IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 2166 of 2017

Mithilesh Kumar Singh, Son of Sri Narendra Kumar Singh, Resident of Village-Khoksa Kalyan, P.O. & P.S.-Desari, Dist.-Vaisali (Bihar). At present, Flat No. 303, Damodar Apartment, Kunj Vihar Colony, P.O. & P.S.-Argora, Dist.-Ranchi

... . Appellant

Versus

The State of Jharkhand through Vigilance (A.C.B.), Ranchi

.... Respondent

For the Appellant : Mr. B.M. Tripathi, Sr. Advocate
Mr. Sanjeev Thakur, Advocate
For the Resp. State : Mrs. Priya Shrestha, Spl.P.P.

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

C.A.V. on 02.07.2026 **Pronounced on 10.09.2026**

1. Heard the arguments of learned Sr. counsel for the appellant and learned Spl.P.P.

2. The instant criminal appeal has been preferred by the above named sole appellant challenging his conviction and sentence for the offence under Sections 7 & 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 in Special (Vig.) Case No. 9 of 2002 passed by the learned Special Judge, Anti Corruption Bureau, Ranchi vide its Judgment and order dated 17th November, 2017 whereby and whereunder, the appellant has been directed to undergo R.I. for one year for each of the aforesaid offences along with fine of Rs. 5,000/- with default stipulation. Both the sentence of imprisonment were directed to run concurrently.

Factual Matrix:-

3. The factual matrix giving rise to this appeal is that informant (P.W.-5) applied for registration of one N.G.O. namely "Bananchal Kalyan Samiti" in the month of June, 2001 which could not be registered till December, 2001. Thereafter, the informant met with the present appellant who in turn advised the informant to remove some defects in the application, which was also removed as pointed out by the appellant on 08.01.2002. Thereafter, the informant again met with the appellant on 22.01.2002 for the said purpose but the appellant demanded illegal gratification of Rs. 2,500/- (Two Thousand Five Hundred Only) for getting the registration of the said N.G.O. Informant was not desirous to pay any bribe or illegal gratification, hence, he lodged a written complaint (Ext.-3) before D.G. Vigilance on 23.01.2002.

4. Upon receipt of complaint, Mr. Laxmi Narayan Singh (P.W.-15) was appointed as verification officer to conduct an inquiry about truth and genuineness of the complaint on 23.01.2002, who verified the allegations and reported the matter to be true and genuine. Accordingly, F.I.R. (Ext.-13) was registered on the same day for the offence under Sections 7 & 13 of the P.C. Act, 1988. The trap team was constituted on 24.01.2002 (Ext.-1). The trap was conducted with the verification officer and other members of team on the same day. A pre-trap formality was made. G.C. Notes Memorandum was prepared and Rs. 2,500/-

in the denomination of Rs. 1000x1, Rs. 500x1 and Rs.100x10 Indian currency notes were supplied to the informant by the dept. concerned. All the currency notes were percolated with phenolphthalein powder and it was handed over to the complainant as per rules. As per trap plan, all the members of trap team visited the office of the appellant on 24.01.2002, at about 11 AM, where the trap team dispersed in different areas. The informant went inside the office of the accused. After some time, the accused and the informant came out from the office and arrived at the pitch road besides the T.A. Division Building where, on the demand, the complainant gave the tainted money as illegal gratification to the accused appellant and on signal of complainant, accused was caught red-handed by trapping team. On search, the tainted money was recovered from the possession of the appellant and was seized after comparing with the G.C. Notes Memorandum and post trap formalities were made. Seizure list was prepared. The trap team caught the appellant receiving the amount of tainted amount of Rs. 2,500/- from the informant outside the office (backside road of T.A. Division).

5. Mr. Nagendra Chaudhary (P.W.-16) was deputed the charge of investigation who after completion of investigation submitted charge-sheet No. 13/2002 dated 18.02.2002 against the appellant for the aforesaid offences. After taking cognizance,

the charges were framed against the accused to which he denied and claimed to be tried.

6. The learned trial Court after considering the oral as well as documentary evidence adduced on behalf of the parties held the appellant guilty for the aforesaid offences and accordingly convicted and sentenced as stated above.

Submissions on behalf of appellant: -

7. The learned Sr. counsel for the appellant assailing the impugned judgment has strenuously argued that the appellant has falsely been implicated in this case as per version of the informant himself (P.W.-5). It is admitted case of the prosecution that the demand of bribe was made by any other official who has not been made accused in this case and the complainant himself admitted that the appellant did not make any demand of bribe from him. It is also admitted by the complainant that twice he met in the office but talked with another person claiming himself to be Mithilesh Kumar Singh (appellant) without making any talk with the present appellant. It is further argued that the informant himself has admitted that he gave tainted money to him which was refused and thrown on the ground but in the meantime, the trap team caught hold of the appellant. The complainant and the other shadow witness have miserably failed to prove that the tainted money was given to the appellant on his demand as illegal gratification for registration of the N.G.O. as applied by

the complainant. The other members of trap team have also deposed that the complainant was warned to give the tainted money only when it is demanded by the accused, if demand is not made, the money has to be returned to the dept. concerned. The complainant in his evidence clearly admits that money was given to the accused without making any demand. According to the complainant, the place of occurrence was the office premise of the accused but other witnesses have given a different place of occurrence which is pitch road in front of the office near T.A. Division Building. The seizure list witnesses have also denied any recovery in their presence and the tainted currency notes. The prosecution has also failed to prove that the matter of registration of NGO in favour of the complainant was pending before the appellant. No investigation in this regard, has been conducted and nothing is stated by the I.O. as he has to make an investigation in this regard. The sanction order for prosecution was also issued in a mechanical manner without applying the mind towards the materials collected against the appellant. It is further submitted that no proceeding for registration of any NGO as alleged by the complainant was pending before the appellant and the prosecution has also failed to prove any demand of illegal gratification by the appellant or its acceptance as well as the recovery of tainted money from the possession of the appellant is also not proved beyond doubt. Learned trial Court has taken

into consideration the irrelevant evidence and also relied upon some reported judgments which were not strictly applicable in the facts and circumstances of this case. Therefore, impugned judgment of conviction and sentence of the appellant is absolutely illegal based beyond the weight of evidence available on record and liable to be set aside. The appellant deserves acquittal from the charges leveled against him. Accordingly, this appeal may be allowed.

Submissions on behalf of the State

8. Per contra, the learned Spl.P.P. controverting the aforesaid contentions raised on behalf of the appellant has submitted that the learned trial Court has very wisely and aptly taken into consideration the overall evidence available on record. Mere hostility of seizure list witnesses who have admitted the preparation of pre-trap memorandum and also signature on trap proceedings memorandum, the prosecution has been able to prove the demand of illegal gratification by the appellant and none else who came out from his office with the complainant for receiving the illegal gratification demanded by him of Rs. 2,500/-. The recovery of tainted G.C. Notes were also effected from the conscious possession of the appellant. There is no legal substance regarding disputed identity of the appellant as alleged by the learned Sr. counsel for the appellant. The impugned judgment suffers from no illegality

or infirmity calling for any interference in this appeal which is devoid of merits and fit to be dismissed.

Analysis, reasons and decision:

9. I have gone through the record of case along with impugned judgment in the light of contentions raised on behalf of respective parties.

10. The only point for determination in this appeal is "as to whether the impugned judgment of conviction and sentence of the appellant suffers from any error of law, which requires any interference in this appeal?"

11. Before imparting my verdict on the above point, it is pertinent to take brief resume of the evidence available on record for proper adjudication.

The star witness of this case is **P.W.-5 Pradeep Kumar Sinha (**complainant). According to his evidence, he applied for registration of NGO "Bananchal Kalyan Samiti" before the registration office Dhruwa Ranchi in the month of June, 2001. In the month of January, 2002, he went to the said office for progress in the matter and met with one Mithilesh Kumar Singh who was working in the sub-registry office. Then, some defects in his application were pointed out which were removed. Then, this witness was suggested to come after Makar Shakaranti. This witness went to the office on 22.01.2002 and met with Mithilesh Kumar Singh who told that he takes Rs. 5,000/- from other persons but he will do his

work for Rs. 2,500/- only. This witness was not inclined to give any bribe hence he met with D.G. Vigilance and presented a written complaint (Ext.-3). Again, on 24.01.2002, at about 9:00 to 9:30 am, he went to the D.G. Office along with amount of bribe where G.C. Notes Memorandum was prepared with some powder and sealed in an envelope. He was directed to hand over this currency notes to the accused only when he demands for bribe. He was also shown the procedure of Phenolphthalein powder and chemical reactions through Sodium Carbonate and the liquid was also sealed in bottle. Thereafter, he along with raiding party proceeded for registration office at about 10:15 to 10:30 AM. He went inside the office of Mithilesh Kumar Singh along with members of raiding team. He met with Mithilesh Kumar Singh in his office and told that **पैसा लेकर आए हैं काम कीजिए फिर वह बोला कि पैसा उसको दे दीजिए वही मिथिलेश कुमार सिंह है तब मैंने कहा कि परसो तक आप कहते थे कि आप ही मिथिलेश कुमार सिंह हैं और पैसा मुझे ही दीजिएगा तब मैंने पैसा उस आदमी को दे दिया और धावा दल के लोगो को इशारा किया धावा दल के लोग जैसे ही अंदर घुसे उस आदमी ने पैसा नीचे गिरा दिया फिर धावा दल के लोगो ने उन्हें पकड़ लिया फिर गाड़ी में बैठा कर उस व्यक्ति को उनके आवास ले गए और मुझे बोला गया कि आप कार्यालय पहुंचें फिर कार्यालय आए तो आधा घंटा के बाद धावा दल के सदस्य लोग ने अभियुक्त को**

ले आएं फिर वहा हाथ धुलवाया गया तो पानी गुलाबी हो गया और गुलाबी पानी को बोतल में सील कर दिया गया

He has further proved the tainted G.C. Notes kept in sealed envelope which was opened and marked material Ext.I to I/II. This witness has further deposed that above G.C. Notes were given to the accused Mithilesh Kumar Singh in the T.A. Building (registration office) which was given near the door of the office and recovered, at the time of search, two to three witnesses namely Arman Khan and R. Singh were also called upon in whose presence search was conducted.

In his cross-examination, this witness has categorically admitted that when he went for inquiry about the progress of N.G.O. registration on earlier two occasions while removing the defects in the application form and thereafter the person who posed himself to be Mithilesh Kumar Singh is not the same person as the accused behind the dock. He also admits that the person who asked bribe from him in the registration office and against whom he lodged the complaint is not the person in this Court. The trap was also conducted for red-handed apprehension of the person who asked bribe from this witness. This witness further admits that prior to holding trap, the allegations mentioned in his complaint was not verified by the department. Even prior to trap, he was not brought to the registry office for verification of the complaint and the accused Mithilesh Kumar Singh. He also admits that

at the time of trap when he went inside the office and met with the official/staff who posed him to be Mithilesh Kumar Singh but he pointed present accused as Mithilesh Kumar Singh then he went there and handed over the tainted money without any demand. He also admits that the said tainted G.C. Notes were not accepted by the present appellant rather the same was thrown on the ground. These things were disclosed by him before the vigilance officer at the time of further proceeding but no heed was paid. He also states that the accused person behind the dock has no concern with this case and the allegations leveled by this witness.

Surprisingly, this witness has not been declared hostile by the prosecution.

P.W.-1 Binod Kumar Singh is a constable and identified his signature (Ext.-1) on the list of trap team members which was prepared by Inspector Deva Sankar Prasad. According to his evidence, on 24.01.202, informant went to the registration office and on signal, he along with other officials went inside the office and caught the accused with tainted money of Rs. 2,500/-. The seizure list was prepared and accused was arrested. Admittedly, this witness has not seen the demand and acceptance of the bribe by the accused.

P.W.-2 Umesh Kumar Singh is also a member of raiding team. His evidence also appears to be in same line as

P.W.-1. According to him also, at the time, when informant went inside the registry office and came back with the accused outside office and thereafter on the signal, they caught the accused and searched the tainted money which was recovered and the formalities were made at the place of occurrence and the accused was arrested.

P.W.-3 Duryodhan Gagrai is also a member of trap team. According to his evidence also, the informant alone went inside the office and came out with the accused and after sometime on signal of informant they caught the accused and on search the tainted money was recovered from possession of the accused. According to him, the accused was arrested on the road.

P.W.-4 Md. Shahbaz Ansari is also a member of trap team. According to him, near T.A. Building in the leadership of Nagendra Chaudhary, he had gone to trap the fellow along with other equipments and at about 11AM, the informant went inside the office and came out with the accused after sometime and when they came to the pitch road on signal of the informant the trap team caught him in presence of two independent witnesses with tainted money of Rs. 2,500/-. The tainted money which was recovered from him was the same as mentioned in G.C. Note Memorandum. He has disclosed how G.C. notes Memorandum were prepared and other formalities like chemical test and preparation of trap team.

P.W.-6 Ramesh Singh is one of the seizure list witnesses. According to his evidence, he saw two to four persons standing on the road and on request of police personnel he signed on some papers but in his presence nothing was recovered from any person. The signature has been marked as Ext. 2/3 and the seizure list as Ext.-4.

P.W.-7 Armaan Khan is the another seizure list witness and a social worker. According to his evidence, he saw crowd on the road near T.A. Building where he came to know that vigilance had conducted raid and someone was caught. No search was made in his presence but Rs. 2,500/- was shown to him which has been recovered from the possession of the accused. When he asked about the arrested fellow, he was informed that he has been sent to the police station but G.C. Notes Memorandum was shown to him and his signature was obtained. Therefore, this witness except admitting his signature on some documents taken by the officers clearly admits nothing happened before him.

P.W.-8 Gopal Ji Jha is a formal witness and proved the S.F.S.L. report as Ext.6.

P.W.-9 Lalan Singh is also a member of trap team and identified his signature on memorandum of trapping as Ext. 1/1. According to him also, the informant went inside the office of the accused with Laxmi Narayan Singh and after sometime informant and accused came out. After signal by

the informant, the accused was caught red-handed in presence of two witnesses and on his personal search, the tainted G.C. notes of Rs. 2,500/- was recovered. Thereafter, formalities of chemical examination by dipping hands of the accused in sodium carbonate has been conducted, then, the color of his hands turned into pink which was seized accordingly and kept in a bottle.

In his cross-examination, this witness categorically admits that he has not seen the accused while taking money from the informant rather he was outside the office and waiting for arrival of the informant.

P.W.-10 Diva Shankar Prasad, the police inspector of Vigilance Dept. deposed that he was also member of the trap team. According to his evidence also, only informant went inside the office of the accused and after sometime he came out along with the accused and after receipt of tainted money as gratification the accused was caught red-handed. He also admits that the truth of the allegation made in the complaint was also verified by him on 23.01.2002. However, he has further stated that he does not know as to enquiry about truthfulness of the allegation of the complainant was made on 23.01.2002 or not.

P.W.-11 Arbind Prasad Sinha is police inspector posted in vigilance dept. at the relevant time and is a member of trap team. According to his evidence, the verification about truth

of allegation made in the complaint was verified by Laxmi Narayan Singh after constitution of trap team and preparation of pre-trap memorandum, the informant went inside the office of the accused and came out from the said office after giving him the tainted money and on getting signal the accused was arrested and tainted money was recovered from his possession.

P.W.-12 Rang Nath Sharma is also a member of the raiding team. According to his evidence also, the informant alone went inside the office of the accused and after sometime both came out and proceeded towards the road and on signal of the informant, accused was caught red-handed with tainted money and on his personal search, the tainted G.C. Notes were recovered. Thereafter, other formalities by dipping the hands of the accused in sodium carbonate liquids were also conducted and his hands became pink. This witness also admits that the accused was caught near T.A. Division Building.

P.W.-13 Devendra Nath Upadhaya, A.S.I. and member of trap team. According to his evidence also, after verification about allegation in the complaint, the same was found to be true. Thereafter, pre-trap memorandum was prepared and he also proceeded for the purpose of trapping the accused. The occurrence took place on the pitch road near the registration

office where the accused was caught red-handed with tainted currency notes of Rs. 2,500/-.

P.W.-14 Ajit Kumar Sinha is a formal witness who has proved the sanction order for prosecution as Ext. -12.

P.W.-15 Laxmi Narayan Singh has verified the truth and genuineness of the complaint. According to him, after receiving the complaint and order of superior officer, he verified the matter on the same day and found the allegations true against the accused. He has proved his endorsement for verification on complaint as Ext.3/1. According to his evidence, at the time of trap when they went near the place of occurrence, he went near the office of the accused who along with three to four persons came out from the office. After some time, the informant gave the tainted money to the accused and gave signal, then, Ragvendra, Diva Sankar Prasad caught his hand and on his search, the tainted money was recovered which was tallied with the G.C. Notes Memorandum, after chemical test, the color of hand became pink and seizure list was prepared.

In his cross-examination, he fairly admits that three to four persons who were talking with the accused were not the members of the raiding team.

P.W.-16 Nagendra Choudhary is the I.O. who after receiving the charge of investigation interrogated with the witnesses and sent the seized materials to S.F.S.L. for

chemical examinations. He also obtained the chemical examination report and sanctions order from the competent authority for the prosecution of the case and submitted charge-sheet finding sufficient evidence against the accused for the aforesaid offence.

12. On the other hand, the plea of innocence was taken by the accused in his statement under Section 313 Cr.P.C. However, two documentary evidence has also been adduced by the accused without examining any oral witnesses.

13. Before adverting to evaluate the aforesaid evidence available on record, it appears pertinent to extract the relevant provisions of the Prevention of Corruption Act, 1988.

(Prior to Amendment in the year 2018)

"7. ***Public servant taking gratification other than legal remuneration in respect of an official act****.— Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to five years and shall also be liable to fine.*

Explanations —(a) "Expecting to be a public servant". If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them,

he may be guilty of cheating, but he is not guilty of the offence defined in this section.

(b) "Gratification". The word "gratification" is not restricted to pecuniary gratifications or to gratifications estimable in money.

(c) "Legal remuneration". The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organisation, which he serves, to accept.

(d) "A motive or reward for doing". A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.

(e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section."

"13. Criminal misconduct by a public servant.-

(1) A public servant is said to commit the offence of criminal misconduct,-

(a)……..

(b)……..

(c)……..

(d) if he,-

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

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

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

(e)……..

Explanation:- ……

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine."

14. It is also pertinent to mention relevant judgments of Hon'ble Supreme Court of India. The Apex Court in the matter of **K. Shanthamma Vs. State of Telangana**, [(2022) 4 SCC 574] and **Neeraj Dutta Vs. State (Govt. of NCT of Delhi) [**(2023) 4 SCC 731] has held that for recording conviction under Sections 7, 13(1)(d)(i) and (ii), the prosecution has to first prove the demand and acceptance of illegal gratification.

15. The relevant paragraph number 11 of **K. Shanthamma (Supra)** is reproduced as hereunder:-

> *11. In P. Satyanarayana Murthy v. State of A.P. [P. Satyanarayana Murthy v. State of A.P., (2015) 10 SCC 152 : (2016) 1 SCC (Cri) 11] , this Court has summarised the well-settled law on the subject in para 23 which reads thus : (SCC p. 159)*
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> > *"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."*

16. Similarly, the relevant paragraph number 88 of **Neeraj Dutta (supra)** is reproduced as hereunder:-

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

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

***88.2.** (b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.*

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

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

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

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

(iii) In both cases of (i) and (ii) above, the offer by the bribe-giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Sections 13(1)(d)(i) and (ii), respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe-giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe-giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Sections 13(1)(d)(i) and (ii) of the Act.

88.5. *(e) The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the material on record, the court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands.*

88.6. *(f) In the event the complainant turns "hostile", or has died or is unavailable to let in his evidence during trial, demand of illegal gratification can be proved by letting in the evidence of any other witness who can again let in evidence, either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant.*

> ***88.7.*** *(g) Insofar as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law. Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Sections 13(1)(d)(i) and (ii) of the Act.*
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> ***88.8.*** *(h) We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to above in sub-para 88.5(e), above, as the former is a mandatory presumption while the latter is discretionary in nature."*

17. In the instant case, the evidence of witnesses as discussed above, categorically reveals that the informant himself was not acquainted with the present appellant prior to lodging of the complaint. The complaint was lodged under the impression that the present accused (appellant) has made demand of bribe for registration of N.G.O. as applied for by the complainant. The real facts depicted by the complainant is that he met with another person on earlier two occasions before instituting the complaint who disclosed his name as Mithilesh Kumar Singh but at the time of trap, when he met with the same person, he pointed out another table, where the present appellant was sitting as that person is Mithilesh Kumar Singh he met with. It is also absolutely clear that when the complainant attempted to deliver money in the hands of the present appellant, the same was thrown on the ground,

thereafter, who took the said money and how it came to the physical possession of the appellant has not been proved by the prosecution. It also transpires that none of the witnesses examined in this case has claimed to be shadow witness at the time of holding the trap. All the witnesses have categorically stated that only the complainant went inside the office of the present appellant, thereafter, he came out with the appellant and signal was raised outside the building of registration office on pitch road. This fact is also contradictory to the evidence of complainant himself who claims that the money was delivered to the accused in the office which was thrown and other proceedings were conducted in the office itself.

18. Therefore, there is complete absence of any demand of bribe made by the accused, its acceptance and recovery as alleged by the witnesses. There are material contradictions about the place of occurrence where the whole proceedings were conducted. The seizure list witnesses have also not supported any search and seizure conducted in their presence rather simply identified their signatures. The most strange thing is that the complainant who himself has not supported the prosecution case against the present appellant was not declared hostile by the prosecution rather his testimony gets stamp of the prosecution as truthful witness. If the testimony of the complainant is taken to its face value, the whole prosecution story falls on the ground.

19. In view of the fact that the complainant never visited the present appellant for inquiry into the progress of registration of N.G.O. applied for by him rather he met with another person who asked illegal gratification. Moreover, there is no shadow witness who overheard any conversation between the complainant and the appellant. The complainant also admits that he straightforward handed over the money to the present appellant without any demand.

20. In the above factual background, the ingredients of either offence under Section 7 & 13 (1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 is absolutely not attracted against the appellant. The learned trial Court has believed the testimony of the complainant only on conjecturing that he might have not disclosed the real things in order to save the accused and also to save his own scheme from being prosecuted for perjury. These observations by the learned trial Court are absolutely beyond the record and his own inventions which cannot be recognized and accepted. The totality of circumstances as proved by the prosecution clearly proves the innocence of the appellant.

21. In view of the above discussions and reasons, I find substance in the above point of argument raised on behalf of the appellant and merits in this appeal. Accordingly, impugned judgment of conviction and order of sentence of the appellant

is hereby **set aside** and he is acquitted from the charges leveled against him.

22. The appellant is on bail, hence, he is discharged from the liabilities of bail bonds. Sureties are also discharged.

23. In result, **this appeal is allowed.**

24. Pending I.A(s), if any, is also disposed of, accordingly.

25. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated: 10/09/2026
Basant / **AFR**
Uploaded On: 11/09/2026