

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J.) No. 314 of 2005

Samir Kumar Choudhary, Son of Sri, R.P. Choudhary, R/o-Vill.-
Kenduadih Colliery E-B Section, P.S.-Kenduadih, Dist. Dhanbad.

... .. **Appellant**

Versus

The State of Jharkhand through C.B.I. **Respondent**

For the Appellant : Mr. A.K. Kashyap, Sr. Adv.
Ms. Lina Shakti, Adv.

For the Resp. CBI : Mr. Deepak Kumar Bharti, Adv.

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
JUDGMENT

CAV On 10/06/2026

Pronounced on 20/08/2026

1. Heard the arguments of learned Sr. counsel for the appellant and learned Counsel for the C.B.I.

2. The instant criminal appeal has been preferred by above named sole appellant being aggrieved and dissatisfied with judgment of conviction and order of sentence dated 26th February, 2005 passed by learned Special Judge, CBI-cum-3rd Addl. Sessions Judge, Dhanbad in RC Case No. 4(A)/93(D) whereby and whereunder, the appellant has been convicted and sentenced to undergo R.I. for two years for each of the offences under Sections 7, 13(1)(d) read with section 13(2) of the P.C. Act, 1988 along with consolidated fine of Rs. 1,000/- under both sections with default stipulation. All the sentences were directed to run, concurrently.

Factual Matrix:-

3. The factual matrix giving rise to this appeal is that the complainant Ramdhari Harijan, Ex-Minor Loader, Basudeopur Colliery, BCCL, Dhanbad filed a written complaint on 22.03.1993 before S.P., CBI, Dhanbad stating inter alia that demand of illegal gratification of Rs. 300/- by the

accused Samir Kumar Choudhary (present appellant), Fund Clerk of said Colliery was made for processing the payment of CMPF Arrear Claims of the complainant. The allegations in the complaint was verified by Sri R.P. Tiwary, S.I., CBI, Dhanbad on the same day, who confirmed the allegation made in the complaint petition to be genuine and correct. Accordingly, R.C. Case No. 4(A)/1993(D) was registered on 22.03.1993 against the above named accused and investigation was entrusted to Sri B.K. Birdi, Inspector, CBI, Dhanbad by the orders of S.P., CBI, Dhanbad. As such, necessary arrangement to lay a trap against the accused to apprehend him while demanding and accepting the illegal gratification from the complainant was made by Sri Birdi. The pre-trap formalities was observed in presence of independent witnesses and other CBI Officials and a preliminary memorandum incorporating the pre-trap formalities was also prepared and signed by all the present including independent witnesses R.P. Sao, Shiv Lal and Ramdhari Harijan, the complainant of this case. Thereafter, the trap team proceeded for Basudeopur Colliery, Office Sijua Area, BCCL, Dhanbad and reached there at about 3:45 PM. It is alleged that the complainant went to the office of accused Samir Kr. Choudhary followed by shadow witness R.P. Sao and the complainant requested the accused to process and forward his application for arrear payment of his PF to CMPF office Dhanbad. Upon this, the accused demanded Rs. 300/- from the complainant and told him that if he would not give the said amount, he would not forward his application for payment of the said arrear. Upon demand, so made by the accused, the complainant gave tainted G.C. Notes

of Rs. 300/- to the accused which he accepted from his left hand and after counting the same with his both hands, accused kept the tainted money of Rs. 300/- in his left hand side drawer of his office table. It is further stated that the aforesaid conversation and the transaction between the accused and the complainant was overheard and seen by the shadow witness R.P. Saw and Sri Judagi Rajak, F.C. who were shadowing the complainant in a discreet manner. It is further alleged that immediately after the transaction was over, the shadow witness RP Saw gave pre-fixed signal by stretching his head with his right hand and on getting the signal, the T.L.O. along with other members of the trap team and the independent witness Shiv Lal reached at the place of occurrence and TLO challenged the accused after disclosing his identity for having demanding and accepting illegal gratification of Rs. 300/- from the complainant for showing him favour. It is further alleged that then the accused became nervous and turned pale and failed to offer any reasonable explanation. In the meantime, other members of the trap team namely R.P. Tiwary, S.I. and Judagi Rajak, H.C. caught both hands of the accused then Lalan Singh, Head Time Keeper and Chandra Shekhar Singh, Accountant both of Basudevpur Colliery were called and in their presence, along with members of trap team, shadow witnesses, R.P. Saw took out the tainted money of Rs. 300/- from drawer of the table of the accused on being pointed out by the accused. Thereafter, post trap formality was observed in presence of the witnesses and the members and denomination G.C. Notes were recovered, compared with the G.C. Notes mentioned in the preliminary memorandum which tallied

in toto. Thereafter, the accused admitted to have demanded and accepted the same of Rs. 300/- from the complainant as illegal gratification for forwarding his application to CMPF Officer for payment of his arrears. The recovered G.C. Notes were kept and sealed in an envelope on which all the witnesses presented there put their signatures. Thereafter, the accused was arrested by the CBI and both of his hands were separately washed in the solution of Sodium Carbonate and Milky solution turned into Pink. Hand washes of both the hands of the accused were separately sealed in bottles and all the members of the trap team signed over the same. Thereafter, a memorandum of recovery was prepared which was also given to the accused under proper receipt. The seized hand washed solution was sent for chemical examination to CFSL and the report of CFSL confirmed the said exhibits contained both Sodium Carbonate and Phenolphthalein. The investigation also revealed that the application of the complainant for his CMPF arrear was pending with the accused Samir Kr. Choudhary, who was working as PF Clerk in Basudev Colliery, BCCL, Dhanbad at the relevant time of the occurrence.

4. After completion of the investigation, the I.O. obtained sanction for prosecution of the accused from the competent authority and charge-sheet was submitted for the offence under Section 7, 13(2) read with Section 13(1)(d) of the P.C. Act, 1988.

5. The accused denied from the charges leveled against him and claimed to be tried.

6. In the course of trial, altogether 8 witnesses were examined by the prosecution.

P.W.-1	Ram Bahadur Dorjee
P.W.-2	Shiv Lal
P.W.-3	Ram Prasad Saw
P.W.-4	Chandra Shekhar Singh
P.W.-5	R.P. Tiwary
P.W.-6	Ramdhari Harijan
P.W.-7	S. Mukhopadhyay
P.W.-8	Bal Krishan Birdi

7. Apart from oral testimony of the witnesses, several documentary evidence has also been adduced i.e. Ext.-1 to 13 by the prosecution.

8. On the other hand, the case of defence is denial from the occurrence and false implication. The defence has also relied upon station diary entry dated 22.03.1993 of the C.B.I. marked as Ext.-A in his defence.

9. The learned trial Court after evaluating the evidence available on record led by the parties arrived at conclusion of the guilt of the appellant for the offence under Sections 7 and 13(1)(d) read with 13(2) of the P.C. Act and sentenced him as stated above, which has been assailed in this appeal.

Submissions on behalf of appellant: -

10. Learned Sr. counsel for the appellant assailing the impugned judgment has argued that the witnesses examined by the prosecution have given self contradictory statement shaking the very core of the case of the prosecution rendering the overall story as unreliable, baseless and a case of no evidence against the appellant. Elucidating his argument, learned Sr. counsel for the appellant has submitted that P.W.-1 Ram Bahadur Dorjee is

a formal witness and proved the sanction order but clearly admits that he is working as a typist in Sijua Area Office of BCCL and the sanction order was dictated by Sri N.K. Singh, General Manager and the said N.K. Singh sanctioning authority has not been examined in this case causing serious prejudice to the defence. P.W.-2 Sheo Lal was also working as a LDC in DGMS, Office and a member of trap team has also made contradictory statement regarding preparation of solution for washing both hands of the accused and admits in clear terms that he has not been interrogated at CBI, office. He has also failed to recollect as to whether his signature was taken on any document, envelope or paper. P.W.-3 Ram Prasad Sao has also admitted in his evidence that he had no knowledge as to why the raid was conducted. He has also not seen any table at the place of occurrence and he has also no conversation with the complainant as to for what reason the complaint case has been lodged. P.W.-4 Chandra Sekhar Singh has been declared hostile by the prosecution who admitted that no money was recovered in his presence and he has also not put his signature on the envelope marked as Ext. 2/1. He has also admitted that no solution was prepared in his presence and no any hands were dipped into the said solution in his presence. P.W.-5 Rampujan Tiwary, S.I., CBI is alleged to have conducted preliminary enquiry about the allegation in the complaint petition but he has stated nothing as to in which manner he has conducted inquiry and found the allegations to be genuine and true. The most important witness Ramdhari Harijan happens to be complainant has also failed to prove the illegal gratification from him or its payment at any

point of time to the appellant. He also admits that in the year 1990, he came to know that some of his amount due and unpaid for which he took appropriate proceeding. The shadow witnesses have also failed to prove the actual demand of illegal gratification by the appellant and its acceptance and demand in his hands. It is further submitted that the recovered tainted money is alleged to be effected from the drawer of the table not from the conscious possession of the appellant. Therefore, the testimony of the witnesses suffers from material contradictions and infirmities going to the very root of the prosecution case and none of the witnesses are trustworthy and reliable. The prosecution has miserably failed to prove the three important ingredients to constitute the offence under Sections 7 of the P.C. Act i.e. demand, acceptance and recovery of bribe through cogent and reliable evidence. The sanction order has not been properly proved by competent witness. The shadow witnesses have also failed to prove any recovery of bribe money from the drawer of table of the appellant. The place of the occurrence especially the sitting arrangement in the office of the accused has not been proved by any of the witnesses who were called later on after planting the money on table of appellant. None of the shadow witnesses have claimed to have overheard the conversation between the accused and the complainant regarding demand of any illegal gratification or its acceptance. The investigating Officer has also not investigated/inquired in connection with amount of arrears of PF of the complainant and no documents were collected from the concerned office to prove the same. The complainant himself has

admitted that after return of CBI Officer, the whole proceedings were completed. Therefore, the learned trial Court has committed serious error of law while appreciating the evidence of witnesses available on record in right perspective and swayed upon the testimony of tainted witnesses who was also member of raiding party/trap team. Therefore, impugned judgment is liable to be set aside and appellant deserves acquittal from the charge leveled against him.

In the alternative, it is argued that the sentence awarded to the appellant is disproportionate to his guilt. There is simple allegation of demand of Rs. 300/- only for processing the PF Dues of the complainant. Although, the exact amount lying in arrear has not been brought on record. The occurrence is of the year 1993 and more than three decades have been passed since the date of occurrence. The appellant has already deposited fine amount imposed upon him, apart from above fine amount, at the time of confirmation of bail, a condition was imposed by this Hon'ble Court for confirmation of bail to deposit amount of Rs. 5000/-. Therefore, in respect of monetary sentence, the appellant has deposited Rs. 2000 (Fine Amount) and Rs. 5000/- (Conditional fine amount for confirmation of provisional bail), total Rs. 7000/- and has also remained in custody for one month one day during trial of the case. Considering the overall aspects of the case, the appellant has sufficiently been punished for his guilt and his sentence may be reduced to the extent of imprisonment already undergone by him and the amount of fine deposited.

Submissions on behalf of the CBI

11. On the other hand, learned counsel appearing for the C.B.I. has vehemently opposed the aforesaid contentions raised on behalf of the appellant and submitted that the learned trial Court has very wisely and aptly analyzed, appreciated and apprised with the oral testimony of the witnesses as well as documentary evidence available on record. It has also been submitted that all the prosecution witnesses have consistently deposed that the accused was demanding Rs. 300/- for processing the application of arrear of PF of the complainant. It has also been submitted that demand and acceptance has been well proved in this case. It has also been submitted that there is no valid explanation offered by the appellant to rebut the presumptions raised under Section 20 of the P.C. Act. Therefore, there is no illegality or infirmity in the impugned judgment calling for any interference in this appeal, which is devoid of merit and fit to be dismissed.

12. I have gone through the record along with the impugned judgment in the light of rival contentions raised on behalf of the parties.

13. The sole point for determination in this appeal is “as to whether the impugned judgment of conviction and sentence of the appellant suffers from any error of law, which requires any interference in this appeal”?

Analysis, reasons and decision:

14. Before imparting my verdict on the above point, it appears necessary to take brief resume of ocular testimony of witnesses examined in this case.

P.W.-1 Ram Bahadur Dorjee has deposed that he is a typist and typed the sanction order of this case on the dictation of Sri M.K. Singh, G.M. of Sijua Area, who put his signature on the sanction order which has been marked as Ext.-1.

P.W.-2 Sheo Lal and **P.W.-3 Ram Prasad Sah** have deposed that they have joined the trap team on the direction of their controlling officer and altogether they were 10 persons including them. They have further stated that they were introduced with the complainant Ramdhari Harijan and complaint petition was also read over to them. Thereafter, they conducted preliminary formalities wherein a powder was applied on a paper and P.W.-2 Sheo Lal was asked to touch the said paper and his hand was dipped into a milky solution which turned into pink color and the said paper was sealed in an envelope on which they signed as witness and signature of P.W.-2 and P.W.-3 were marked as Ext.-2 and 2/16, respectively and the envelope was marked as Ext.-I. Thereafter, they completed the further formalities and exhibited the material used in process of formalities and further proceeded to Basudeo Colliery where the accused was present in his office. Thereafter, the complainant requested the accused to do his work which was followed by P.W-3 Ram Prasad Sah. Upon which, the accused demanded money of Rs. 300/- who took and counted the same and kept in his left drawer of his table. Both these witnesses have been examined at length wherein they have stated the process conducted by the trap team and both of them fully supported the case of the prosecution.

P.W.-4 Chandra Shekhar Singh is an employee of the said Colliery where the accused was working. He has stated that after the trap, he was called where Lalan Singh was also present. He stated that in his presence, the accused was asked to bring out money but he denied that in his presence, money was recovered from the accused person. He further stated that when he went there he saw that money was kept by the CBI Persons on the table and he was asked to compare the number of the notes from a paper on which the numbers were noted earlier which tallied. He was declared hostile by the prosecution.

P.W.-5 R.P. Tiwary, S.I., CBI, Dhanbad has deposed that he is a verifying officer of the complaint and enquired on the direction of S.P., CBI, Dhanbad and found the allegation genuine and true and has fully supported the case of the prosecution.

P.W.-6 is the complainant **Ramdhari Harijan** on whose complaint, trap was laid against the accused to apprehend red-handed. He has stated that accused was apprehended by the CBI while taking illegal gratification of Rs. 300/- from him who had kept the said money in his drawer, then, Birdi Saheb came and caught the accused and completed the post-trap formalities.

P.W.-7 S. Mukhopadhyay is the expert of CFSL who had examined the hand washes of the witness used at the time of demonstration and of the accused at the time of his trap and red-handed arrest with tainted G.C. Notes and gave a report marked as Ext.-5 confirming the presence of

phenolphthalein and sodium carbonate in the contents of all the three bottles.

P.W.-8 Bal Krishna Birdi, Inspector, CBI is the investigating officer –cum-TLO of this case had conducted all the pre-trap and post-trap formalities of this case and arrested the accused while demanding and accepting the illegal gratification from the complainant of this case and have fully supported the case of the prosecution that the tainted bribe money was recovered from the table drawer of the accused which were compared with the number and denomination noted in the preliminary memorandum which tallied and have admitted his signature on the envelope of the tainted piece of papers, tainted notes, on the bottles of hand wash of the witness at the time of pre-trap formalities and on the bottles of hand wash of his signature on the preliminary memorandum marked as Ext.2/32 to 2/35 and also proved the said preliminary memorandum marked as Ext.9.

15. I have gone through the testimony of the prosecution witnesses as well as the documentary evidence led by the prosecution very minutely and find that the contradictions pointed out by the learned Sr. counsel for the appellant does not appear to be substantive and affecting the core of the prosecution case. It appears that the oral and documentary evidence relied upon by the prosecution has categorically proved that the appellant had demanded and accepted the illegal gratification for processing the application of PF arrear of the complainant. The prosecution has been able to prove the guilt of the appellant. Therefore, I do not find merit in this appeal.

16. So far as quantum of sentence of the appellant is concerned, although minimum sentence is of six months under Section 7 of the PC Act but in the facts and circumstances of this case, it appears that there was demand of Rs. 300 for processing the dues of PF of the complainant. The occurrence is of the year 1993. The appellant has already undergone agony of the trial for a period of three decades and there is no previous criminal antecedent. His provisional bail has also been confirmed with a condition to deposit Rs. 5,000/- and the same has also been paid. It appears that altogether, the appellant has paid Rs. 7,000/- apart from undergoing one month one day custody. Therefore, it appears that the appellant has sufficiently been punished for his guilt. Therefore, sentence awarded to the appellant is reduced to the imprisonment already undergone along with a fine amount and conditional fine amount of Rs. 5000/- deposited for confirmation of provisional bail.

17. In result, this appeal is **dismissed on merits with modification in sentence as stated above.**

18. The appellant is on bail, hence, he is discharged from the liabilities of bail bonds. The sureties are also discharged.

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

20. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, at Ranchi

Date: 20/08/2026

*Basant/-***N.A.F.R.**

Uploaded on 21/08/2026