2026 INSC 221

Reportable

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No.....of 2026
[@Special Leave Petition (Crl.) No.12486 of 2025]

Central Bureau of Investigation

...Appellant

Versus

Baljeet Singh

...Respondent

J U D G M E N T

K. Vinod Chandran, J.

Leave granted.

2. Bereft of proof of the conspiracy theory and finding absence of the demand of bribe, the conviction of both the accused was overturned by the High Court. The Central Bureau of Investigation (the 'CBI') which laid the trap at the instance of the complaint made by PW1, is in appeal.

3. We heard Mr. Kanakamedala Ravindar Kumar, learned Additional Solicitor General and Mr. Mukesh Kumar Moraria, learned counsel for the appellant-CBI and Mr. Vikas Pahwa, learned Senior Counsel for the respondent-accused.

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Reason:

4. PW1, the complainant, was the partner of a firm whose Assessing Officer under the Income Tax Act was the 1st

appellant/1st accused; A1. There was a notice issued to the assessee for the assessment year 2008-09 as pending in the office of A1, to finalize which PW1 had approached the 2nd appellant/2nd accused; A2, an Income Tax Inspector, who was the subordinate of A1. It was the complaint of PW1 that in October 2010, he had met both the appellants concerned in connection with the scrutiny of the accounts of the firm in which he was a partner, pursuant to which he was directed to furnish information which also was submitted. On 27.12.2010, PW1 had gone to the Income Tax Office where he met A2 who took him to A1. After discussions, when PW1 was coming out with A2, the latter made a demand of Rs.5 lakhs purportedly on behalf of A1. PW1 protested and the second appellant having persisted, he haggled for a lesser amount pointing out that in October 2010 the demand was for a far lesser amount of Rs.1,50,000/-. The second appellant refused to budge, and this prompted PW1 to approach the CBI with the complaint.

5. The complaint was verified by PW22, referred to as a Trap Laying Officer (TLO). The TLO called for two independent witnesses from the House Taxes Department of the Municipal Corporation of Delhi, PW10 and PW18. In the

presence of the independent witnesses there was a telephonic conversation between PW1 and A2, which was recorded in a Digital Voice Recorder (DVR) and transferred to a CD. PW1 is alleged to have informed A2 that he had in his possession only Rs.2 lakhs upon which A2 had directed PW1 to come to his office in the Drum Shaped Building, IP Estate, New Delhi. The pre-trap proceedings were carried out in the presence of the independent witnesses wherein 200 notes of Rs.1000/- each, smeared with phenolphthalein powder, after noting down their serial numbers, were kept in an envelope which also was smeared with the powder. The entire proceedings were recorded and reduced to writing in the Handing Over Memo (HOM) signed by the complainant, the TLO and the independent witnesses. PW1 was given a DVR to record the conversation likely to take place between PW1 and A2.

6. The team reached the Income Tax Office upon which PW1 followed by the TLO and the other members of the team entered the building. PW1, on reaching the office of A2 was informed that he is in A1's room. PW1 then went to the office room of A1, where he found only A2, to whom he handed over the envelope, which A2 put in his coat pocket.

PW1 walked out of the room followed by A2 and as prearranged, touched his shoe to signal the TLO. The TLO gave signal to the team and confronted A2 and took him back into the room. The independent witnesses too marched into the room, PW18 with the TLO, and PW10, a little later with the other members of the team. The TLO and another constable caught hold of the hands of A2 and one of the independent witnesses, PW18 was asked to search A2. As pointed out by PW1, the envelope was recovered from the coat pocket of A2 by PW18 and handed over to the TLO. The notes were taken out from the envelope recovered from the coat pocket of A2 and both the hands of A2 being submerged in two separate tumblers of Sodium Carbonate solution, they turned pink revealing the taint of acceptance of the powdered envelope with the marked notes.

7. The TLO asked for A1 who was said to be in the Commissioner's office. The TLO proceeded to the Commissioner's office and after making a request to the Commissioner escorted A1 back to his room where the trap team had detained A1. The statements were taken from both A1 & A2 and the arrest recorded. After investigation charge was framed of conspiracy under Section 120B and the

offence under Section 7 of the Prevention of Corruption Act, 1988 (for brevity, 'the PC Act').

8. The prosecution examined twenty-three witnesses and produced relevant documents as also transcript of the conversation between PW1 and A2 over telephone and in person, recorded in the DVR. The defense examined three witnesses, two of whom were Officers of the Income Tax Department and DW2, a Junior Judicial Assistant at the record room of the Sessions Court at Patiala House Courts. The Trial Court listed out fifteen circumstances found established and held the charge raised against both the accused to have been proved. Convicting the accused under Section 120B of the IPC r/w Section 7 of the PC Act and separately under Section 7 of the PC Act, sentence was imposed, of 4 years rigorous imprisonment on each count and fine of Rs.1 lakh again on each count, for both, with default sentences of simple imprisonment for 4 months each.

9. The High Court, by the impugned decision, found that there was no conspiracy proved and that there was no proof of a demand having been made by A2 and A1. Disbelieving the conspiracy angle, the trite principle that it is always

difficult to establish the same since invariably it is conceived and executed in privacy was noticed. Looking at the evidence proffered it was found that merely for the reason that A1 was the Assessing Officer and A2 was assisting him, that by itself was not sufficient to establish a prior meeting of minds between A1 and A2, in furtherance of the commission of crime. Immediately we observe that, having gone through the evidence led and the findings of both the Trial Court and the High Court, we are inclined to accept the said finding of the High Court, more particularly for reason of there being absolutely no evidence of A1 having ever demanded a bribe from PW1, nor even the demand made by A2 said to be in the presence of A1. We may note that, while issuing notice in this case on 18.08.2025, this Court dismissed the Special Leave Petition (Crl.) No.12485 of 2025 filed by the CBI against the acquittal of A1/Arun Kumar Gurjar.

10. Insofar as the absence of proof of demand, the finding of the High Court was that PW1 failed to disclose at the first instance, about the initial demand of Rs.1,50,000/- in October 2010, in the early part of his chief examination. This was the first charge alleged under Section 120B of the IPC.

Even in the complaint Ex.PW1/A, there was no mention about the initial demand of Rs.1,50,000/- alleged to have been made in October 2010. A casual statement was also made regarding other contradictions and improvements in the testimony of PW1 to hold that the demand was absent. It was also observed that the transcription of the conversation between PW1 and A2 over the telephone, in the presence of the TLO and the independent witnesses only disclosed the offer made by PW1 of Rs.2 lakhs, which was accepted by A2. It was hence found that even on the crucial date i.e. 29.12.2010, there was no demand made of either Rs.5 lakhs or 2 lakhs from the complainant. Having gone through the testimonies, specifically of PW1, PW10, PW18 and PW 22, we are unable to agree with the High Court, reasons for which we would presently elaborate.

11. Before we look at the evidence, we should first notice the compelling argument made by the learned Senior Counsel for the respondent that if the conspiracy element is found to be absent then there is no cause to further examine the records since the charge itself has to fail. Specific reference is made to the charge-sheet produced as Annexure R2 with the counter affidavit dated 27.10.2025

filed by A2. We cannot but notice that there are two charges raised, one under Section 120B of IPC r/w Section 7 of the PC Act and the other under Section 7 of the PC Act; but without the conspiracy angle, independently as against the two accused. For completeness we extract the charges as hereunder

> *"Firstly, that during the period of October, 2010 to December, 2010, you Arun Kumar Gurjar, Joint Commissioner of Income Tax, Range-29, New Delhi and Baljeet Singh, Inspector, Income Tax , Range-29 , New Delhi/IAP-V, CIT (Audit) 1, C.R Building, New Delhi while posted and functioning as such public servants entered into criminal conspiracy and in pursuance thereof by abusing your official position as public servants while scrutinizing the income tax assessment of 2008-2009 of M/S Madhya Pradesh Vanijaya Company you both demanded illegal gratification of Rs. 5, 00, 000/- in the month of October, 2010 from Sh. Pawan Aggarwal, the partner of said company for scrutiny and finalizing the income tax assessment without any hurdle and when Sh. Pawan Aggarwal refused to pay the bribe amount of Rs. 5 Lakhs, a notice dated 20.12.2010 was issued to the company by you Arun Kumar Gurjar, and subsequently when Sh. Pawan Aggarwal visited the office on 27.12.2010 you both Sh. Arun Kumar Gurjar and Sh. Baljeet Singh again demanded bribe of Rs. 5 lakhs fromSh. Pawan Aggarwal for finalization of entire matter without any hurdle and that illegal gratification of Rs.2 lakhs was accepted by you accused Baljeet Singh on 29.12.2010 from Sh. Pawan Aggarwal on behalf of yourself and accused Arun Kumar Gurjar which was recovered from his possession by CBI team and thus you both have committed an offence punishable u/s 120B of the Indian Penal Code r/w Section 7 of*

Prevention of Corruption Act, 1988 and within my cognizance.

Secondly, you both while posted and functioning as such public servants at aforesaid place, period and dates in your capacity as public servants by abusing your position as such public servants demanded illegal gratification of Rs.5 lakhs from Sh. Pawan Aggarwal, the partner of M/S Madhya Pradesh Vanijaya Company in lieu of finalizing the scrutiny of assessment case of above-noted firm without any hurdle and in furtherance of said criminal conspiracy that on 29.12.2010 you Sh. Baljeet Singh was caught red-handed by CBI team while demanding and accepting Rs.2,00,000/- (which was recovered by CBI team from possession of Baljeet Singh) as part amount of said demanded amount from Sh. Pawan Aggarwal for himself and on behalf of Sh. Arun Kumar Gurjar in his office as illegal gratification other than legal remuneration as motive or reward for finalizing the scrutiny of assessment case of the firm of Sh. Pawn Aggarwal and subsequently you Arun Kumar Gurjar was also arrested and thus you both have committed an offence punishable u/s 7 of Prevention of Corruption Act, 1988 and within my cognizance."

12. We are unable to accept the contention put forth by the respondent, for which reliance was placed on the decisions in ***A. Srinivasulu v. State represented by the Inspector of Police***[1], ***Dashrath Singh Chauhan v. Central Bureau of Investigation***[2] and ***Bhagat Ram v. State of Rajasthan***[3].

[1] (2023) 13 SCC 705
[2] (2019) 17 SCC 509
[3] (1972) 2 SCC 466

13. ***Bhagat Ram***[3] was a Police Inspector who was alleged to have conspired with one Ram Swarup in an attempt to extort an amount of Rs.2,000/- from PW1. The Trial Court acquitted both the accused and in an appeal against acquittal, the learned Judges of the High Court found the charge under Section 120B of the IPC to be not proved. However, there was a dispute on whether Bhagat Ram alone can be convicted under Section 161 of the IPC and Section 5(1)(a) of the PC Act. A third judge found the conspiracy angle to be proved, but due to the unanimous opinion restrained himself from imposing any conviction under that provision but still convicted Bhagat Ram under Section 161 IPC and also under Sections 347 and 389 of the IPC. This Court found that the third judge could not have reopened the entire case, since the issue before him was only limited to the offence under Section 161 IPC and Section 5(1)(a) of the PC Act. It was also categorically found that the offence under Section 161 IPC would not survive against one of the accused since the specific case of the prosecution was that Bhagat Ram made a demand of bribe through Ram Swarup and there was no demand by Bhagat Ram directly to PW1. This disabled the Court from convicting one of the accused,

as having accepted the bribe while the person who made the demand was exonerated. The facts in the present case are quite distinct insofar as the prosecution having alleged the demand and acceptance by A2, while there was also an allegation of the bribe having been demanded for A1, who was the Assessing Officer, whose culpability was not established.

14. In ***Dashrath Singh***[2], one of the accused had demanded the bribe, even as per the complaint and when it was sought to be handed over, he directed the money to be handed over to the other accused, who accepted it. Hence, the charge of demand was not available against one accused, and the charge of acceptance was absent insofar as the other accused. ***A. Srinivasulu***[1] also dealt with a criminal conspiracy entered into by A1 to A7 to cause wrongful loss to a public sector undertaking, in which A1 to A4 were employees, so as to confer a wrongful gain on A5 to A7. It was held that once the offence under Section 120B was not made out against A5 to A7, the very foundation of the prosecution becomes shaky. We are afraid the dictum in those cases applies squarely to the facts of those cases only and does not apply to the facts of this case.

15. As we observed, in addition to the charge under Section 120B, both the accused were separately alleged to have demanded money and accepted it, which demand and acceptance even as per the statement of PW1 is not available against A1 but very much present against A2. That A2 informed PW1 that the bribe was for A1 is of no consequence insofar as A1's culpability is concerned. Since A2 was also an officer of the Department, which was carrying on the assessment, actively participating in the assessment proceedings as spoken of by PW1, A2 was in a position of some authority to influence the assessment proceedings, as far as PW1 was concerned and that was the purpose for which the demand of bribe was made. True, if the charge under the PC Act linked with the charge of conspiracy was the only one levelled, then if one is acquitted the other cannot be convicted. But here there is another charge of demand and acceptance against both, which as against the two are not inextricably linked by a definite charge of conspiracy. The second charge can be proved against both or against one independently as there is no meeting of minds alleged.

16. It was argued on behalf of the accused that there was no demand proved and even the trial court noticed the inconsistent stand regarding the demand in the complaint and the testimony, especially regarding the demand made in October 2010 and the amounts also did not tally. The pre-trap demand alleged through telephone was not established since the trial Court refused to give any credence to the voice recording for reason of the certification with respect to the electronic data under Section 65B of the Evidence Act not being produced. The voice recording at the time of trap also failed on the same count. The charge of conspiracy being that related to the demand in October the prosecution has to fail and there was also no proof offered of the other demands alleged, is the compelling argument.

17. The complainant was examined as PW1, who clearly spoke of a demand of Rs.5 lakhs having been made by A2 on 27.12.2010 when they were coming out of the room of A1 after discussions took place with respect to the assessment. True, with respect to the demand made in October 2010, PW1 had different versions. In the original complaint, it was stated that Rs.5 lakhs was demanded in October 2010 and

reiterated in December 2010, when PW1 had visited the Income Tax Office. In his deposition before Court, his version was that earlier the demand was of Rs.1.5 lakhs and later Rs.5 lakhs. This does not in any way totally efface the demand having been made in December 2010 which tallies with the statement in the complaint and the statement under Section 161 of the Criminal Procedure Code. However, though PW1 spoke that the bribe was demanded for both A1 and A2, there is no evidence that A1 ever demanded a bribe or even that A2 made the demand in the presence of A1. It is on such demand by A2 that PW1 approached the CBI, which agency had authorized PW22 as the TLO, to carry out the trap. The demand in October 2010 though not proved, the demand made by A2 on 27.12.2010 was testified to by PW1 and is corroborated by PW22 who vouches the complaint filed before the CBI.

18. PW22 also spoke of the two independent witnesses, PW10 and PW18 having been summoned to his office. Both PW10 and PW18 confirmed the presence of PW1 in the office of the CBI and corroborated fully the pre-trap proceedings. That PW1 talked over the telephone to a person who asked him to come to the Income Tax Office is also confirmed by

PW10 and PW18, but without identifying the voice on the other side. The pre-trap proceedings with respect to the notes being powdered and kept in an envelope, which was also powdered and handed over to PW1 was spoken of by the independent witnesses. PW10 and PW18 spoke also of the numbers of the notes having been recorded by the TLO in the Hand Over Memo (HOM); Ex. PW1/E, which was produced before Court along with the notes, PW1/F10 and the envelope; PW1/E-9, signed by the complainant, the TLO and the independent witnesses; proved by the testimonies of the witnesses. The number of the notes produced tallied with the HOM as verified by the trial court and the HOM was specifically identified by both the witnesses, PW10 & PW18 who also identified the pre-trap verification memo PW1/E recovery memo PW1/G, and the arrest memos of A1 & A2 PW10/A & PW10/B respectively.

19. A1 was the Joint Commissioner of Income Tax who was the Assessing Officer of the firm in which PW1 was a partner, and A2 was an Inspector in the same department is beyond any cavil. There was a suggestion raised by A2 in the cross examination of PW1 that he harbored enmity since he had

conducted a scrutiny in a related firm carried on in the very same premises in which was housed the firm of PW1. The related firm had to shell out a huge penalty for the discrepancies revealed on scrutiny. It was also the suggestion of A2 that since A1 was the Assessing Officer of PW1's firm, there was no reason for A2 to demand or accept any bribe from PW1 since he was not the authority entrusted with the assessment of PW1.

20. PW1 readily accepted the scrutiny of the related firm by a team led by A2 and also the penalty imposed on such firm. There is nothing indicated other than this to establish that the trap was laid merely on the enmity especially since, as we would presently see, the acceptance of the bribe and the recovery of the envelope with the marked cash was made from the body of A2. PW1's evidence was categoric insofar as, after issuance of notice to his firm, he had contacted A2 and A2 had been present when the issues arising on the assessment were discussed with A1, the Assessing Officer. The fact that A2 was an Inspector who had conducted a survey operation with respect to a related firm, who was also present during the hearing with respect to the assessment proceedings before A1, clearly indicates that

A2 was a person in a position of influence, which would also validate PW1's subservience insofar as understanding the demand of bribe being made by a person of some authority.

21. It was further brought out in evidence through PW7, another Inspector that A2 was transferred in October/November 2010 and PW14, an Assistant Commissioner of Income Tax deposed that there was a request made to the Chief Commissioner of Income Tax to retain A2 in the present place. Undisputedly, A2 was present in the Drum Shaped Building, on 27.12.2010, when the demand was made and on 29.12.2010, when he was trapped with the bribe, the marked notes in an envelope, recovered from his person. One defense taken by the accused before the Trial Court was that the assessment of PW1's firm had to be completed by 31.12.2010 and the entire trap was stage-managed to ensure that the assessment is time barred. As a corollary, it should also be observed that the hearing with respect to the assessment proceedings, admittedly commenced in October, 2010 and there was no reason for the assessment to be kept pending till 29.12.2010, when the bribe was handed over. There is also a valid inference from the above stated facts that the

assessment was kept pending only to ensure the payment, which as against A1 even as of now, does not stand established. In fact, it has to be noticed that there was a huge stash of money recovered from the room of A1 on which no investigation was carried out nor a charge laid. A1 hence goes scot-free on the recovery being not properly investigated.

22. As has been found by the trial court so much of the prosecution case regarding the role of A1 and A2 in the assessment proceedings of PW1's firm, the demand made by A2, the complaint before the CBI and the pre-trap proceedings stand fully corroborated by the evidence of PW1, PW10, PW18 and PW22. The recorded conversation pertaining to the pre-trap and post-trap proceedings were eschewed from consideration by the Trial Court; rightly so. We also do not place any reliance on the mobile conversations, PW1 is said to have had with A2 from the office of the CBI before the trap was laid and in the course of the trap.

23. Insofar as the trap, we find PW10 and PW18 to have prevaricated and deposed contrary to their Section 161 statements but still corroborated the version of PW1 and

PW22 on many aspects. PW18 travelled with PW1 and PW22 while moving towards the Income Tax Office and PW10 was in another car with the other team members, following the car of the TLO. At the Income Tax Office, they dispersed and PW18 went along with the TLO who was following PW1. PW1 is said to have gone into the room of A1 where he categorically submits that he had handed over the envelope, which A2 accepted and kept inside the pocket of his coat. PW1 then came out of the room followed by A2 and on his signaling TLO, the team rushed to PW1 who pointed out A2. A2 was immediately held by his hands by PW22 and a constable and taken back into the room of A1.

24. PW18, though did not identify A2 in Court, spoke of the person who was apprehended by PW22 having been required to sit in a chair in the room of A1. PW18 also deposed that on the instruction of PW22, he had made a search of the person caught by CBI and having recovered the envelope from the coat pocket of the person apprehended, which was handed over to the TLO. PW18 made these admissions referring to the person apprehended by his name. PW10 on the other hand came into the room after the apprehension of A2 and the money

was recovered. Both PW10 and PW18 spoke of the hands of the person apprehended having been washed with the test solution which turned pink. PW10 though claimed to have failing eyesight due to diabetes, on being asked so to do, went around the Court looking at the persons standing there and identified A2, specifically deposing that he looks similar to the person caught by the CBI though at that time the said gentleman was very healthy. In the cross examination by the Public Prosecutor, PW10 specifically deposed that the person who was caught and was identified by him was similar to the accused Baljeet Singh present in Court though he was not sure that it was the same Baljeet Singh. PW10 also identified the sweater worn by A2, which was also said to have been dipped in a separately prepared solution, which too revealed the taint by turning pink; which sweater was also identified though there was a minor discrepancy regarding a black strip in the sweater, which is not very relevant especially considering the passage of time. The hand wash, and the wash of the coat and sweater; both belonging to A2, was testified to by PW10 & the hand wash and coat wash testified by PW18.

25. PW18 though failed to identify A2, spoke of a person from whom he recovered, on the instructions of PW22, an envelope which was handed over to the TLO and identified. The hand wash and the coat wash were also confirmed by PW18. PW10 and PW18 spoke of A1 having been brought to his room where already the trap laid had been successfully completed. It cannot at all be said that PW10 and PW18, independent witnesses turned completely hostile. As we observed, they had corroborated the pre-trap proceedings and the post-trap proceedings, immediately after the trap. While both spoke of the prearranged envelope with the marked cash having been recovered from the man apprehended in the room of A1, from which PW1 and A2 stepped out; the latter following the former, PW10 identified the apprehended man while PW18 failed so to do. There is sufficient corroboration available from the independent witnesses to also believe the trap having been successful as deposed by PW1 and PW22.

26. In this context, we cannot but notice the judgment of this Court in ***Prakash Chand v. State (Delhi Administration)***[4]**.** The complainant there, PW6, was an

[4] (1979) 3 SCC 90

architect concerned with the sanction of a building plan, which was continuously being objected to by the Overseer-Section Officer of the Delhi Development Authority, who also demanded a bribe. The trap was laid with two independent witnesses, in the course of which PW6 was handed over a file by the accused which he read at a distance and returned with the bribe amount of Rs.30/- placed inside the file. When the file was handed over to the accused, the accused placed it under the table putting his foot on it. On the prearranged signal, the trap team came inside the room and accosted the accused. The accused denied the demand and also claimed the money to have been kept in the file, without his knowledge. The independent witnesses examined by the prosecution also did not fully support the prosecution case resiling from the statement made during the course of the investigation. These circumstances were in favour of the accused and the compelling argument in defense was that there can be no conviction based on the uncorroborated testimony of PW6, the complainant who being a part of the trap was an interested and partisan witness. Their Lordships found that there cannot be found a legal proposition that the

uncorroborated testimony of a trap witness can never be acted upon especially when the law laid down was to the contrary, in ***State of Bihar v. Basawan Singh***[5] and ***Bhanuprasad Hariprasad Dave Rajuji v. State of Gujarat***[6]. Having gone through the testimony of PW6, it was found that he was a truthful witness and there was sufficient corroboration by PW9 who led the trap team. It was stated by PW9 that when he questioned the accused about having accepted the bribe the accused was stunned and did not reply and kept mum. PW2, the independent witness also corroborated the fact and said that the accused did not reply and kept mum and that he was perplexed, which though the other independent witness first denied in chief examination, accepted on further questioning.

27. It was categorically held in ***Basawan Singh***[5], by a Constitution Bench that there is no inflexible rule of discarding the testimony of the persons in the raiding party, unless independent corroboration is available. The trite law is that the testimony of an interested or partisan witness has to be scrutinized with care, and it is not that of an

[5] AIR 1958 SC 500
[6] AIR 1968 SC 1323

accomplice. Neither is the complainant an accomplice, nor can the persons involved in the raiding party be considered to be interested since they are exercising a public duty without any personal rancour. In the instant case, when the independent witness had not fully supported the prosecution story sufficient corroboration was found from their deposition. A Constitution Bench of this Court in ***Neeraj Dutta v. State (Govt. of NCT of Delhi)***[7] approved ***Prakash Chand***[4] and referred also to ***Sat Paul v. Delhi Administration***[8] to hold that *"even if a witness is treated as "hostile" and is cross examined, his evidence cannot be written off altogether but must be considered with due care and circumspection and that part of the testimony which is creditworthy must be considered and acted upon*" (*sic*-para 67*).* The contention taken by the defense that the conduct of the accused when challenged by the Inspector was inadmissible under Section 162 was repelled. Relying on ***Himachal Pradesh Administration v. Shri Om Prakash***[9]**,** it was held that, when an accused person leads a police officer to a particular location where stolen articles and weapons

[7] (2023) 4 SCC 731
[8] (1976) 1 SCC 727
[9] (1972) 1 SCC 249

are concealed, which have a connection with the offence alleged, on such recovery, the concealment would be admissible as relevant conduct under Section 8 of the Indian Evidence Act, 1872 irrespective of whether any statement by the accused contemporaneously with or antecedent to such conduct, falls within the purview of Section 27 of the Evidence Act.

28. We notice from the evidence of PW22 that after fully corroborating the trap it was deposed that on being challenged, A2 remained mum. It was also testified that A2 tried to escape and take out the money. It was PW1 who pointed out the upper pocket of the coat of A2 where he had kept the envelope which was taken out by PW18 as fully corroborated by PW22. PW10 also stated that the man apprehended in A1s room turned pale. All these are relevant conduct of A2 pointing to his guilt fortified by the recovery of the marked cash from his body and his hands, coat and sweater, on being washed in the test solution, turning pink, as deposed by the witnesses.

29. We are unable to accept the order of acquittal passed by the High Court insofar as A2 is concerned, especially noticing the demand having been specifically spoken of by

PW1 and the same having been stated in his complaint before the CBI. The pre-trap proceedings were also clearly established by the evidence of PW1, PW10, PW18 and PW22. Insofar as the trap proper is concerned, there is complete corroboration of the testimony of PW1 by that of PW22, the TLO. There is also sufficient corroboration from PW10 & PW18, the independent witnesses regarding the apprehension of a person, who was identified in Court by PW10 and though not identified by PW18, it was PW18 who made the recovery of the envelope from the coat pocket of the apprehended person, who was A2. The hand wash of A2 also stood established beyond doubt. The marked notes were identified from the numbers taken down in the HOM at the time of pre-trap proceedings, corroborated by all the above witnesses.

30. As rightly observed by the High Court, there was neither proof of demand nor acceptance by A1 but for the statement of PW1 that A2 demanded the bribe on behalf of A1. There can be no reliance placed on such statement made by the co-accused and there can be no conviction entered into on that account. We are, however, inclined and persuaded to set aside the acquittal against A2 and restore

the order of the Trial Court convicting him for the offence under Section 7 of the PC Act; there being no conspiracy under Section 120B of IPC established. The sentence of four years of RI handed down by the trial court is modified to one year, considering the age of A2, with a fine of Rs.1 lakh with a default simple imprisonment of three months as awarded by the trial court, which will stand restored and confirmed. A2 shall surrender within a period of four weeks from today.

31. The appeal is, accordingly, allowed to the extent indicated above.

32. Pending applications, if any, shall stand disposed of.

..... J.
(SANJAY KUMAR)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI;
MARCH 10, 2026.