



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Judgment Reserved on: 12.02.2026*
Judgment pronounced on: 17.03.2026

+ **CRL.A. 207/2006**

MAHENDER PRASAD

.....Appellant

Through: Ms. Riya Kumar, Advocate

versus

STATE (C.B.I)

.....Respondent

Through: Mr. Kamal Kant Goel, SPP for CBI
with Ms. Jyoti Goel, Advocate

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.48/2003 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 7 and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (the PC Act).

2. The prosecution case is that on 05.02.2003 at about 02.20 PM, the accused, a public servant, while working as

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Malaria Inspector in the Municipal Corporation of Delhi (MCD), demanded and accepted a sum of ₹500/- from PW4 as illegal gratification for not prosecuting him for maintaining his dhaba in an unhygienic and unclean condition, and thereby committed offences punishable under Section 7 and Section 13(2) read with Section 13(1)(d) of the PC Act.

3. On 05.02.2003, PW4 lodged a complaint, that is, Ext. PW4/A, with the S.P., Anti-Corruption Branch, CBI, New Delhi, based on which crime, RCDAI-2003-A-0009, that is, Ext. PW9/A FIR was registered alleging commission of the offence punishable under Section 7 of the PC Act.

4. PW10, Sub-Inspector (SI), Anti-Corruption Branch, 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 the Sections 7 and 13(1)(d) read with 13(2) of the PC Act.



5. Ext. PW5/A sanction order for prosecuting the accused was accorded by PW5, the then Additional Commissioner (Health), MCD.

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 21.01.2004, framed a charge against the accused for the offences punishable under Sections 7 and 13(2) read with 13(1)(d) 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 PW10 were examined and Ext.PW1/A, Ext.PW2/A - H, Ext.PW3/A - H, PW4/A, PW4/DA, PW5/A, PW6/A - D, PW7/A, PW7/A-1, PW7/B, PW8/A - C, PW8/DA, PW9/A, PW10/A-B 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 the present case and that even after the trap proceedings, PW4 approached him and demanded money in order to hush up the matter. Upon his refusal to comply with such demand, PW4 threatened him and subsequently lodged another false complaint against him, which was referred to the police but was ultimately closed as untraced. The accused also submitted that PW4 had again threatened him, in the presence of certain staff members of MCD Boys Primary School at Jafarpur Kalan, stating that the latter would ensure that the accused is put behind bars if he refused to pay the demanded money.

9. On behalf of the accused persons, DWs. 1 and 2 were examined.



10. On consideration of the oral and documentary evidence on record and after hearing both sides, the trial court, *vide* judgment dated 08.03.2006, held the accused guilty for the offences punishable under Section 7 and Section 13(2) read with Section 13(1)(d) of the PC Act. *Vide* order on sentence dated 10.03.2006, the accused was sentenced to rigorous imprisonment for two years along with fine of ₹10,000/- under Section 7 of the PC Act, and in default of payment of fine to undergo rigorous imprisonment for three months and to rigorous imprisonment for three years along with fine of ₹15,000/- under Section 13(2) read with Section 13(1)(d) of the PC Act, and in default of payment of fine to undergo rigorous imprisonment for three months. The substantive sentence of imprisonment have been directed to run concurrently. Aggrieved, the accused has preferred the present appeal.

11. The learned counsel for the appellant/accused submitted that the prosecution has failed to establish that there



was any prior demand for the bribe as a motive or reward for performing or not performing any specific official act. The prosecution has failed to establish that the presence of the accused at the dhaba was solely for the purpose of receiving the bribe amount. On the other hand, it is quite probable that the accused must have visited the premises as part of his duty of inspecting or evaluating the hygienic condition of the dhaba, having regard to the position held by him.

11.1. It was also submitted that Ext. PW2/G transcription does not disclose any demand of money made by the accused. On the contrary, it indicates that PW4 was persistently insisting that the appellant receive the money. The learned counsel further submitted that the panch witnesses examined in the case are stock witnesses of the CBI and the testimony of PW2, the shadow witness, does not inspire confidence as his version does not corroborate either Ext. PW2/G transcription or the testimony of PW4. In this regard, it



was pointed out that PW2 has stated in his cross examination that PW4 had a conversation with the appellant for about 25 minutes, which is not reflected in Ext. PW2/G transcription relied upon by the prosecution.

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 testimonies of the witnesses which are not in any way material and has in no way affected the prosecution case. There is no infirmity calling for an interference by this Court.

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 refer to the evidence on record relied on by the prosecution in support of the case. PW4, in Ext. PW4/A complaint dated 05.02.2003 based on which the crime was registered, has stated thus:- “... *for the past three months, I have been running a rented dhaba named Mahalaxmi at Main Rawta Mod (near Jafarpur Kalan village). On the afternoon of 04.02.2003, Shri Mahendra Sharma came to my dhaba and, after inspecting the hotel's water tank, etc., started saying that there is a lot of filth in the hotel. Therefore, a challan will have to be issued. When I pleaded with Shri Mahendra Sharma that there is no dirt in the hotel because it has only been open for three months, Shri Mahendra Sharma stated that he would refrain from issuing the challan on only one condition: if I keep giving him ₹600/- every three months as a bribe. Then he will never issue a challan for my hotel. When I told Mahendra Sharma that the income from my hotel is very low, Mahendra Sharma reduced the bribe amount to ₹500/- every three months*



and said that he will personally come to my hotel on the evening of 05.02.2003 to collect ₹500/-. Mahendra Sharma also threatened that if I fail to pay the said money, he will issue a challan and seal the hotel. I do not wish to give bribe to Shri Mahendra Sharma. Please take legal action...”

16. PW4 when examined before the trial court stood by his case in Ext. PW4/A complaint. PW4 deposed that on 03.02.2003, he went to the CBI office at about 10.00 A.M. along with Ex. PW4/A written complaint and met the Superintendent of Police, Anurag Garg. After reading the complaint, the Superintendent of Police, directed PW9, the Trap Laying Officer (the TLO) to take necessary action on the complaint. PW4 deposed regarding the pre-trap proceedings. PW4 also deposed that a pen type tape recording instrument was placed in his left shirt pocket to record any conversation that might take place at the spot. PW2, the shadow witness, was directed to stay with him and PW3, the recovery witness, to be



with the raiding party. The raiding party left the CBI office at about 12.30 P.M. and reached Rawta More, Jaffarpur Kalan at about 2.00 P.M. They got down from the vehicle at a distance of about half a kilometre from PW4's dhaba. Then he along with PW2 proceeded towards the dhaba, while the remaining members of the trap party followed them on foot. According to PW4, when he reached the dhaba, the accused was already sitting outside on a chair. He switched on the tape-recording instrument and called the accused inside the dhaba. The accused demanded ₹500/- and so he took out the treated currency notes from his pant pocket and handed it over to the accused who received it and put in the left pocket of his shirt. In the meantime, PW2, who had been sitting beside him and hearing the conversation, went outside and gave the predetermined signal to the raiding party. Soon thereafter, when the accused was leaving, PW9, after disclosing his identity apprehended the accused for accepting the bribe. PW4 further deposed that the



accused admitted having taken the money from him. He also deposed that the hand wash of the accused turned pink. PW4 further deposed regarding the post-trap formalities. PW4 stood by his case in the cross-examination.

17. PW2, the shadow witness and PW3, the recovery witness fully supported the prosecution case.

18. PW8, Scientific Officer, CFSL deposed that his examination showed that the questioned voice in the audio recording matched the specimen voice sample of the accused.

19. PW10, the Investigating Officer deposed regarding the various steps taken during investigation.

20. I also make a brief reference to the defence evidence. DW1 deposed that the accused was his superior officer during the period January-February 2003. According to DW1, PW4 had come to their office on 01.02.2003 to invite the accused to the birthday party of the former's son scheduled on 05.02.2003. PW4 again visited the office on 05.02.2003 in the morning and requested the



accused to come to his dhaba at about 02.00 PM. DW1 further deposed that since the officials had gone for site inspection on official duty, the accused later proceeded alone to the PW4's dhaba and at about 01.45 PM, a person from PW4's side came and took the accused to the dhaba. He further deposed that in the evening they came to know that the accused had been implicated in a trap case. DW1 further deposed that the accused joined duty on 13.02.2003 and on that day at about 10.00 AM, PW4 came to their office and demanded a sum of ₹70,000/- from the accused for changing his statement, but the accused refused to make any payment. PW4 again approached the accused after about an hour and demanded ₹ 60,000/-, stating that the matter would be settled through his uncle, but the accused again refused to accede to the demand.

21. DW2, another witness, spoke in the same line as DW1.

22. The question is whether the prosecution has established the foundational facts of demand and acceptance of bribe or



whether the accused has been able to rebut the presumption contained under Section 20 of the PC Act. Section 20 says that where in any trial of an offence punishable under Section 7 or Section 11 or clause (a) or clause (b) to sub-Section 1 of Section 13, it is proved that an accused has accepted or obtained or has agreed to accept or attempt to obtain for himself or for any other person any gratification or any valuable thing from any person, it shall be presumed unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing as the case may be, as a motive or reward as is mentioned in Section 7 or as the case may be without consideration, or for a consideration which he knows to be inadequate. However, Section 20 will come into play only when the foundational facts are established by the prosecution.

23. Here the testimony of PW4 read along with the testimony of the other prosecution witnesses clearly establish



the prosecution case. Though the witnesses are seen extensively cross examined, nothing was brought out to disbelieve or discredit their testimony. That being the position, it can only be held that the prosecution has succeeded in establishing the demand and acceptance of the bribe. In such circumstances, Section 20 of the Act is attracted. The defence evidence led by the accused instead of helping the accused to disprove the prosecution case has all the more substantiated the prosecution case. If DW1 and DW2 are to be believed, PW4 after the incident had approached the accused twice and demanded money for changing his prior statement. What is the prior statement of PW4? The statement is apparently one supporting the prosecution case. The testimony of DW1 and DW2 read along with the testimony of the prosecution witnesses has proved, beyond reasonable doubt, the prosecution case which I find no reason(s) to disbelieve.



24. In the light of the materials on record, I find no infirmity in the impugned judgement calling for an interference by this court.

25. In the result, the appeal, *sans* merit, is dismissed.

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

**CHANDRASEKHARAN SUDHA
(JUDGE)**

MARCH 17, 2026

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