IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 1398 of 2018

Dilip Kumar, aged about 39 years, S/o Late Siyaram Thakur, R/o-Vill.-Sai Colony, Upper Chutia, P.O. & P.S.-Chutia, Dist.-Ranchi
... . Appellant

Versus

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

With
Cr. Appeal (S.J.) No. 1402 of 2018

Binod Kumar Jha, aged about 59 years, S/o Late Mahendra Narayan Jha, Resident of Flat No.-401, Sri Sai Tower, New Area, Morabadi, P.O. & P.S.-Bariatu, Dist.-Ranchi
... . Appellant

Versus

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

For the Appellants : Mr. Sanjeev Thakur, Advocate
[in Cr. A. (S.J.) No. 1398 of 2018]
Mr. Anil Kumar, Sr. Advocate
Ms. Omiya Anusha, Adv.
Mr. Aayush Ojha, Advocate
Mrs. Kshama Kumari, Advocate
[in Cr. A. (S.J.) No. 1402 of 2018]

For the Resp.-A.C.B. : Mrs. Priya Shrestha, Spl.P.P.

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

C.A.V. on 18.09.2026 **Pronounced on 06/11 /2026**

1. Heard the arguments of learned counsel for the appellants and learned Spl.P.P. appearing on behalf of A.C.B.

2. The instant criminal appeals have been preferred by the above named appellants challenging their judgment of conviction dated 04.09.2018 and order of sentence dated 06.09.2018 in Vigilance (Spl.) Case No. 17 of 2013 passed by the learned Special Judge, ACB, Ranchi whereby and whereunder, the appellant-

Binod Kumar Jha has been convicted for the offence under Setion under Section 7 of the Prevention of Corruption Act, 1988 and directed to undergo R.I. for one year with a fine of Rs. 5,000/- for the offence under Section 7 of P.C. Act, with default stipulation, while acquitted for the offence under Section 13(2) and 13(1)(d) of the P.C. Act. Further appellant-Dilip Kumar has been convicted for the offence under Section 13(2) read with Section 13(1)(d) of the P.C. Act and sentenced to undergo R.I. for two years with a fine of Rs. 25,000/- under Section 13(2) read with Section 13(1)(d) of the P.C. Act, with default stipulation, and acquitted for the offence under Section 7 of P.C. Act.

Factual Matrix:-

3. The factual matrix giving rise to these appeals is that the complainant Sudhir Kumar Thakur (P.W.-2) retired from the post of Circle Officer, canal Revenue Anchal, Lohardagga on 31.03.2013. It is alleged that some of the post retire benefits were paid to him by the concerned department but some of them like provisional gratuity amount for Rs. 7,89,103/- was issued from the office of the accused No.1 Binod Kumar Jha but payment was pending. It is alleged that for payment of aforesaid amount, Binod Kumar Jha who was a Deputy Collector Revenue Division, Ranchi, demanded Rs. 20,000/- as bribe from the complainant through his cashier Dilip Kumar. As the complainant was not willing to give bribe, he lodged written complaint before S.P., Vigilance Bureau (Ext-5) who

forwarded the complaint for verification to Inspector, Jitnedra Kumar who submitted his verification report, finding allegation to be true (Ext-14). Accordingly, F.I.R. was lodged. The charge of investigation was entrusted to Inspector, Sri Anjani Kumar. A trap team was constituted by the I.O. (Ext.-15) which was duly signed by all the members of the trap and also approved by the S.P. Vigilance (Ext.15 series). Pre trap formalities were conducted. G.C. Note Memorandum was also prepared, the reaction of phenolphthalein powder with sodium carbonate was also demonstrated and a pre-trap memorandum was prepared. On 09.05.2013, at about 17.00 hours, the trapping team trapped accused Dilip Kumar at Stadium Road, near Shalimar Market and recovered the tainted notes of Rs. 20,000/- from his right hand in presence of two independent witnesses Munna Ansari and Varun Vishal Gaurav and found that it was the same notes upon which phenolphthalein power was percolated and mentioned in the G. C. Note Memorandum. Thereafter, the hands of Dilip Kumar was dipped into the solution of sodium carbonate and phenolphthalein power which, the colour of the solution turned pink thus, it was concluded that accused has accepted bribe money. Accordingly, the search and seizure list was prepared (Exhibit-17). Accused was arrested in presence of special Magistrate and was remanded to jail.

4. In the course of investigation, Investigating Officer seized the documents relating to pending work of the complainant from the possession of the accused, which was issued vide Memo No.- 69 dated 02.03.2013 (Exhibit-6) along with other payment Orders which are not the subject matter of dispute although produced and marked as Ext.-7. The Investigating Officer also sanctioned for prosecuting the accused from concerned department (Ext-19) dated 27.06.2013 and from the State of Jharkhand dated 31.08.2013 against accused No. 1 (Ext.-20). Thereafter submitted charge sheet No. 37/2013 dated 04.07.2013 and charge sheet No. 3/14 dated 12.02.2014 against the accused persons. Material exhibits were sent for chemical examination to S.F.S.L. But during whole trial, the report of State Forensic Science Laboratory of the chemical solution has not been obtained.

5. After taking cognizance of offence, the accused persons appeared and contested the case, denying the charges leveled against them and claimed to be tried.

6. In order to substantiate the charges leveled against the appellants, the prosecution has examined altogether ten (10) witnesses:-

P.W.-1	Varun Vishal Gaurav
P.W.-2	Sudhir Kumar Thakur
P.W.-3	Anil Oroan
P.W.-4	Jitendra Kumar
P.W.-5	Raj Narayan Singh

P.W.-6 Vinay Kumar

P.W.-7 Rakesh Ranjan

P.W.-7/A Dabasis Mohapatra

P.W.-8 Anjani Kumar Singh

P.W.-9 Shivendra Lal Manik

7. Apart from oral testimony of the witnesses, the prosecution has adduced following documentary evidence:-

Ext.-1 to 1/5 Series of Endorsement and Signature of the complaint and the witnesses over G.C. Notes Memorandum.

Ext.-2 to 2/2 Series of Signature of Witnesses over list of property

Ext.-3 to 3/2 Series of Signature of witnesses over memo of arrest

Ext.-4 to 4/19 Signature of P.W.-1 Varun Vishal Gaurav on G.C. Notes

Ext.-5 Complaint Petition

Ext.-5/1 Endorsement with signature of Raj Kumar Lakra on complaint

Ext.-6 to 8 Series of Letter dated 02.04.2013

Ext.-9 Seizure cum search list

Ext.-9/1 to 9/4 Signatures of witnesses on seizure, production cum search list.

Ext.-10 to 12 Series of Memo dated 02.04.2013 of Material Exhibit-IV

Ext.-12/1 Copy of Bill of Rs. 7,89,103/- attached in Material Ext.-IV

Ext.-13 Xerox Copy of Memo No. 2352/Ranchi dated 09.09.2008

Ext.-14 Verification Report

Ext.-14/1 to 14/2 Endorsement with signature of witnesses on verification report

Ext.-15 List of Trap Team Members

Ext. 15/1	Approval with signature of Rajeet Kumar Prasad on list of trap team members
Ext.-15/2 to 15/4	Signature of witnesses on list of Trap Team Mmebers
Ext.-16	G.C. Notes Memorandum
Ext.-17	Search List of Property
Ext.-18	Memo of Arrest
Ext.-19 & 20	Sanction Order of accused Dilip Kumar and signature of Amitabh Kumar Gupta on Sanction Order of accused Binod Kumar Jha
Ext.-21	Application to Principal Secretary, Water Resources Dept.
Ext.-22	Request Letter for prosecution sanction order of accused
Ext.-23	Receiving receipt of S.F.S.L. Ranchi dated 05.06.2013

8. The prosecution has also examined following material exhibits:-

M. Ext.-I to I/19	Twenty Indian Currency Notes of Rs. 1000x20, total amount of Rs. 20,000/-
M. Ext.-II	Allotment Register
M. Ext.-III	Bill Book
M. Ext.-IV	Pension Register

9. On the other hand, the case of the defence is complete denial from occurrence and false implication. It is pleaded that no demand as alleged for facilitating the payment of retiral dues of the complainant was ever made either by accused No. 1 or 2 and recovery of tainted G.C. Notes from the possession of Accused No. 2 is also denied rather he was arrested without any formalities conducted by trap team. It is also pleaded that

entire retiral dues of the complainant was paid but due to dues of his loan amount, there was some delay and complainant himself was not cooperating in this regard rather lodged false case. The accused persons are absolutely innocent. The defence has also examined following two witnesses:-

D.W.-1	Binod Kumar Jha
D.W.-2	Dilip Kumar

10. Apart from above oral testimony, following documentary evidence has also been adduced by the defence:-

Ext.-A	Allotment Register 2013-14
Ext.-B	Bill Book, year 2011-14
Ext.-C	Pension Register Rajaswa Parmandal Dhurwa
Ext.-D and D/1	Xerox Copy of Pension Rule (2 sheets)
Ext.-E	Whole Page No. 48 of Pension Register
Ext.-E/1	Back page of Page No. 56 of Bill Book
Ext.-F	Whole writing in red colour on page No. 5 of Pension Register
Ext. –F/1	Signature of Rakesh Ranjan on Page No. 5 of Ext. C
Ext.-G	Endorsement with signature of accused Vinod Kumar Jha with Seal on page No. 5 of Ext.-C
Ext.-H	Letter No. 26 dated 05.02.2018 of Dy. Collector cum public information officer, Rajaswa Parmandal, Ranchi

11. The learned trial Court after scrutinizing the oral as well as documentary evidence along with material exhibits relied upon by the prosecution came to the definite conclusion that the prosecution has been able to prove the charge leveled

against the appellants and convicted and sentenced them as stated above.

Submissions on behalf of appellants: -

12. Assailing the impugned judgment of conviction and sentence, learned counsel for the appellants has vehemently argued that Dilip Kumar was not a dealing clerk with regard to the matter of retiral dues of the complainant and no work was pending before him connected with the complainant. Admittedly, he has raised no demand of bribe/illegal gratification to show any favour to the complainant in the matter of releasing the gratuity amount as alleged. Admittedly, there is no allegation of raising any demand of illegal gratification against this appellant rather in general terms it is stated that through this appellant Dilip Kumar, demand of Rs. 20,000/- was raised on behalf of the appellant-Binod Kumar Jha which has never been proved by the prosecution neither tainted money has been recovered from the possession of this appellant nor demanded and accepted the bribe money from the complainant which are core ingredients to be proved by the prosecution for conviction under P.C. Act. P.W.-3 Anil Oraon, lower clerk of the Revenue Dept. has categorically admitted in his evidence that on 15.04.2013, the gratuity bill was produced before the Binod Kumar Jha who endorse to calculate the dues amount and put up before P.W.-7 Rakesh Ranjan dealing clerk of the

department regarding pension and gratuity etc. The complainant P.W.-2 has also admitted in his evidence that all other bills has been cleared by the co-accused who also made query about any recoverable amount from the complainant in presence of complainant himself. It is also admitted by the complainant P.W.-2 that a notice was issued against him by this appellant Dilip Kumar for recovery of dues amount. The complainant also admits in his evidence (Para-73) that the present appellant has no concern regarding retiral dues of the complainant and denied the suggestion that he has implicated this appellant in false case due to disclosure of due amount against complainant. The alleged shadow witnesses have also not been able to prove the hearing of conversation regarding demand of bribe and its acceptance by the appellant Dilip Kumar. Mere recovery of tainted money is not sufficient to fasten the liability for the offence under Section 7 of the P.C. Act. It has also been submitted that no F.S.L. report has been brought on record to establish the post-trap proceedings with regard to chemical reaction nor any independent witnesses were examined by the prosecution which was a mandatory procedural requirement to ensure fairness and impartiality of the trap proceedings. It has also been submitted that Binod Kumar Jha has admittedly not received the bribe money and there is no direct or any circumstantial evidence establishing that appellant has even physically handled the bribe money.

Therefore, the learned trial Court has not taken the oral as well as documentary evidence led by the appellants in right perspective and arrived at wrong conclusion of guilt of the appellants which is liable to be set aside and this appeal may be allowed.

Submissions on behalf of the State-CBI

13. On the other hand, learned Sp.P.P. controverting the aforesaid contentions raised on behalf of the appellants has submitted that the learned trial Court has very wisely and aptly considered the vital aspects of the case, scrutinized and appreciated the evidence of witnesses, trap proceedings and material exhibits and arrived at right conclusion that the prosecution has proved the charges leveled against the accused persons beyond all reasonable doubt. It is also settled law that if the demand and acceptance of gratification has been proved by the prosecution even through holding trap, the presumption under Section 20 of the P.C. Act can be invoked to the effect that gratification was demanded and accepted as a motive or reward as contemplated under Section 7 of the P.C. Act. The defence has miserably failed to rebut the aforesaid presumption invoked against the appellants. During trap proceeding, the demand, acceptance and recovery has been proved which was in connection with releasing the gratuity amount. Therefore, there is no illegality or infirmity in the impugned judgment of conviction and sentence of the

appellant and no merits in these appeals which are fit to be dismissed.

Analysis, reasons and decision:

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

15. The only point for determination in these appeals is "as to whether the impugned judgment of conviction and sentence of the appellants suffers from any error of law, which requires any interference in these appeals?"

16. 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 **PW-2 Sudhir Kumar Thakur.** According to his evidence, he had retired from service on 31.03.2013 got some retiral benefits but dues amount of post retirement benefit was to be paid to him under the signature of Binod Kumar Jha (appellant) but the same was withheld and for clearing its payment, A-1 Binod Kumar Jha demanded Rs. 20,000/- as bribe. Then, he made complaint before the Vigilance Bureau. He has further deposed that on 07.05.2013 Sri Jitendra Prasad, Police Inspector of vigilance Bureau accompanied him for verification of the complaint and by standing near the gate, he heard the conversation whereas A-1 Binod Kumar Jha

demanded gratification money and the report was submitted in affirmative and on 09.05.2013 at about 12:30 P.M, he appeared with gratification money before the Vigilance Bureau where chemical reaction demonstration with sodium carbonate and phenolphthalein powder was made with a plain paper in his presence, he supplied the tainted money upon which the phenolphthalein powder was percolated, G.C. Note Memorandum prepared and it was handed over to him for giving it to the accused on the demand as gratification money otherwise not. He along with the trapping team went to the place of occurrence in the office of A-2 Dilip Kumar and met with him who directed to wait. Thus the complainant came back in his car and after sometime, Dilip Kumar came out in the car of complainant and demanded Rs. 20,000/-. Thereafter, the vehicle proceeded towards Shalimar Market and on the direction of Dilip Kumar, the vehicle was stopped and when he demanded Rs. 20,000/-, the complainant gave the tainted money to Dilip Kumar and the complainant gave signal and the accused Dilip Kumar was arrested. Two independent persons Varun Vishal Gaurav P.W. 1 and Munna Ansari were called from the gathering and in their presence, search was made and the tainted money of Rs. 20,000/- was recovered from his right hand which was seized and matched as mentioned in the G.C. Note Memorandum and on dipping his hands in the chemical solution of sodium

carbonate, the colour of liquid turned Pink confirming recovery of tainted money from his possession and thereafter the accused was arrested. This witness also states that he has not given any application to Binod Kumar Jha but gave to his dealing work.

In his cross-examination, this witness has admitted that there was a car loan and the the interest of car loan was due upon him when the bill was prepared. Further, in Para No. 74, he has expressed his unawareness about Letter No. 114 dated 30.05.2013 sent by Binod Kumar Jha regarding some dues to be deducted that some dues is standing against him and the complainant had also no knowledge about his actual total retiral benefits which was to be paid to him. He has denied in Para No. 120 that on 15.04.2013, he had gone to office of accused Binod Kumar Jha along with Rakesh Ranjan and Dilip Kumar where the accused Binod Kumar Jha had signed all the papers of the complainant.

PW-1 Varun Vishal Gaurav, Independent witness who has deposed that he saw a car stopped at stadium road and two Sumo Jeep also arrived there and some scuffle took place there. When he went there, he came to know that a person has taken bribe and has been arrested. He has supported the fact that he and Munna Ansari became the independent witness and in his presence, on search, Rs. 20,000/- tainted money was recovered from the possession of Dilip Kumar. He made

signature on it and all post-trap formalities were completed. He has admitted that he has not seen that Dilip Kumar acceptted any illegal gratification from the complainant.

PW-4 Jitendra Kumar is the person who had verified the complaint and has stated that on direction, he went to verify the matter in the office of accused Binod Kumar Jha with the complainant where the accused demanded gratification money of Rs. 20,000/- and stated to give the same to the accused Dilip Kumar. Then, he went to the office of Dilip Kumar where he also demanded the money Thereafter, the case was lodged. **But in para 27 of his deposition, he has stated that he had no proof of having visited Nepal House on that day, at that time, and further in Para 28, he deposed that he had gone to the gate of the office of accused Binod Kumar Jha on that day in course of verification but he had not gone inside his office. Thus, it is clear that he has not verified the complaint of complainant in right way.**

PW-3 Anil Oraon is the formal witness, who has submitted some relevant files of the office relating to the work of complainant and has identified some signatures of the officer concerned which is not denied by the defence.

PW-5 Raj Narayan Singh is a police Inspector, ACB, Ranchi, one of the members of the trapping team who has deposed that he did not hear any conversation between the

accused and the complainant regarding demand of bribe. He neither heard the accused demanding a bribe, nor he saw the complainant offering the bribe, nor did he see the accused accepting the bribe.

PW-6 Vinay Kumar is the formal witness who has identified Exhibit-19, the sanction for prosecution which is granted against accused Dilip Kumar.

PW-7 Rakesh Ranjan is also a formal witness who was the dealing clerk of the work of complainant. He has proved that Sri Anjani Kumar Singh, Dy.S.P, Vigilance Bureau, Ranchi has seized some pension papers from the file of the complainant and obtained his signature in support of it to which, he has identified as Exhibit-9. He has further deposed in his cross-examination that वादी के उपर मोटर कार का अग्रिम बकाया था और परिवहन भता और मकान किराया से संबंधित विभागीय वादी के उपर बकाया था, वादी के विरुद्ध विभागीय बकाया होने के कारण उपादान (gratuity) बिल रोक दिया गया था. In para 7 and 8, he has further deposed that तत्कालीन नाजीर दिलिप कुमार का वादी के पेंशन भुगतान एवं Gratuity के भुगतान से कोई लेना देना नहीं था। दिलिप कुमार वादी सुधिर कुमार ठाकुर के किसी भी कार्य से संबंधित फाइल का संचालन नहीं किये और ना ही उसका प्रभारी थे।

वादी के उपरोक्त बिल का भुगतान इस लिए रोक दिया गया क्योंकि उनके द्वारा विभागीय बकाया राशी का भुगतान नहीं किया गया था। वादी

काफी प्रयास कर रहा था कि उन पर विभागीय बकाया राशी को बिना बसूल किये उनके सभी बिल का भुगतान मिल जाये।

PW-7A Debasis Mohapatra who has identified Exhibit-20 to be issued by the Law Department through the office of the competent authority of the State of Jharkhand which is sanction for prosecution against the accused Binod Kumar Jha.

PW-8 Anjani Kumar Singh is the Investigating Officer, who has supported the case of the prosecution. He further deposed that he recorded statement of the complainant on 09.05.2013 at 13:45 hours and stated that Dilip Kumar was arrested from Maruti Car No. JH01V 9307. He has further supported the fact of constitution of trapping team, introduction of the complainant with all the members of the trapping team, chemical reaction demonstration, their visit to the place of occurrence and recovery of tainted money from the possession of A-2 Dilip Kumar and his arrest. He has also supported seizure of the documents relating to the work of complainant. He has also proved some bill books of the office of the accused as material Exhibit-II, III and IV, which is admitted to be genuine documents and pending before the office of A-1 Binod Kumar Jha and has also supported the fact that requisition was made for grant of sanction for prosecution of accused persons before the competent authority. He has also identified Exhibit-23, which is the

acknowledgement receipt of SFSL in support of receiving marked 'A, B, C & D' in the SFSL office **but its report has not been made available during trial.** Further he deposed that मैंने अभियुक्तों को वादी से घुस माँगते ना ही सुना था और ना ही घुस लेते या देते देखा था क्योंकि घुस लेने देने की प्रक्रिया गाड़ी के अंदर हुआ था.

In his cross-examination, he has admitted that no file was recovered from the possession of Dilip Kumar nor any work was pending before him of the complainant.

PW-9 Shivendra Lal Manik, was the Special Magistrate at the time of trap and recovery of tainted notes. He has admitted that में सूचक और अभियुक्तों के बीच कोई बातचीत होते ना तो सुना हूँ ना ही देखा हूँ मैंने अभियुक्तों को वादी से घुस माँगते नहीं सुना हूँ दिलीप कुमार को घुस देते नहीं देखा था क्योंकि घुस का लेन देंन वादी के मारुति गाड़ी के अंदर हुआ.

DW-1 Binod Kumar Jha has stated that when three bills were produced before him, he signed on two bills but before signing of 3rd bill, he asked from Rakesh Ranjan that whether any recoverable amount is due against him or not, he told that car loan interest is due to recover from him and therefore, he did not sign on it and this fact has been supported by PW-7 Rakesh Rajan. He has denied demanding any gratification money by himself or giving direction to Dilip Kumar to accept it for him.

D.W.-2 Dilip Kumar has deposed that neither he was posted in the alleged office nor any file was pending before

him and therefore, he has not demanded any gratification money, but has wrongly been arrested.

17. 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."

18. 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.

19. 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."*

20. 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.*

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."

21. In the instant case, from the evidence of witnesses as discussed above, it is clear that as per the complainant, the appellant-Binod Kumar Jha asked for illegal gratification for releasing the retiral dues but going through the oral as well as documentary evidence, it is apparent that the rest of the retiral dues of the complainant was stopped due to dues of the complainant against the car loan and the complainant had himself wrote a letter in this regard to release the retiral benefit after deducting the same. It also appears that when the transaction as alleged by the complainant were exchanged between Dilip Kumar and Complainant, no one present in the Car to witness the same. It is claimed that there were two independent witnesses who witnessed the post-trap proceeding but the Independent witness P.W.-1 Mr. Varun Vishal Gaurav has himself admitted that he has not seen any demand and acceptance by the Dilip Kumar but he was called from the gatherings by the other raiding members to witness the seizure from the Dilip Kumar when each of the raiding team members approached at the place of occurrence on getting signal and the most glaring aspect is that no F.S.L. report has been brought on record to establish the post-trap proceedings with regard to chemical reaction which was a mandatory procedural requirement to ensure fairness of the post-trap proceedings. It has also come on record that Binod

Kumar Jha has admittedly not received the bribe money not there is any direct or circumstantial evidence establishing that appellant has ever physically handled the bribe money or asked for the same.

22. From the aforesaid discussion and reason, it is crystal clear that there was no shadow witness to overhear and see the demand and acceptance by the Dilip Kumar except complainant who has himself admitted that he has not given any application to Binod Kumar Jha for releasing dues of the retiral benefits nor any S.F.S.L. report has been brought on record to establish that the tainted money which was recovered and turned pink when the same was dipped in the sodium carbonate solution was actually recovered from accused Dilip Kumar.

23. The Hon'ble Supreme Court of India in the case of **P. Satyanarayana Murthy Vs. District Inspector of Police, State of A.P. and Anr.** reported in (2015) 10 SCC 152 has held in para 22 and 23 **that mere possession and recovery of currency notes from an accused without proof of demand would not establish an offence under Section 7 as well as Section 13(1)(d)(i) and (ii) of the Act.** Para 22 and 23 are reproduced hereunder for ready reference:-

> *"22. In a recent enunciation by this Court to discern the imperative prerequisites of Sections 7 and 13 of the Act, it has been underlined in B. Jayaraj [B. Jayaraj v. State of A.P., (2014) 13 SCC 55 : (2014) 5 SCC (Cri) 543] in unequivocal*

terms, that mere possession and recovery of currency notes from an accused without proof of demand would not establish an offence under Section 7 as well as Sections 13(1)(d)(i) and (ii) of the Act. It has been propounded that in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to be proved. The proof of demand, thus, has been held to be an indispensable essentiality and of permeating mandate for an offence under Sections 7 and 13 of the Act. Qua Section 20 of the Act, which permits a presumption as envisaged therein, it has been held that while it is extendable only to an offence under Section 7 and not to those under Sections 13(1)(d)(i) and (ii) of the Act, it is contingent as well on the proof of acceptance of illegal gratification for doing or forbearing to do any official act. Such proof of acceptance of illegal gratification, it was emphasised, could follow only if there was proof of demand. Axiomatically, it was held that in absence of proof of demand, such legal presumption under Section 20 of the Act would also not arise.

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 provethe 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." (Emphasis Supplied)"

24. 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 witnesses only on conjecturing and the observations of the learned trial Court are absolutely beyond the record. The totality of circumstances as proved by the prosecution clearly proves the innocence of the appellant.

25. In view of the above discussions and reasons, I find substance in the above points of argument raised on behalf of the appellants and merits in these appeals. Accordingly, impugned judgment of conviction and order of sentence of the appellants is hereby **set aside** and they are acquitted from the charges leveled against them.

26. The appellants are on bail, hence, they are discharged from the liabilities of bail bonds. Sureties are also discharged.

27. In result, **these appeals are allowed.**

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

29. Let a copy of this judgment be sent to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated: 06/11/2026
Basant / **NAFR**
Uploaded On: 06/11/2026