Court has given absurd reasoning that the witnesses have gotmonotony and lapse of memory and the observation and finding of the learned Trial Court is wholly misconceived one and not appreciable. All the witnessesare the official witness i.e.P.W-1 namely, Jitendra Kumar, P.W-4 namely, Shamim Ahmad Khan, P.W-6 i.e. Rajkumari Oraon, P.W-7 namely, Amit Kumar and P.W8- Ramanand Ram are educated persons and they are experienced people and hence lapse of memory cannot lead to automatic wiping out their entire memory and contradiction in evidence. The trap case like the present one or other is serious case and a career of the Government Servant is at stake and wholly depends upon the truthfulness and veracity of the statements of the witnesses. No person can be prosecuted for the evidence of a person who has a lost memory or has got contradiction due to monotony of the conducting such cases and they have proved its case in a loss of memory why they were confronted to certain vital questions but not when the prosecution has examined him in chief.

137. It further reveals that P.W-1 does not remember any physical identity of the place of occurrence although he had gone there thrice as he has claimed to have visited the place of occurrence with P.W-2 i.e. Complainant for the first time on 09.10.2012 i.e. the date on which appellant was said to be not present and thereafter on 10.10.2012 he had gone to the place of occurrence with the Complainant Basant Kumar Paswan for verifying the allegation.

Thereafter he had gone to the place of occurrence i.e. CDPO Office of the appellant on 12.10.2012 i.e. on the date of raid and yet he does not remember any description of the place of occurrence even to the extent as to whether it was a single

storey or it was a double storey building or even the size of room or the number of room. Thus, the evidence of P.W-1 is clearly unbelievable and his evidence is an exaggerated version of the occurrence.

Thus, the evidence of P.W-1 Jitendra Kumar is not reliable.

138. It further transpires from the evidence of P.W-2 that the show cause notices were issued to his wife because on certain dates when the Centre of Behradih-I Centre No.123 was found closed and not only the centre of the wife of the complainant-P.W-2 Basant Kumar Paswan was found closed but also her conduct was not found proper however he has denied the action against his wife flatly.

He further denied the newspaper cutting dated 18.08.2012,09.09.2012, 04.09.2012 and 22.09.2012 respectively on which dates it was published in the newspaper that Behradih Centre (where the wife of complainant- P.W-2 was working) were found closed and the paper cutting have been marked as part of Exhibit-B.

He also failed to produce his wife regarding the allegation before the verifier P.W-1 or before any other police authority regarding allegation of demand of bribe. Thus the evidence of P.W-2 is not reliable.

139. It is further evident that IO had not produced neither the computer operator nor Chandan Kumar who had accompanied with him and members of raiding team at the time of conducting raid in CDPO Office, Koderma i.e. office of the appellant. The IO has admitted and stated that the typist was private one but he was carrying one computer operator as well as computer and printer with him. The evidence of the IO reveals at Para-17 that all the members of the raiding team had accompanied him to the

office of CDPO, Koderma but he has not mentioned the name of any person during his evidence. Even during his cross-examination at Para-37 he could not remember that the team members were Special Magistrate Amit Kumar, Inspector Jitendra Kumar, Inspector Shamim Ahmad Khan, ASI Manti Minz, Constable Rajkumari Oraon and Constable Prem Lall.

140. It further reveals that after arresting the CDPO i.e. the appellant post trap memorandum was not prepared by the IO although he was accompanied by several associates including five (05) to seven (07) Police Personnels as well as Computer Operator, Typist and also the Computer and Printer. He also admitted that he had caught exhibited the notes during his evidence at Para-26 but stated in Para-51 that the notes show exhibited were not produced before him during the trial.

Thus the evidence of the I.O. is not convincing and creates doubt in the manner of the investigation of the present case.

141. This Court further finds that there is series of show cause notice vide Exhibits-C, C/1 and C/2 respectively issued when the wife of the Complainant namely, Basant Kumar Paswan (P.W-2) by the appellant and which had been approved even by then DC, Koderma as a Centre of Anganwari Centre-I in which Priyanka Kumari/ Kumari Priyanka i.e. wife of the Complainant (P.W-2) namely, Basant Kumar Paswan was working, was found closed and various irregularities and illegalities were found and detected and which was even admitted by Priyanka Kumari, wife of the Complainant. The appellant had already recommended for removal of the Sewika Priyanka Kumari (wife of the Complainant- P.W-2) vide letter No. 495dated 28.08.2012 which is part of page no. 96 of Exhibit-B of learned Trial Court record on the ground of the closure of Centre i.e. Behardih Centre-I and maintenance of poor register.

It also reveals that vide Letter No. 367 dated 03.08.2012 which is evident from Page-96 of Exhibit-B of the Trial Court Record, the appellant had recommended the District Selection Committee for taking action against the wife of the Complainant and which was accepted by the DDC and vide letter dated 11.10.2012 enclosed at Page-96 of Exhibit-B of learned Trial Court Record.

142. Therefore it is evident that the appellant has been targeted and victimized by the P.W-2 Complainant namely, Basant Kumar Paswan by duping the Verifier Jitendra Kumar (P.W-1) as well as the IO Ramanand Ram (P.W-8) and he had not stated these facts earlier to the Verifier i.e. P.W-1 and even P.W-4 as well as the IO i.e. P.W-8 Ramanand Ram.

143. It is further evident from the evidence of P.W-2 Basant Kumar Paswan that Para-34, 35 and 36 that he also admitted that the appellant had issued show cause notice to his wife and he has shown ignorance which is unbelievable. Though, he had denied the closure of Centre of his wife at Behardih Centre-I but the documents marked for identification as Exhibit-X and Exhibit-X/1 respectively are the paper cutting of newspaper dated 04.09.2012, 09.09.2012, 18.09.2012 and 22.09.2012 Ext.-B, Ext.-C to C17 that Behardih Centre-I (in which the wife of Complainant- P.W-2 was working) was found closed during inspection.

144. P.W-2 has also admitted in Para-39 and 40 that the wife had removed from the service on the next day i.e. on 13.10.2012 after the raid but he evaded the question as to who had put signature and mohar in the termination order. This shows that the Complainant- P.W-2 Basant Kumar Paswan has given wrong picture before the Verifier and the S.P. Vigilance Bureau.

145. It is further evident that no money was recovered from the body of the appellant and which is even admitted by P.W-1 namely, Jitendra Kumar, P.W-2 namely, Basant Kumar Paswan, P.W-4 Shamim Ahmad Khan and P.W-8 namely, Ramanand Ram i.e. IO.

146. Mere recovery of certain amount below the file kept near the table of the appellant does not amount to conscious knowledge of the appellant and even the Hon'ble Supreme Court in the case of (1) "**K. Shanthamma v. State of Telangana**" reported in **[2022] 4 S.C.C. 574**, (2) "**Rajesh Gupta v. State Through Central Bureau of Investigation**" reported in **[2022] 2 S.C.C. 864** and (3) "Ajit **Kumar Vs. State of Jharkhand**" vide judgment dated 05.10.2026 passed in **Criminal Appeal No. 4573 of 2026**" has held that mere possession and the recovery of tainted money from a public servant in absence of proof demand, is not sufficient to establish an offence under Sections 7 and 13(1)(d) of the PC Act.

147. From perusal of the impugned judgment and sentence passed by the learned Trial Court, it is evident that the defence of the appellant has not been considered at all and the learned Trial Court has merely looked into the case forwarded by the prosecution.

148. It is further evident from perusal of Page No.72, 73 being part of Exhibit-B of Lower Court Records that the Deputy Commissioner, Koderma had called for report from D.S.W.O with regard to action taken on the inquiry report vide letter no. 1188 dated 03.08.2012 on the ground that Behardih Centre-1 (Code-123) i.e. the Anganwari Centre where the wife of the Complainant Basant Kumar Paswan was working who was not found in good condition and there was lack of proper food items

like poshahar to the Children and it was noticed and found that Sewika i.e. Kumari Priyanka wife of the Complainant never remained present regularly.

It is further evident from Page-85 part of Exhibit-B which is letter dated 07.08.2012 issued by D.S.W.O that all the CDPOs' of Koderma District including the accused/ appellant was directed to call for explanation from the concerned Sewika as well as Sahayika with regard to Government Schemes and sent their opinion after obtaining their explanations by issuing show cause notices to them.

149. Pursuant to the said letter of D.S.W.O., the appellant in capacity of CDPO vide memo no. 430 dated 16.08.2012 which is page-86 of Exhibit-B, had issued show cause notice to Smt. Kumari Priyanka Sewika of Behardih Centre i.e. the wife of the Complainant and the appellant had informed the Sewika that inquiry team constituted by the order of Deputy Commissioner, Koderma had submitted report to the effect that work culture of Anganwari Centres were not found proper at Behardih Anganwari Centre (working place of wife of Complainant Basant Kumar Paswan) by referring 14 (Fourteen) irregularities found in the Centre of wife of the Complainant and it was apprised that the Centre is being run in a very irregular and miserable condition and against the norms of the Government Guideline. Even in Page-96 of Exhibit-B enclosed in the LCR reveals that the conduct of Sewika Kumari Priyanka and the conduct of Sahayika Smt. Shanti Devi was found unsatisfactory and they used to quarrel with each other and even they start fighting with each other in presence of the Inspecting Officer.

150. It is further evident from Page-96 of Exhibit-B of LCR which is the order of DDC, Koderma on 13.10.2012 by which

recommendation was made for removal of Sewika (wife of the complainant) and Sahayika from Behardih Centre-1 (Code-123) due to closure of Centre and irregularity at the Centre.

Pursuant to which letter no.577 dated 13.10.2012 kept at Page-184 of LCR issued by the office of Deputy Commissioner, Koderma reveal that in the light of inquiry report submitted by District Level Officers several Sewikas' and Sahayikas' were terminated due to irregularities at the Centre and Kumari Priyanka, Sewika (wife of the complainant Basant Kumar Paswan) and Shanti Devi, Sahayika of Anganwari Centre, Behardih Centre-1 (Code No.123) were removed from selection/terminated and various other Sewika and Sahayika were also terminated by the said letter dated 13.10.2012 and the name of Kumari Priyanka is mentioned at serial no.1 of the said letter.

151. Therefore it is evident that in order to save his wife Kumari Priyanka the Complainant has manufactured and manipulated the entire things by making a false story of demand of Rs.1,000/- (One Thousand) per month and Rs.10,000/- (Ten Thousand) as bribe by the appellant.

152. It is further evident that order for removal of Sewika and five others was recommended on 11.10.2012 by the D.D.C., being part of page-98 of LCR i.e. just one day before the alleged trap, the conduct and performance of the wife (Kumari Priyanka) of the Complainant Basant Kumar Paswan was also informed even the previous conduct of the wife of the Complainant was far from satisfactory. It is also evident from the inspection report dated 10.01.2012 marked as Exhibit-C/1 by which it was pointed out that maintenance of Register and presence of children is not proper in the Centre of wife of the Complainant and even the food items i.e. the rice and pulse was

not found at the Centre. Thereafter even show cause notice dated 24.01.2012 marked as Exhibit-C/2, was issued by the CDPO i.e. the appellant uponKumari Priyanka, Sewika (wife of the Complainant) for various irregularities found at Behardih Centre.

153. Apart from the above Exhibit-C/1 and C/2 there is another report dated 20.07.2012 marked as Exhibit-C/3 which was sent by Municipal Officer to the CDPO, Koderma Sadar regarding improper and badly conducting of Behardih Centre-1 showing dispute between the Sewika and Sahayika and bad track record of maintaining food items.

154. The right to cross-examination of a witness in a criminal trial is a fundamental and natural right of an accused, serving as an essential piller of a fair trial to test the veracity of the witness testimony and challenge the prosecution case.

155. The witness is bound to answer correctly even during his cross-examination. If a witness evades to answer or does not remember the answer of a vital question to which he was a party then his failure to answer the vital question during cross-examination will give benefit to the accused.

156. Thus, if the witnesses have participated in the incident then they should be fair during trial at the time of their cross-examination.

157. The learned Trial Court further committed grave error by observing in para 26 of page 26 of the impugned judgment that the document i.e. Ext.-C and Ext.-C/1 and Ext.-C/2, Ext.-C/7 and Ext.-C/8 are show cause notices which have been issued by the appellant and for which reply was filed by the wife of the complainant and these documents clearly show that the accused was the controlling authority of the wife of the complainant and in this manner she was having all opportunity to ask for the

bribe and in non-fulfillment of such demand of bribe the adverse comment and action could be taken against the wife of the complainant on recommendation of the accused.

The reasoning of Trial Court is also absurd and not sustainable in law and cannot be considered for the conviction rather it was for the defence of the accused-appellant to prove her innocence which had taken place prior to the trap conducted on 12.10.2012.

158. It is further evident that neither P.W-1 nor P.W-3 nor P.W-4 nor P.W-5 nor P.W-6 nor P.W-7 nor P.W-8 had seen the appellant taking money from the Complainant- P.W-2. As per the evidence of P.W-1 he was following the Complainant P.W-2 outside and remained outside the door firstly on 12.10.2012 but even then he had not seen the process of handing over money to the appellant by the Complainant- P.W-2.

159. This is a case of vengeance by the complainant in connivance with P.W-1 Jitendra Kumar and P.W-8 Ramanand Ram against the appellant by implicating her falsely in a trap case only to take revenge of recommendation of removal of services of his wife.

160. In view of the discussions made above and also in view of the law laid down by the Hon'ble Supreme Court, as discussed above the impugned judgment of conviction dated 22.04.2022 and sentence dated 27.04.2022 passed by Sri Shatrunjay Kumar Singh, learned Special Judge, Vigilance (A.C.B.), Hazaribagh in Special Vigilance Case No.26 of 2012 arising out of Vigilance Ranchi P.S. Case No.24 of 2012 is, hereby, set aside and the appellant namely, Binita Kumari is acquitted for the offences under Section 7 and section 13 (2) read with section 13(1) (d) of the Prevention of Corruption Act and set at free and the appellant is also discharged from the liability of her bail bonds.

161. In the result this Cr. Appeal (SJ) No. 328 of 2022 is allowed and the judgment of conviction dated 22.04.2022 and sentence dated 27.04.2022 passed by the learned Trial Court is, hereby, quashed.

162. Let a copy of this judgment and also the original Trial Court Record be sent to the learned Trial Court by the office.

(Sanjay Prasad, J.)

RKM/-

Dated:30.10.2026

A.F.R