



2026:CGHC:11712

AFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 2674 of 2025**

Suresh Kurre S/o Late Atmaram Kurre Aged About 39 Years Labour Inspector- Office Of Labour Officer Jashpur, District- Jashpur (C.G.) R/o Quarter Nagar 106, Sector-4, Balco Nagar Korba, District- Korba (C.G.)

... Appellant**versus**

State of Chhattisgarh Through Police Station Acb/eow, Raipur, District- Raipur (C.G.) Unit- ACB Ambikapur District Surguja (C.G.)

... Respondent

For Appellant : Mr. Abhishek Sinha, Senior Advocate assisted by Mr. Ganshyam Patel, Advocate.

For Respondent/State : Mr. Saurabh Sahu, Panel Lawyer.

Hon'ble Shri Ramesh Sinha, Chief Justice**Judgment on Board****11/03/2026**

1. This criminal appeal arises out of the judgment of conviction and order of sentence dated 26.11.2025 passed by the learned Special Judge (Prevention of Corruption Act) Jashpur, District Jashpur (C.G.) in Special Case (ACB) No.01/2021, whereby the appellant has been convicted under Section 7 of Prevention of Corruption Act, 1988 and sentenced to undergo rigorous imprisonment for 03 years and fine of Rs.50,000/-, in default of payment of fine to further undergo RI for 06 months.

2. Conviction is impugned on the ground that without there being any iota of evidence of demanding and accepting illegal gratification other than legal remuneration by the public servant by abusing his office, the Special Judge has convicted & sentenced the appellant as aforementioned and thereby committed illegality.
3. The prosecution case, in brief, is that the complainant Ramesh Kumar Yadav submitted a written complaint on 26.09.2019 before the Deputy Superintendent of Police, Anti-Corruption Bureau, Bilaspur alleging that he was running an institution in the name and style of "Chhattisgarh Abhinandan Educational and Social Welfare Society, Kotba." It was stated that the Labour Department, District Jashpur had granted administrative approval vide order dated 02.05.2018 for conducting training under the courses of Mason General and Assistant Electrician. Pursuant thereto, the complainant conducted training for about 320 persons within District Jashpur and thereafter claimed payment of training fees from the department. It was alleged that the accused/appellant Suresh Kurre, who was posted as Labour Inspector at the relevant time, demanded 10% illegal gratification from the complainant for processing the payment. It was further alleged that earlier a cheque of Rs.7,23,492/- had been issued in favour of the complainant's institution and in consideration thereof the accused had already received Rs.1,50,000/- as illegal gratification. It was further alleged that an amount of Rs.6,37,000/- was still payable to the complainant by the department. When the complainant met the accused in his office on 24.09.2019 and requested for release of the said amount,

the accused allegedly demanded Rs.1,00,000/- as illegal gratification for preparing the note-sheet and placing it before the competent authority for approval of the cheque.

4. Since the complainant was unwilling to pay the bribe and intended to have the accused caught red-handed, he approached the Anti-Corruption Bureau, Bilaspur and lodged the aforesaid complaint. On receipt of the complaint, Inspector Pramod Kumar Khes handed over a digital voice recorder to the complainant and directed him to meet the accused and record the conversation relating to the demand of illegal gratification. In pursuance of the said instructions, the complainant met the accused on 27.09.2019 near his official residence and requested him to reduce the demanded amount. At that time, the accused allegedly stated that instead of Rs.1,00,000/-, the complainant would now have to pay Rs.1,90,000/-, stating that he intended to purchase a Java motorcycle. The conversation relating to the demand of illegal gratification was recorded by the complainant in the digital voice recorder and he informed the ACB officials accordingly.
5. Subsequently, on 12.10.2019, the complainant informed the ACB officials that the accused was repeatedly calling him and demanding the money. When the complainant expressed his inability to pay the entire amount at once, the accused allegedly agreed to accept the amount in instalments. The complainant informed him that he could arrange only Rs.40,000/-, whereupon the accused directed him to bring the said amount on 14.10.2019. Acting upon the said information, the complainant was instructed to appear on

14.10.2019 at about 9:00 AM at the PWD Rest House, Jashpur along with the digital voice recorder, the bribe amount of Rs.40,000/- and a second written complaint, whereafter the trap proceedings were conducted by the ACB officials.

6. On the basis of the complaint, Crime No.25/2019 was registered against the accused for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988 (as amended in 2018). During the course of investigation, the relevant documents including the service records and posting orders of the accused were collected and sanction for prosecution was obtained from the competent authority. Statements of witnesses were recorded, the spot map was prepared and the accused was arrested. After completion of investigation, charge-sheet was filed before the competent Court which came to be registered as Special Case No.01/2021.
7. During trial, the learned Special Judge framed charge against the accused/appellant under Section 7 of the Prevention of Corruption Act, 1988 on 18.03.2021, which was read over and explained to the accused, who denied the same and claimed to be tried.
8. In order to prove the guilt of the accused/appellant, the prosecution has examined as many as twelve witnesses and exhibited several documents including the First Information Report, written complaint, seizure memos, trap proceedings, transcripts of recorded conversations, recovery memos of currency notes, FSL report, call detail records and certificate under Section 65-B of the Indian

Evidence Act, which were marked as Exhibits P-1 to P-54.

9. After recording the statement of the accused under Section 313 of the Code of Criminal Procedure, the accused examined himself as Defence Witness No.1 and also produced certain documents in his defence, which were exhibited as Exhibits D-1 to D-17.
10. It is also noted that since the sanction order dated 18.03.2020 had not been formally exhibited during trial, the same was subsequently marked as Exhibit P-55 for the purpose of reference in the judgment.
11. After consideration, the accused claimed to be innocent and alleged that he had been falsely implicated by the complainant due to a previous animosity. As per the evidence of PW-8 (Investigating Officer), PW-11 was a member of the trap party who conducted the pre-trap demonstration and allegedly caught the hand of the appellant at the time of trap. However, the alleged shadow witnesses PW-3 and PW-6 have categorically stated that they were standing at some distance from the place of occurrence and did not see the complainant handing over the money or the appellant accepting the same, and they reached the spot only after receiving a call from PW-8. Thus, the prosecution failed to establish the essential ingredients of demand and voluntary acceptance of illegal gratification. Moreover, PW-4 (Labour Officer) clearly stated that he was the competent authority to process and release the bills and that no bill of the complainant was pending with the department, rather an amount of about Rs.7,00,000/- was recoverable from the

complainant. Therefore, the appellant, being a Labour Inspector, was not competent to release the bills and there was no occasion for him to demand any illegal gratification. The prosecution also failed to produce and play the compact disc (CD) on the basis of which the transcripts Exhibits P-16 and P-17 were prepared. Thus, the prosecution has failed to prove the twin requirements of demand and acceptance, and mere recovery of tainted currency cannot sustain the conviction. However, the learned Special Court, without properly appreciating the evidence on record, convicted the appellant and sentenced him as aforementioned, which is liable to be set aside. Hence, the present appeal.

12. Learned counsel for the appellant submits that the impugned judgment of conviction and order of sentence passed by the learned trial court is bad in law as well as on facts and is liable to be set aside. It is submitted that the prosecution has failed to prove the sanction for prosecution in accordance with law, as the sanctioning authority has neither been examined before the court nor the sanction order has been duly proved and exhibited, thereby seriously prejudicing the valuable right of the appellant to cross-examine the sanctioning authority. It is further submitted that the essential ingredients of Section 7 of the Prevention of Corruption Act, namely demand and voluntary acceptance of illegal gratification, have not been established by the prosecution. The appellant was merely working as a Labour Inspector and as per the departmental procedure only the Labour Officer was competent to process and release the bills, therefore the appellant had no

authority to release the bill of the complainant and there was no occasion or motive for him to demand any illegal gratification from the complainant.

- 13.** It is further submitted that the prosecution has mainly relied upon the alleged recorded conversation and its transcripts (Exhibits P-16 and P-17), which are only secondary evidence and cannot be treated as primary proof of the alleged demand and acceptance. The alleged compact disc (CD) containing the conversation was neither properly proved nor played before the court and no scientific examination such as FSL analysis or voice sampling of the complainant and the appellant was conducted to establish its authenticity. The evidence on record also shows material contradictions regarding the seizure and custody of the alleged recording, as the complainant kept the recording in his possession for a considerable period before handing it over, thereby creating serious doubt about the possibility of tampering. Even the shadow witnesses PW-3 and PW-6 have not supported the prosecution case and have categorically stated that the transcription was not prepared in their presence and that they did not witness the alleged demand or acceptance of bribe. The trap party members were standing at a considerable distance from the alleged place of occurrence and reached the spot only after receiving information, therefore none of them actually witnessed the alleged transaction.
- 14.** Learned counsel further submits that the alleged recovery of tainted currency notes by itself is not sufficient to constitute an offence under the Prevention of Corruption Act unless the prosecution

proves the demand and voluntary acceptance of illegal gratification beyond reasonable doubt. In the present case even the alleged recovery itself is doubtful, as the phenolphthalein test with respect to the pocket wash of the pant did not show the expected colour change and the entire trap proceedings appear suspicious. It is also submitted that the complainant had personal animosity against the appellant because recovery proceedings of about Rs.7,00,000/- had already been initiated against him for financial irregularities committed in the training programme conducted through his NGO and he was not entitled to receive any further payment from the department. The investigation was conducted without proper verification of the relevant documents and without examining the alleged demand letters or bills, which further makes the prosecution story doubtful.

15. Learned counsel for the appellant further places reliance upon various judicial pronouncements to submit that in cases relating to offences under the Prevention of Corruption Act, the prosecution is mandatorily required to establish the demand and acceptance of illegal gratification, which are the sine qua non for sustaining conviction. In this regard, reliance is placed upon the judgment of the Hon'ble Supreme Court in **K. Shanthamma v. State of Telangana, (2022) 4 SCC 574** (Paras 10, 11 & 17), wherein it has been held that proof of demand and acceptance of illegal gratification is essential for constituting an offence under Section 7 of the Prevention of Corruption Act, and in absence of such proof, conviction cannot be sustained. Further reliance is placed on

Rajesh Gupta v. State through CBI, (2022) 20 SCC 793 (Paras 17, 18, 19 & 22), wherein the Hon'ble Supreme Court reiterated that mere recovery of tainted currency is not sufficient to establish the offence unless the prosecution proves the demand and voluntary acceptance of bribe beyond reasonable doubt. Learned counsel also relies upon the judgment of the High Court of Bombay at Goa in **Satish Kumar Kajal v. State through CBI, 2022 SCC OnLine Bom 465** (Paras 35, 36, 37 & 38), wherein it has been held that in absence of clear and cogent evidence proving demand and acceptance, conviction under the Prevention of Corruption Act cannot be sustained. Further reliance is placed upon the recent decision of the Bombay High Court in **Ravindra v. CBI and Mohammad Salim v. CBI, 2025 SCC OnLine Bom 4833** (Paras 78, 79 & 82), wherein it has been held that mere recovery of tainted currency or inconclusive electronic evidence, without proof of demand and voluntary acceptance, is insufficient to sustain conviction. On the strength of the aforesaid settled principles of law, it is submitted that in the present case also the prosecution has failed to establish the essential ingredients of demand and acceptance of illegal gratification, and therefore the impugned judgment of conviction and sentence passed by the learned Trial Court be set aside and the appellant be acquitted of the charges.

16. On the other hand, learned counsel for the respondent/State has opposed the prayer made by learned counsel appearing for the appellant and submitted that the appellant has rightly been convicted and sentenced for the offences under Section 7 of the

Prevention of Corruption Act, 1988 (for short, 'P.C. Act').

17. I have heard learned counsel for the parties, perused the judgment impugned and record of the trial Court.
18. In order to appreciate the arguments advanced on behalf of the parties, I have examined the evidence adduced on behalf of the parties.
19. The prosecution case primarily rests upon the testimony of the complainant Ramesh Kumar Yadav (PW-2), who claims to be the Secretary of an organization known as Chhattisgarh Abhinandan Educational and Social Welfare Society, which was allegedly engaged in conducting skill development training programmes under the Mukhyamantri Kaushal Vikas Scheme implemented through the Labour Department of the State Government. According to the prosecution version, the said institution conducted training in trades such as General Mason and Electrician for certain trainees between the years 2017 to 2019, and after completion of the training programme an amount of Rs.6,37,000/- was allegedly payable to the complainant's institution by the Labour Department. It is the allegation of the complainant that when he approached the office of the Labour Department at Jashpur for issuance of the cheque towards the said amount, the accused Suresh Kurre, who was posted as Labour Inspector at the relevant time, demanded illegal gratification at the rate of 10% of the sanctioned amount. The complainant has further alleged that on an earlier occasion when a cheque amounting to Rs.7,23,492/- had been issued to his

institution, the accused had demanded illegal gratification and he had paid an amount of Rs.1,50,000/- to the accused. According to the complainant, when he again approached the accused for issuance of the cheque of Rs.6,37,000/-, the accused demanded a sum of Rs.1,90,000/- as illegal gratification and insisted that unless the said amount was paid, the cheque would not be issued. Being unwilling to pay the said bribe, the complainant approached the Anti-Corruption Bureau at Bilaspur and submitted a written complaint alleging demand of illegal gratification by the accused.

20. The complainant (PW-2) has further deposed that upon receiving the complaint, the officers of the Anti-Corruption Bureau instructed him to record the conversation relating to the alleged demand of bribe. For this purpose, he was provided with a digital voice recorder and was asked to meet the accused and record the conversation. According to him, he went to the residence of the accused and recorded the conversation relating to the demand of illegal gratification. Thereafter he returned to the ACB office and handed over the recorder containing the alleged conversation. Subsequently, a trap proceeding was organized on 14.10.2019. The complainant has stated that he arranged an amount of Rs.40,000/- which was to be paid as part of the alleged bribe amount. The currency notes were treated with phenolphthalein powder in the presence of independent witnesses and the complainant was instructed to hand over the money to the accused only upon demand. According to the prosecution version, the complainant thereafter met the accused near the vehicle stand of

the Labour Office at Jashpur and upon demand by the accused he handed over the amount of Rs.40,000/- to him. Immediately thereafter the complainant gave the pre-arranged signal to the trap team, whereupon the ACB officials rushed to the spot and apprehended the accused and recovered the tainted currency notes from his possession.

21. However, when the testimony of the complainant is examined in the light of the cross-examination conducted on behalf of the defence, several material aspects emerge which cast a serious doubt on the reliability of the prosecution version. During cross-examination the complainant admitted that prior to the lodging of the complaint he himself had worked in the Labour Department as a Welfare Officer through Call-Me Service Centre and during that period he had also registered his own NGO and was conducting training programmes through the said institution. He further admitted that certain complaints had been made regarding financial irregularities in the disbursement of stipend to the trainees and that the Labour Department had initiated proceedings against him in that regard. It has further come on record during cross-examination that the department had passed a recovery order against the complainant for an amount of approximately Rs.7,01,100/- on account of the said irregularities. The complainant also admitted that he believed that the accused was responsible for initiating departmental proceedings against him. These admissions assume significance as they clearly indicate that there existed prior disputes between the complainant and the department and that the complainant had a

grievance against the accused. Another important aspect which emerges from the cross-examination is that the complainant did not produce any documentary material before the ACB to demonstrate that the amount of Rs.6,37,000/- was actually due and payable to his institution. He admitted that as per the departmental procedure any payment under the scheme would require submission of a formal claim, verification of records, preparation of note sheets and approval by competent authorities. However, he was unable to produce any document to show that such a claim had been submitted or that the amount had been sanctioned for payment. Thus the evidence of the complainant itself reveals that the alleged demand of bribe was not supported by any official record showing that the payment was actually pending.

- 22.** Another important witness examined by the prosecution is Promod Khes (PW-8), who at the relevant point of time was posted as Deputy Superintendent of Police in the Anti-Corruption Bureau and acted as the Trap Officer (Investigation Officer) in the present case. The testimony of this witness is crucial for the prosecution because the entire trap proceedings and the alleged recovery of tainted currency from the accused are sought to be proved through him. PW-8 has deposed that on 26.09.2019 the complainant Ramesh Kumar Yadav approached the office of the Anti-Corruption Bureau and submitted a written complaint alleging that the accused Suresh Kurre, who was posted as Labour Inspector at Jashpur, had demanded illegal gratification for issuance of a cheque relating to payment under the Mukhyamantri Kaushal Vikas Scheme.

According to this witness, after receiving the complaint he made preliminary enquiries and thereafter decided to verify the allegation of demand. For this purpose he provided a digital voice recorder to the complainant and instructed him to meet the accused and record the conversation relating to the demand of bribe. PW-8 has further stated that the complainant thereafter met the accused and recorded the alleged conversation and subsequently returned to the office of ACB and handed over the recorder containing the said recording. According to the trap officer, after listening to the recorded conversation he was satisfied that there was prima facie material indicating demand of illegal gratification by the accused and therefore a trap proceeding was planned. He has further deposed that on 14.10.2019 he constituted a trap team and called two independent witnesses namely Dr. Vinay Kumar Tiwari (PW-3), who was working as Assistant Professor in Government PG College Jashpur, and Chetan Sahu (PW-6), who was working as Deputy Collector, to act as panch witnesses in the trap proceedings. The trap officer has stated that in their presence the complainant produced an amount of Rs.40,000/-, which was to be used as the bribe amount. The currency notes were then smeared with phenolphthalein powder and a demonstration was given to the witnesses explaining how the powder reacts with sodium carbonate solution by turning pink in colour upon contact. According to PW-8, the numbers of the currency notes were recorded in the pre-trap memorandum and the complainant was instructed that he should hand over the tainted currency to the accused only upon specific demand of money and thereafter give a pre-arranged signal so that

the trap team could immediately apprehend the accused.

- 23.** PW-8 has further deposed that thereafter the trap team proceeded towards Jashpur and kept watch in the vicinity of the place where the complainant was expected to meet the accused. According to him, in the evening hours the complainant met the accused near the vehicle stand of the Labour Office at Jashpur, whereafter the complainant allegedly handed over the tainted currency to the accused pursuant to the demand made by him. PW-8 has further stated that immediately thereafter the complainant gave the pre-arranged signal, upon which the trap team rushed to the spot and apprehended the accused. The trap officer has further deposed that upon apprehension of the accused, the hands of the accused were washed in a solution of sodium carbonate and the solution turned pink, indicating the presence of phenolphthalein powder. He has further stated that thereafter the tainted currency notes were recovered from the possession of the accused and the numbers of the notes were matched with the numbers mentioned in the pre-trap memorandum. According to the witness, the recovery proceedings were documented through seizure memos and the recovered articles were sealed and taken into custody. He has also stated that thereafter the accused was formally arrested and the investigation was carried out.
- 24.** However, when the testimony of this witness is examined in the light of the cross-examination conducted on behalf of the defence, certain material aspects emerge which assume considerable significance in evaluating the credibility of the prosecution case.

During cross-examination PW-8 admitted that before organizing the trap he did not verify from the Labour Department whether any amount was actually due and payable to the complainant under the Mukhyamantri Kaushal Vikas Scheme. He further admitted that the complainant had not produced any official record, bill, sanction order, note sheet or payment order before the ACB to establish that an amount of Rs.6,37,000/- was actually pending for payment from the department. The witness also admitted that the alleged recorded conversation was not sent to any forensic laboratory for voice analysis in order to confirm whether the voices recorded therein actually belonged to the complainant and the accused. He further admitted that the independent witnesses associated with the trap proceedings were standing at some distance from the complainant at the time when the alleged transaction took place, and therefore they could not hear the conversation between the complainant and the accused. The trap officer also admitted that apart from the statement of the complainant, no independent witness had actually heard the accused demanding illegal gratification. These admissions made by PW-8 during cross-examination assume considerable importance because they indicate that the most crucial ingredient of the offence, mainly the demand of illegal gratification, rests solely upon the uncorroborated testimony of the complainant and is not supported by the independent witnesses who were present during the trap proceedings.

25. The prosecution has also relied upon the testimony of independent

witnesses who were associated with the trap proceedings. Among them Dr. Vinay Kumar Tiwari (PW-3) was called by the Anti-Corruption Bureau as an independent panch witness. He was working as an Assistant Professor in Government PG College, Jashpur at the relevant time. According to the prosecution, he was present at the time of preparation of phenolphthalein treated currency notes and was also part of the trap team. However, when this witness was examined before the learned trial Court, he did not support the prosecution case in material particulars. He admitted that he had been called to the Rest House where the ACB officials explained the procedure of trap and treated the currency notes with phenolphthalein powder, but he clearly stated that he did not hear the accused demanding any bribe from the complainant. He further stated that at the time when the complainant met the accused, he was standing at some distance and therefore he could neither hear the conversation between them nor could he clearly observe the alleged transaction of money. Because of these statements the prosecution declared him hostile. Even during cross-examination conducted by the prosecution he maintained that he had not heard any demand of illegal gratification being made by the accused. The testimony of this witness therefore does not support the prosecution case on the most crucial aspect of demand of bribe.

- 26.** Similarly, the other independent witness Chetan Sahu (PW-6), who was working as Deputy Collector at Jashpur, was also associated with the trap proceedings as a panch witness. This witness has also deposed about the preparatory proceedings conducted by the ACB

including the demonstration of phenolphthalein powder and instructions given to the complainant. However, when questioned regarding the actual transaction between the complainant and the accused, he stated that he was standing at some distance and therefore could not hear the conversation between them. He categorically stated that he did not hear the accused making any demand of money from the complainant and therefore he cannot say whether the accused demanded the alleged amount of bribe. He also admitted that he could not see clearly how the money was allegedly handed over to the accused. Thus this witness also failed to support the prosecution case on the essential ingredient of demand of illegal gratification. The evidence of these two independent witnesses therefore reveals that neither of them heard the alleged demand nor did they clearly witness the acceptance of money by the accused pursuant to such demand.

- 27.** Thus, though PW-8 has described the procedural aspects of the trap and the alleged recovery of tainted currency from the possession of the accused, the evidence of this witness also reveals that the verification of the complainant's claim regarding the pending payment was not undertaken, the recorded conversation was not subjected to forensic examination, and the independent witnesses were not in a position to hear the alleged demand of illegal gratification. These aspects assume considerable significance while assessing whether the prosecution has been able to prove the foundational fact of demand of illegal gratification beyond reasonable doubt.

- 28.** The defence has also led evidence in the present case and examined witnesses in support of its case. The accused has taken a specific defence that he had not demanded any illegal gratification from the complainant and that he has been falsely implicated because the complainant was aggrieved by the departmental proceedings initiated against him for financial irregularities in the scheme. The defence evidence and the circumstances brought on record during cross-examination indicate that the complainant had a motive to falsely implicate the accused due to the recovery proceedings initiated against him by the department. The defence has further attempted to demonstrate that the alleged demand of bribe has not been proved by any reliable and independent evidence and that the prosecution case rests solely upon the testimony of the complainant which is not corroborated by the independent witnesses.
- 29.** When the testimony of the complainant, Ramesh Kumar (PW-2) is examined in juxtaposition with the evidence of the independent witnesses and the trap officer, certain material inconsistencies emerge which go to the root of the prosecution case. The prosecution has attempted to establish that the accused Suresh Kurre, who was working as Labour Inspector at Jashpur, had demanded illegal gratification from the complainant for issuance of a cheque relating to payment under the Mukhyamantri Kaushal Vikas Scheme. However, the evidence on record indicates that the entire prosecution case regarding demand of illegal gratification rests primarily upon the statement of the complainant alone. The

two independent witnesses who were associated with the trap proceedings, namely Dr. Vinay Kumar Tiwari (PW-3) and Chetan Sahu (PW-6), have not supported the prosecution on the most crucial aspect of demand of illegal gratification. Both these witnesses have categorically stated that they were standing at some distance from the complainant, and therefore, could not hear the conversation that allegedly took place between the complainant and the accused. They have further stated that they did not hear the accused making any demand for money from the complainant. The testimony of these witnesses, therefore, clearly indicates that the alleged demand of illegal gratification was not heard by any independent witness and the prosecution has failed to produce any independent corroboration regarding the demand of bribe.

30. A further careful reading of the evidence of PW-2, PW-3, PW-6 and PW-8 reveals that there are material circumstances which create serious doubt regarding the genuineness of the prosecution case. The complainant PW-2 has admitted during cross-examination that he had earlier worked in the Labour Department through Call-Me Service Centre and that he had also registered his own NGO through which he was conducting training programmes under the Mukhyamantri Kaushal Vikas Scheme. He has further admitted that certain complaints had been made regarding irregularities in the distribution of stipend to trainees and that the Labour Department had initiated proceedings against him for financial irregularities. It has also come on record that the department had passed a recovery order against him for an amount of approximately

Rs.7,01,100/-. The complainant further admitted that he believed that the accused was responsible for initiating departmental proceedings against him. These admissions assume significance because they clearly indicate that the complainant had a grievance against the department and particularly against the accused, thereby creating a possibility of false implication. Another important circumstance which emerges from the cross-examination of the complainant is that he was unable to produce any official record to demonstrate that an amount of Rs.6,37,000/- was actually due and payable to his institution. He admitted that as per departmental procedure any payment would require submission of bills, verification of records, preparation of note sheets and sanction by competent authorities. However, he could not produce any document to show that such a claim had been submitted or that the amount had been sanctioned for payment. This aspect assumes considerable importance because the alleged demand of bribe is said to have been made for issuance of a cheque relating to this amount, yet the prosecution has not been able to establish that such payment was actually pending.

31. The testimony of the independent witnesses further weakens the prosecution case. Dr. Vinay Kumar Tiwari (PW-3), who was associated as an independent panch witness, has clearly stated before the learned trial Court that although he was present during the pre-trap proceedings and witnessed the demonstration of phenolphthalein powder, he did not hear the accused demanding any money from the complainant. He has also stated that he was

standing at a distance, and therefore, could not clearly see or hear the alleged transaction. Because of these statements he was declared hostile by the prosecution, yet even during cross-examination by the prosecution he maintained that he had not heard any demand of illegal gratification. Similarly, Chetan Sahu (PW-6), who was working as Deputy Collector and was also associated as an independent witness, has deposed that although he was present during the trap proceedings, he did not hear the accused making any demand of bribe from the complainant. He further stated that he was standing at some distance from the complainant, and therefore, could not hear the conversation between the complainant and the accused. Thus both independent witnesses have failed to support the prosecution case regarding the most crucial ingredient of demand of illegal gratification.

32. The evidence of the trap officer Promod Khes (PW-8) also requires careful scrutiny in this regard. While this witness has described the procedural aspects of the trap proceedings and the alleged recovery of tainted currency notes from the possession of the accused, his cross-examination reveals certain significant deficiencies in the investigation conducted by the Anti-Corruption Bureau. The trap officer has admitted that before organizing the trap he did not verify whether any amount was actually pending for payment to the complainant from the Labour Department. He further admitted that the complainant had not produced any official record such as bills, sanction orders, note sheets or payment orders to demonstrate that the amount of Rs.6,37,000/- was due. He also

admitted that the alleged recorded conversation between the complainant and the accused was not sent to any forensic laboratory for voice analysis. In the absence of such forensic verification, the prosecution has not been able to conclusively establish that the voices in the recorded conversation belonged to the complainant and the accused. The trap officer has also admitted that the independent witnesses were standing at some distance from the complainant at the time when the alleged transaction took place, and therefore, they could not hear the conversation between the complainant and the accused. These admissions made by the trap officer clearly indicate that the prosecution has not been able to produce any reliable independent evidence regarding the demand of illegal gratification by the accused.

33. In the matter of ***K. Shanthamma*** (supra), decided on 21.02.2022, the Hon'ble Supreme Court has observed in paras 10, 11 & 17 as under:

“10. We have given careful consideration to the submissions. We have perused the depositions of the prosecution witnesses. The offence under Section 7 of the PC Act relating to public servants taking bribe requires a demand of illegal gratification and the acceptance thereof. The proof of demand of bribe by a public servant and its acceptance by him is sine qua non for establishing the offence under Section 7 of the PC Act.

11. In *P. Satyanarayana Murthy v. State of A.P.*, this Court has summarised the well-settled law on the subject in para 23 which reads thus: (SCC p. 159)

"23. The proof of demand of illegal gratification, thus, is the gravamen of the 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."

17. Thus, the version of PW 1 in his examination-in-chief about the demand 9 made by the appellant from time to time is an improvement. As stated earlier, LW 8 did not enter the appellant's chamber at the time of trap. There is no other evidence of the alleged demand. Thus, the evidence of PW 1 about the demand for bribe by the appellant is not at all reliable. Hence, we conclude that the demand made by the appellant has not been conclusively proved."

34. In the matter of **Rajesh Gupta** (supra), decided on 29.03.2022, the Hon'ble Supreme Court has observed in paras 17, 18, 19 & 22 as under:

"17. In view of the above discussion, except for the testimony of PW 3 Madhu Bala (complainant), there is no corroborative evidence of demand, either on 7-

3-2000 or 9-3-2000. The law is well settled by the judgments of this Court in Panalal Damodar Rathi v. State of Maharashtra {(1979) 4 SCC 526} and Ayyasami v. State of T.N. {(1992) 1 SCC 304}, whereby it has been clarified that the sole testimony of the complainant, who is the interested witness, cannot be relied upon without having corroboration with the independent evidence.

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

19. In view of the foregoing, there is no iota of evidence by which the demand can be proved. Thus, the conclusion of the trial court and the High Court to prove the demand is based on surmises and erratic approach ignoring the legal position as enunciated, which cannot be sustained on the facts of the case.”

22. On the said issue, the judgments of this Court in B. Jayaraj v. State of A.P., C.M. Girish Babu v. CBI are relevant, whereby this Court has clearly spelt out that the recovery shall follow the proof of demand. The presumption under Section 20 of the PC Act can be drawn only when the demand is proved and the money is voluntarily accepted, knowing the fact that the said money has been delivered by way of bribe. In the absence of proof of demand for illegal gratification and mere possession or recovery of the currency notes is not sufficient to constitute such offence. It is clarified that presumption under Section 20 of the PC

Act can be drawn only after demand and acceptance of illegal gratification is proved beyond reasonable doubt. In our considered opinion, the findings as recorded by the trial court and the High Court, drawing presumption under Section 20 of the PC Act, are completely perverse in law. There is no evidence to prove the demand and the acceptance. The theory of preponderance of probabilities, as applied in this case, is not sustainable and the finding of the High Court is liable to be set aside.

35. In the matter of **Satish Kumar Kajal** (supra), decided on 08.03.2022, the Hon'ble Supreme Court has observed in paras 35, 36, 37 & 38 as under:

“35. The aforesaid oral and documentary evidence on record does not satisfy the tests laid down by the Supreme Court in the case of Ram Singh v. Col. Ram Singh (supra), concerning conditions for admissibility of a tape-recorded statement. In this case, the evidence and material on record is not sufficient to prove that the recorded voice of the speaker was duly identified by the maker of the record. The witness from the CFSL. i.e. P.w.3. Dr. Rajendra Singh, admitted that he did not give a confirmatory opinion, because spectrographic test could not be carried out. The said witness gave his opinion of otherwise confirming the voice of the Appellant on the basis of copy of the original recording, while according to the Investigating Officer, Pw.16. Anil Dabbas, the copy was never sent to the CFSL with the originally recorded micro cassette. As noted above, there is nothing on record to show that the tapes were played before the Court for examining the veracity of the transcripts. Therefore, this Court is of the opinion that

the tape-recorded conversations could not have been relied upon to prove the prosecution case.

36. Even otherwise, the tape-recorded conversations could have been relied upon, only as corroborative evidence of conversation and in the absence of direct evidence of any such conversation in the form of a shadow witness deposing in that regard, the tape-recorded conversation could not be said to be admissible evidence and the same could not be relied upon, as held by the Supreme Court in the case of Mahabir Prasad Verma v. Dr Surinder Kaur, (supra).

37. The manner in which the tape-recorded conversations and the transcripts prepared on the basis of the same, were sought to be brought before the Court and relied upon by the prosecution, shows that Rules framed for production, use and recording tape-recorded evidence in Court, were not followed. The said Rules mandate that the Court shall hear the tape-recorded conversation in order to verify whether the transcript produced along with the tape is correct or not and endorse such verification on the transcript record. Thus, it becomes clear that the tape-recorded conversations and the transcripts could not have been relied upon by the prosecution to prove its case.

38. In this backdrop, it becomes clear, that in the present case, the pre-trap panchanama as well as the post-trap panchanama, prepared on the basis of such tape-recorded conversations and transcripts, suffered from the aforesaid defect and deficiency in terms of proof expected under the relevant Rules and the said position of law. In such a situation, the only evidence pertaining to demand of illegal gratification by the Appellant, was the testimony of the complainant. A perusal of the evidence of the

complainant- Pw 1 shows that it suffers from contradictions when compared with written complaint submitted to the CBI. In such cases involving trap concerning offences under the aforesaid Act, evidence of demand of illegal gratification coming only from the complainant without any corroborative evidence has to be treated as unsafe. In the present case, there is no shadow witness and it is only the sole testimony of the complainant pertaining to demand of illegal gratification. The tape-recorded conversation and the transcripts prepared on that basis could be only corroborative evidence. But, as noted above, the same could not have been relied upon by the prosecution, in view of the serious defects concerning tape-recorded conversations and their proof. This indicates that in the present case, there is lack of evidence to prove demand of illegal gratification on the part of the Appellant.”

36. In the matter of **Ravindra v. CBI and Mohammad Salim v. CBI (Supra)**, decided on 02.12.2025, the Hon'ble Supreme Court has observed in paras 78, 79 & 82 as under:

“78. To prove that the shadow witness must watch the entire demand for gratification, failing which the conviction may be set aside, the appellants' Counsel has relied on K. Shanthamma v. State of Telangana, (2022) 4 SCC 574. The Hon'ble Supreme Court observed that the prosecution's case suffered a major defect because the shadow witness, who was explicitly instructed to accompany complainant into the appellant's chamber and observe the conversation did not comply with this direction. Instead, the witness waited in the corridor during the crucial moment when the alleged bribe was demanded and accepted. Both witnesses admitted

this lapse, and the prosecution did not explain the witness's failure to enter the chamber. As a result, the witness was the sole witness to the alleged demand and payment. Further Complaint's own testimony contained significant contradictions and improvements, further weakening the prosecution's case. Since the independent shadow witness did not witness the transaction and there was no corroboration, the Court held that the alleged demand was not reliably proved. The relevant paragraph is reproduced below:

"14. PW 1 described how the trap was laid. In the pre-trap mediator report, it has been recorded that LW 8, Shri R. Hari Kishan, was to accompany PW 1 - complainant at the time of offering the bribe. PW 7 Shri P.V.S.S.P. Raju deposed that PW 8 Shri U.V.S. Raju, the Deputy Superintendent of Police, ACB, had instructed LW 8 to accompany PW 1 complainant inside the chamber of the appellant. PW 8 has accepted this fact by stating in the examination- in-chief that LW 8 was asked to accompany PW 1 and observe what transpires between the appellant and PW 1. PW 8, in his evidence, accepted that only PW 1 entered the chamber of the appellant and LW 8 waited outside the chamber. Even PW 7 admitted in the cross- examination that when PW 1 entered the appellant's chamber, LW 8 remained outside in the corridor. Thus, LW 8 was supposed to be an independent witness accompanying PW 1. In breach of the directions issued to him by PW 8, he did not accompany PW 1 inside

the chamber of the appellant, and he waited outside the chamber in the corridor. The prosecution offered no explanation why LW 8 did not accompany PW 1 inside the chamber of the appellant at the time of the trap".

79. The prosecution failed to prove why the investigating officer did not even attempt to send the panch witness with the complainant to verify whether the appellant, in fact, made the demand for illegal gratification. The said negligent act by the investigating officer is in direct contravention of the CBI manual's guidelines. Further, on the ground of relevance of the audio recording, the appellants have placed reliance on *Rajesh Gupta v. State Through Central Bureau of Investigation*, (2022) 20 SCC 793 - wherein the Hon'ble Apex court has held that tape recording is admissible only if the voice of the speaker is identifiable, further it should be proved by the prosecution must prove that the tampering or distortion was not possible with the audio recording. The relevant para is reproduced below:

"10. As regards the alleged demand at the pre-trap stage, it is said to have been made first time on 7-3-2000 through the Chartered Accountant, namely, Mr. Rajiv Jain and second time when complainant visited the office of the appellant on the same date i.e. 7-3-2000 along with her employee, Krishan Kumar. To prove the said two demands on 7-3-2000, neither Rajiv Jain, Chartered Accountant nor Krishan Kumar (employee of the complainant) have been examined in the court. It is to be observed that before the accused is called upon to explain the

foundational fact of demand and acceptance, it must be proved by the prosecution by cogent evidence. The testimony of the complainant, who is an interested or partisan witness with the success of trap, must be tested in the same way as that of any other interested witness. Except the testimony of PW 3 Madhu Balal, no other material has been brought on record to prove the said demand. Therefore, in our considered view, pre-trap demand on 7-3-2000 has not been proved by the prosecution, which is a foundational fact of the case. In our view, the finding recorded by the trial court to prove the pre-trap demand i.e. on 7-3-2000 is without any evidence on record and based on erratic evaluation, which is mechanically confirmed by the High Court".

82. For proving the inadmissibility of the transcript, reliance is placed on the Ramesh Thete v. State of Madhya Pradesh Cri. Appeal No. 865 of 2007, which this Court finds relevant in the present factual matrix. Transcripts of conversation between complainant and accused not acceptable in the absence of a tape-recorded version. The relevant para is reproduced below-

"25. As far as question of demand of bribe by the accused is concerned, again there is sole evidence of complainant (PW-3). We have already discussed that there was no shadow witness in the case. Therefore, whether any demand was made by the accused at the time of delivery of bribe money to accused, except the evidence of complainant (PW-3), there is

no other evidence. Though, according to prosecution, complainant was given a micro cassette recorder and he recorded the conversation, which took place between him and the accused, yet the said tape was not found audible. In the absence of the said tape recorded version, the transcript prepared by the investigating officer and other witnesses cannot be accepted.”

- 37.** Upon a careful and comprehensive evaluation of the entire evidence on record, this Court finds that the foundational requirement for establishing the offence under the Prevention of Corruption Act, namely the proof of demand of illegal gratification, has not been satisfactorily established by the prosecution. It is well settled that demand of illegal gratification is the gravamen of the offence and unless the prosecution proves such demand beyond reasonable doubt, mere recovery of tainted currency notes from the accused cannot lead to conviction. In the present case, the prosecution has primarily relied upon the testimony of the complainant Ramesh Kumar Yadav (PW-2) to establish the demand of illegal gratification by the accused Suresh Kurre, who was posted as Labour Inspector at the relevant time. However, the testimony of the complainant does not receive corroboration from any independent source. On the contrary, the independent witnesses associated with the trap proceedings have failed to support the prosecution on the most crucial aspect of demand of illegal gratification.
- 38.** Both independent witnesses, namely Dr. Vinay Kumar Tiwari (PW-3) and Chetan Sahu (PW-6), have categorically stated before the

learned trial Court that they did not hear the accused demanding any money from the complainant. These witnesses were specifically associated with the trap proceedings in order to lend credibility and transparency to the process, yet their testimony clearly indicates that they were standing at a distance and were unable to hear the alleged conversation between the complainant and the accused. Consequently, the alleged demand of illegal gratification is not supported by any independent witness. The evidence of these witnesses, therefore, creates a serious dent in the prosecution case and renders the version of the complainant uncorroborated on the most material aspect of the offence.

- 39.** Another circumstance which assumes considerable significance is the admission made by the complainant during cross-examination that he had prior disputes with the department and that recovery proceedings had been initiated against him on account of alleged financial irregularities. He further admitted that he believed the accused was responsible for initiating such departmental action. These circumstances indicate a clear possibility of motive for false implication of the accused. It has also come on record that the complainant himself was appointed in the year 2017 as a Welfare Officer in the office of the Labour Officer, Jashpur through a placement agency namely Call Me Services and remained posted till 01.12.2018, after which he was relieved on 11.12.2018. It is further alleged that even thereafter he continued to run an institution in the name of "Chhattisgarh Abhinandan Educational and Social Welfare Society," on the basis of which allegations of irregularities

were made against him. In this context, the official procedure relating to training programmes assumes importance. The material on record demonstrates that the entire process of submission of claims, preparation of note-sheet, verification, approval by the District Collector and final issuance of cheque is carried out by the Labour Officer and other competent authorities. The role of the Labour Inspector, if any, is confined only to physical verification of the training programme upon directions of the Labour Officer, and he has no role in processing, sanctioning or disbursing payments. The prosecution has also failed to produce any document to establish that the amount of Rs.6,37,000/- was actually due and payable to the complainant at the relevant time. In absence of such evidence, and considering that the accused had no authority in the release of payment, the allegation of demand of illegal gratification for issuance of cheque becomes highly doubtful. In these circumstances, the implication of the present accused appears to be unjustified and lends support to the defence plea of false implication.

40. The evidence of PW-4, who was the competent Labour Officer, clearly establishes that the authority to process and release payment under the scheme vested with the Labour Officer and not with the Labour Inspector. The accused was merely a subordinate official and had no authority to sanction or release the alleged payment. In absence of any official role in processing the complainant's claim, the possibility of demand of illegal gratification by the appellant becomes highly doubtful.

41. The evidence of the trap officer Promod Khes (PW-8) also does not materially improve the prosecution case in this regard. Although the trap officer has described the procedural aspects of the trap proceedings and the alleged recovery of tainted currency notes from the possession of the accused, his cross-examination reveals that the investigating agency did not verify whether any amount was actually pending for payment to the complainant. He has further admitted that the complainant did not produce any official documents showing that the said amount was due from the department. Moreover, the alleged recorded conversation between the complainant and the accused was not subjected to forensic examination to verify the voices contained therein. In the absence of such scientific verification, the alleged recording cannot be relied upon with certainty to establish the demand of illegal gratification. The trap officer has also admitted that the independent witnesses were standing at a distance and therefore could not hear the conversation between the complainant and the accused. These admissions significantly weaken the prosecution case and make it evident that the alleged demand of bribe rests solely upon the testimony of the complainant.
42. It is well settled that the presumption under Section 20 of the Prevention of Corruption Act arises only when the prosecution first proves the foundational facts of demand and voluntary acceptance of illegal gratification. In the present case, since the prosecution has failed to prove the demand of bribe through reliable evidence, the statutory presumption under Section 20 cannot be invoked against

the appellant.

43. The law on this aspect has been authoritatively laid down by the Hon'ble Supreme Court in ***K. Shanthamma*** (supra) wherein it has been held that proof of demand and acceptance of illegal gratification are essential ingredients of the offence under Section 7 of the Prevention of Corruption Act and that mere recovery of tainted currency notes is not sufficient to sustain conviction. The same principle has been reiterated in ***Rajesh Gupta*** (supra), wherein the Hon'ble Supreme Court held that demand of illegal gratification is the sine qua non for constituting the offence and unless the prosecution proves such demand beyond reasonable doubt, the conviction cannot be sustained merely on the basis of recovery of currency notes. Similar views have also been expressed by the Bombay High Court in *Satish Kumar Kajal v. State through CBI* and *Ravindra v. CBI and Mohammad Salim v. CBI*, (supra) wherein it has been observed that when independent witnesses do not support the prosecution case regarding demand and acceptance of bribe, the prosecution case becomes doubtful and the accused is entitled to the benefit of doubt.
44. In the present case, though the prosecution has proved that certain currency notes treated with phenolphthalein powder were allegedly recovered from the possession of the accused, the foundational fact of demand of illegal gratification has not been established through reliable and convincing evidence. It is also noteworthy that the phenolphthalein test conducted during the trap proceedings does not by itself establish the guilt of the accused unless the prosecution

first proves the demand and voluntary acceptance of illegal gratification. The evidence regarding the hand wash and pocket wash of the accused cannot by itself prove the conscious acceptance of the tainted currency notes in absence of reliable proof of demand. The testimony of the complainant remains uncorroborated and the independent witnesses have not supported the prosecution on the crucial aspect of demand. The investigation also suffers from certain deficiencies, particularly the failure to verify the alleged pending payment and the failure to obtain forensic verification of the recorded conversation. In criminal jurisprudence the burden lies entirely upon the prosecution to prove the guilt of the accused beyond reasonable doubt, and when serious doubts arise regarding the essential ingredients of the offence, the accused is entitled to the benefit of such doubt.

- 45.** In view of the foregoing analysis and the detailed appreciation of evidence discussed hereinabove, this Court is of the considered opinion that the prosecution has failed to establish the foundational requirement of the offence, namely the demand of illegal gratification by the accused, beyond reasonable doubt. The entire prosecution case regarding demand rests solely upon the testimony of the complainant Ramesh Kumar Yadav (PW-2), which does not find corroboration from the independent witnesses associated with the trap proceedings. Both Dr. Vinay Kumar Tiwari (PW-3) and Chetan Sahu (PW-6) have not supported the prosecution case on the crucial aspect of demand of bribe and have clearly stated that they did not hear the accused making any such demand.

Furthermore, the investigation conducted by the Anti-Corruption Bureau also suffers from material deficiencies inasmuch as the investigating officer did not verify whether any amount was actually pending for payment to the complainant and the alleged recorded conversation was not subjected to forensic examination to confirm the voices contained therein.

46. It is well settled that mere recovery of tainted currency notes from the possession of the accused, in the absence of proof of demand and acceptance of illegal gratification, is not sufficient to sustain conviction under the Prevention of Corruption Act, as has been consistently held by the Hon'ble Supreme Court in K. Shanthamma v. State of Telangana and Rajesh Gupta v. State through CBI. In the present case, since the prosecution has failed to establish the demand of illegal gratification through reliable and independent evidence, the benefit of doubt must necessarily go in favour of the accused.
47. Accordingly, this Court finds that the conviction recorded by the learned trial Court cannot be sustained in the eyes of law.
48. Consequently, the appeal deserves to be and is hereby **allowed**. The judgment of conviction and order of sentence for the offence under Section 7 of the Prevention of Corruption Act, 1988 passed by the learned trial Court against the appellant/accused Suresh Kurre are set aside. The appellant is acquitted of the charges levelled against him.

- 49.** The appellant is reported to be on bail. However, his bail bonds are not discharged at this stage and shall remain operative for a further period of six months in view of Section 437-A of the Cr.P.C. {481 of Bharatiya Nagarik Suraksha Sanhita (BNSS)}.
- 50.** Registrar (Judicial) is directed to transmit the original record to the concerned trial Court for necessary information and follow up action.

Sd/-

**(Ramesh Sinha)
Chief Justice**

Rahul Dewangan

Headnote

Where the allegation of demand rests solely on the uncorroborated testimony of the complainant and the independent witnesses fail to support the prosecution case on the material aspect of demand and acceptance, the foundational facts necessary for raising the statutory presumption remain unproved. In such circumstances, particularly where surrounding facts indicate prior animosity or departmental disputes giving rise to a possible motive, the possibility of false implication cannot be ruled out, and the accused is entitled to the benefit of doubt.