



2026:DHC:2790



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

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Judgment Reserved on: 01.04.2026

Judgment pronounced on: 04.04.2026

+ **CRL.A. 455/2003**

BHIM SINGH LAKARA

.....Appellant

Through: Mr. Gulab Singh, Advocate (through VC).

versus

C.B.I.

.....Respondent

Through: Mr. Rajesh Kumar, SPP, CBI with Mr. Changez Khan and Ms. Mishika Pandita, Advocates.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. This appeal under Section 374 of the Code of Criminal Procedure, 1973 (the Cr.P.C.) has been filed by the sole accused in C.C.No. 228/1994 on the file of the Court of Special Judge, Delhi, challenging the conviction entered and sentence passed against him for the offences punishable under Section 161 of the Indian Penal



2026:DHC:2790



Code, 1860 (IPC) and Sections 5(2) read with 5(1)(d) of the Prevention of Corruption Act, 1947 (the PC Act).

2. The prosecution case is that on 18.07.1986, the accused, while working as a Lower Division Clerk (LDC) in the Slum Department, Delhi Development Authority (the DDA), Jawalapur, Delhi, demanded and accepted a sum of ₹100/- from PW2 as illegal gratification for incorporating “No. IV Jawalapuri” on his possession slip No. 007364 in respect of plot No. C-82, Block No IV, Jawalapuri, Delhi and thereby, committed the offences punishable under Section 161 IPC and Section 5(1)(d) read with Section 5(2) of the PC Act.

3. On 18.07.1986, PW2 lodged a complaint, that is, Ext. PW2/B, with the S.P., CBI, New Delhi, based on which crime, RC 47/86-DLI, that is, Ext. PW4/A FIR was registered alleging commission of the offence punishable under Section 161 IPC.



2026:DHC:2790



4. PW4, Inspector CBI, New Delhi, conducted investigation into the crime and on completion of the same, submitted the charge-sheet/ final report alleging commission of the offences punishable under Section 161 IPC and Section 5(1)(d) read with Section 5(2) of the PC Act.

5. Ext. PW1/A sanction order for prosecuting the accused was accorded by PW1, the then Director, (Housing and General Administration) Slum Wing, DDA.

6. When the accused on receipt of summons appeared before the trial court, the trial court after complying with the formality contemplated under section 207 Cr.P.C, on 03.06.1988, framed a charge against the accused for the offences punishable under Section 161 IPC and Section 5(1)(d) read with 5(2) of the PC Act, which was read over and explained to the accused to which he pleaded not guilty



7. On behalf of the prosecution, PW1 to PW6 were examined and Ext.PW1/A, Ext.PW2/A to E, Ext.PW3/A and PW4/A to D were marked in support of the prosecution case.

8. After the close of the prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against him in the evidence of the prosecution. The accused denied all those circumstances and maintained his innocence. The accused submitted that he has been falsely implicated in this case. He neither demanded or accepted any money from PW2. The money was never recovered from him or his pant pocket rather, it was planted.

9. No oral or documentary evidence was advanced on behalf of the accused.

10. On consideration of the oral and documentary evidence on record and after hearing both sides, the trial court, *vide* judgment dated 30.06.2003, held the accused guilty of the offences



2026:DHC:2790



punishable under Section 161 IPC and Section 5(1)(d) read with 5(2) of the PC Act. *Vide* order on sentence dated 02.07.2003, the accused was sentenced to rigorous imprisonment for one year along with fine of ₹1,000/- and in default of payment of fine to undergo rigorous imprisonment for two months. Aggrieved, the accused has preferred the present appeal.

11. The learned counsel for the appellant/accused submitted that the latter has falsely been implicated in the case. There are several contradictions in the testimony of the prosecution witnesses. PW2 deposed that the tainted currency notes were taken by the accused with both his hands. However, only his left hand wash turned pink. As per the prosecution case, it was PW2 who was to give the signal after the transaction had been completed. However, PW3 deposed that he gave the signal. According to PW2, the person who demanded money from him was a patwari and that the name of the said person was not known to him. But in Ext. PW2/B,



the complaint, he has mentioned the name and designation of the accused/appellant. It was further submitted that the accused was neither entitled nor authorised to make any corrections in the possession slip. Therefore, the appellant/accused is entitled to the benefit of doubt, goes the argument.

12. *Per Contra*, the learned Special Public Prosecutor submitted that the foundational facts necessary to substantiate the prosecution case stand duly proved. The prosecution case is proved by the materials on record. There are only minor inconsistencies in the testimony of the witnesses, which are not in any way material and have in no way affected the prosecution case. It was submitted that it is not necessary that the person demanding the bribe must be in a position or authority to perform the act in question. It is sufficient if the accused induces the complainant and accepts the gratification. It was further contended that it was never the case of the accused, either in his statement under Section 313(1)(b) Cr.P.C.



or during trial, that he was not in a position to perform the said act. There is no infirmity calling for an interference by this Court. Reliance has been placed on the dictum in **M. Narsinga Rao v. State of A.P., (2001) 1 SCC 691.**

13. Heard both sides and perused the materials on record.

14. The only point that arises for consideration in the present appeal is whether there is any infirmity in the impugned judgment calling for an interference by this Court.

15. I shall first briefly refer to the evidence on record relied on by the prosecution in support of the case. PW2, in Ext. PW2/B complaint dated 18.07.1986, based on which the crime was registered, has stated thus:- “...On 16.07.1986, I went to the DTC office at Red Fort to get a concessional pass made. There, I submitted the application form number 99072 dated 16.07.1986. Then the DTC people saw my DDA possession slip No. 7364 dated 20.01.1976, and said that get “Jwalapuri No. IV” written on it from



2026:DHC:2790



the DDA office, then the pass will be made. I went to the DDA office in Jwalapuri and met Clerk Bhim Singh Lakra. I asked him to write “Jwalapuri No. IV” on my possession slip No. 7364. He demanded a bribe of ₹100/- rupees to write “Jwalapuri No. 4” on the possession slip...”

15.1. PW2 when examined before the trial court, stood by his case in Ext. PW2/B complaint. PW3 deposed that on 18.7.1986, he went to the CBI office at Lodhi Road at about 01:00 - 01:30 PM and submitted a written complaint to the Superintendent of Police, CBI. He also spoke of the pre-trap formalities undertaken by the CBI. He was instructed to hand over the money to the accused only on demand made by the latter, and that if currency notes were accepted as bribe, to give a signal by scratching his head. A person named Sharma (PW3) was directed to accompany him and observe the transaction. At about 03:00 - 03:30 PM, he along with the witnesses and the CBI team proceeded to the DDA



2026:DHC:2790



office and reached there by 04:00 PM. He, along with Sharma (PW3), went inside the office while the others remained outside the office. They met the accused, who asked if he had brought the money. He requested that the entry be made first, but the accused insisted on payment first. He then handed over the money, which the accused took in his left hand, examined with his right hand, and placed in the left front pocket of his pant. Thereafter, the accused made the required entry on the possession slip and initialled it. Then he came out of the office along with the possession slip and gave the signal. The CBI officials entered the room and caught hold of each wrist of the accused. When the Inspector CBI challenged the accused as to whether he had accepted the bribe, the latter remained/kept mum. The personal search of the accused was conducted by Sharma (PW3) and another person. The currency notes were recovered from the pant pocket of the accused. Hand washes of both hands of the accused were taken. The colour of the



left-hand wash turned pink. However, the colour of the right-hand wash of the accused did not turn pink. The pant pocket wash also turned pink. The solutions were preserved and sealed. PW2 also deposed that his personal search was also conducted by Sharma (PW3) and others, and the possession slip and a DTC form recovered. PW2 more or less stood by his case during cross examination also.

16. PW3, the shadow witness, and PW5, the recovery witness, fully supported the prosecution case.

17. PW4, the Investigating Officer, deposed regarding the various steps taken during investigation.

18. The prosecution case rests on the testimony of PW2, PW3 the shadow witness and PW5 the recovery witness, coupled with the documents prepared contemporaneously during the pre-trap and post-trap proceedings. It is true that there are certain inconsistencies in the testimony of PW2. However, his testimony



on the core aspects of demand, acceptance and recovery remains consistent and inspires confidence. PW3 and PW5 also fully support the prosecution case on all material particulars.

19. As pointed out by the learned counsel for the appellant/accused, certain discrepancies are noticeable in the testimony of PW3. PW3 deposed that he had given the signal, whereas PW2 claimed that he himself had given the signal. PW3 was also unable to recall whether the personal search of PW2 had been conducted or regarding the documents prepared during pre-raid proceedings. These inconsistencies, though present, pertain to the procedural aspects.

20. PW5 has provided a detailed account of the pre-trap proceedings. He deposed that PW2 produced two currency notes of the denomination of ₹50/- on which Phenolphthalein powder was applied, and a demonstration conducted wherein the solution had turned pink. Instructions were given PW2 to give a signal by



moving his hand over his head. PW5 further deposed that upon reaching the spot, PW2 and PW3 had proceeded to the office of the accused and thereafter, on receipt of signal, the raiding party entered and apprehended the accused. PW5 has specifically stated that the tainted notes were recovered from the left pocket of the accused and that the numbers of the currency notes tallied with those noted earlier in the memo. With respect to the chemical test, PW5 deposed that the right-hand wash of the accused did not change colour, whereas the left-hand wash and the pant pocket wash turned pink. The solutions were thereafter sealed and preserved.

21. It is true that PW5 deposed that he had recovered the tainted notes, whereas PW3 stated that a CBI official effected the recovery. This inconsistency, however, does not affect the factum of recovery itself, which stands consistently proved. The discrepancies relating to who gave the signal, who recovered the



money, and minor variations in pre-trap details are not of such a nature as to discredit the prosecution case in its entirety. These minor inconsistencies do not go to the root of the prosecution case. On a total appreciation of the evidence, it is evident that the prosecution has successfully established that the accused demanded and accepted illegal gratification from PW2. The recovery of tainted money from the possession of the accused has been proved beyond doubt.

22. Once the acceptance of money is established, the presumption under Section 4 of the PC Act comes into operation. Section 4 says that that where, in a trial for offences under Section 161 IPC or Section 5 of the PC Act, it is proved that a public servant has accepted or obtained any gratification other than legal remuneration, the Court shall presume that such gratification was accepted as a motive or reward for doing or forbearing to do an official act, unless the accused proves the contrary. In the present



case, the accused has merely denied the allegations and has taken a plea of false implication. No materials have been brought on record to rebut the statutory presumption. Furthermore, the accused remained mum as per PW2 when he was apprehended. It is well settled that when tainted currency notes are recovered from the possession of the accused and no plausible explanation is offered for their presence, such recovery constitutes a strong incriminating circumstance supporting the prosecution case regarding demand and acceptance of illegal gratification [See **M. Narsinga Rao v. State of A.P., 2001 SCC (Cri) 258**].

23. The contention of the defence that the accused was not competent to make the entry in the possession slip is also without merit. However, even if the accused was not legally competent to perform the act, the offence is made out if he demanded and accepted illegal gratification. Thus, the essential ingredients of the



offence under Section 161 IPC and Section 5(1)(d) read with Section 5(2) of the PC Act, 1947 stand fully satisfied.

24. Now, coming to the point of the sentence. The trial court has imposed a sentence of rigorous imprisonment for one year along with a fine of ₹1,000/-, and in default of payment of fine, to rigorous imprisonment for two months. No arguments were advanced on the quantum of sentence. Section 5(2) of the old PC Act prescribed imprisonment for a term not less than one year but which may extend to seven years along with fine. However, as per the first proviso to the Section, the Court may for any special reason, impose a sentence of imprisonment of less than one year.

25. The offence proved against the appellant pertains to the demand and acceptance of illegal gratification by a public servant, which is a serious offence affecting the integrity of public servant and cannot be viewed lightly. However, certain mitigating circumstances cannot be overlooked. The incident is of the year



1986, and the appellant has faced criminal trial for a considerable length of time. The amount involved is ₹100/-, and there is no material to indicate that the appellant is a habitual offender or has been involved in similar offences. In view of the aforesaid, this Court is of the view that the ends of justice would be met by modifying the sentence. Accordingly, while maintaining the conviction of the appellant, the substantive sentence of rigorous imprisonment for one year is reduced to rigorous imprisonment for six months.

26. The appeal is accordingly partly allowed to the extent of modification of the sentence to rigorous imprisonment for a period of six months.

27. Application(s), if any, pending shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

APRIL 04, 2026

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