

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5364 of 2023**

Arising Out of PS. Case No.-37 Year-2011 Thana- VIGILANCE District- Patna

SULTAN AHMAD SON OF LATE MD. AKHTAR RESIDENT OF NEW AZIMABAD COLONY, P.S. - SULTANGANJ, DISTRICT - PATNA, THEN CIRCLE OFFICER, BELAGANJ BLOCK, DISTRICT - GAYA

... ... Appellant/s

Versus

THE STATE OF BIHAR THROUGH THE VIGILANCE, PATNA BIHAR

... ... Respondent/s

with

CRIMINAL APPEAL (SJ) No. 5460 of 2023

Arising Out of PS. Case No.-37 Year-2011 Thana- VIGILANCE District- Patna

Poonam Devi @ Poonam Sinha W/o Umesh Prasad Gupta R/o mohalla-Seva Nagar Colony,Q.No.34, P.S-Civil Line, District-Gaya.

... ... Appellant/s

Versus

The Vigilance Investigation Bureau, Bihar,Patna Bihar Patna

... ... Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 5364 of 2023)

For the Appellant/s : Mr.Ali Muqtabir Ahmad, Advocate
Mr.Shailesh Kumar, Advocate

For the Vigilance : Mr.Anil Singh, Advocate

(In CRIMINAL APPEAL (SJ) No. 5460 of 2023)

For the Appellant/s : Mr.Shailesh Kumar, Advocate
Mr. Shyam Kishore, Advocate

For the Vigilance : Mr.Anil Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 15-04-2025

Heard Mr. Ali Muqtadir Ahmad duly assisted by
Mr. Shyam Kishore and Mr. Shailesh Kumar for the appellants



as also Mr. Anil Singh representing the Vigilance Investigation Bureau, Bihar, Patna (henceforth for short ‘the Bureau’) in both the case.

2. The present appeals have been filed against:

the judgment of the conviction and order

of sentence dated 24.11.2023 and order of

sentence dated 24.11.2023 passed by the

Special Judge, Vigilance, Patna in Special

Case No. 34 of 2011 (arising out of

Vigilance P.S. Case No. 37 of 2011) by

which the appellant, Sultan Ahmad has

been convicted R.I. for 6 (six) months

imprisonment and pay a fine of Rs. 5,000/-

for the offence under Section 7 of

Prevention of Corruption Act and further

R.I. for one year and a fine of Rs. 5000/-

under Section 13(2) r/w 13(1) (d) of

Prevention of Corruption Act, 1988 and

and in default of payment of fine, he will

undergo imprisonment of for one month.

The appellant Punam Devi has been

sentenced to undergo R.I. for one year and



pay a fine of Rs. 5,000/-for the offence under Section 12 of Prevention of Corruption Act, 1988 and in default of payment of fine, she will undergo imprisonment of one year.

3. Earlier, the appeals stand admitted on 20.12.2023 and 03.01.2024 and the Trial Court Records were called for which has/have been received.

4. As per the prosecution story, a complaint was received in 'the Bureau', Bihar, Patna on 21.06.2011. The complainant was one **Priya Sharma**, a resident of **Silonja, Gaya** and according to it, for getting part possession of **12.5 decimal** of land bearing Cadstral Survey Khata no./recent Survey Khata no. **797**, Cadstral Khesra no./recent Khesara no. **2411**, (area 12.5 decimals) of land in **village Silonja,, Thana No. 415, P.S.- Belaganj, District- Gaya** allotted in favour of her husband by the government who was serving in the Indian Army but part of it was illegally occupied by the co-sharers, she visited the Belaganj Block Office and as per the allegation, she met with the **Circle Officer, Belaganj, Sultan Ahmad** as also the **Head Clerk** namely **Poonam Devi @ Punam Sinha** for getting the possession back. They demanded



the money and assured that the work will be executed by the Circle Officer.

5. She, thereafter, met the **appellant, Sultan Ahmad** who demanded Rs.10,000/- as bribe. He further directed the complainant to meet the **Head Clerk, Poonam Devi** who also demanded the bribe. As she was not interested in paying bribe, chose to file complaint.

6. Once the complaint was filed with 'the Bureau', **Dinesh Tiwary, ASI, Vigilance** was directed to verify the allegation. On **22.06.2011**, he along with the complainant went to Belaganj Block Office where the appellant once again demanded the bribe, Rs. 8000/- for himself and Rs.2000/- for the Head Clerk, Poonam Devi. Later, on his instruction, they met Poonam Devi who also made the same demand and assured that the work will be done. She further asked the complainant to visit the next day (23.06.2011) near Railway Hospital, Gaya where the Circle Officer resides so that they can go to his residence and make the payment.

7. Once the verification was completed, the case was registered, a Trap Team was constituted on the direction of the Deputy Inspector General, Vigilance under the DSP, Vigilance namely Nand Ji Singh. A pre-trap meeting was held



on **23.06.2011** where the entire process was demonstrated including the use of powder and sodium carbonate. Later, they proceeded for the location.

8. Once at Gaya and near the residence of Sultan Ahmad, they waited for long for Poonam Devi (Head Clerk) to come at the place but as she failed to arrive, they chose to visit the Circle Officer's house. The complainant went inside the house and the moment the **appellant, Sultan Ahmad** accepted the bribe, signal was given whereafter, he was surrounded, the bribe money was taken from him. The chemical process conducted and the solution turned pink. Thereafter, on the basis of written complaint, **Vigilance Case No. 37 of 2011** was lodged on **24.06.2011** under sections **7 and 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988** (henceforth for short 'the Act'). Later, **sections 8 to 10 and 12 of 'the Act'** were incorporated in the FIR.

9. The **charge-sheet** was submitted vide **chargesheet No.59** dated **17.08.2011**. **Cognizance** was taken in the matter on **18.08.2011** and the **charges** were framed on **22.07.2017**.

10. Though the Police in the **charge-sheet** had named the witnesses **Sanjay Chaturvedi** and **Sanjay Kumar**



Singh, the two Constables who were part of the Trap Team and caught hold of the appellant, Sultan Ahmad when he allegedly took bribe, they were not examined in course of the trial. Same is the case of **Ayush Kumar** and **Randhir Sharma** who according to the prosecution story were the independent witnesses belonging to the village of the informant (**Silonja**) but they too were not examined.

11. The witnesses who were examined during the trial are as follows:

01	Dinesh Tiwary	Retired S.I. of 'the Bureau'.
02.	Nand Jee Singh	Retired Dy. S.P. 'the Bureau'
03.	Ms. Priya Sharma	Complainant
04.	Sudesh Yadav	Constable and Member of Trap Team
05.	Ashok Vardhan, I.A.S. and Principal Secretary, Revenue and Land Reforms Department, Bihar.	Sanctioning Authority of appellant Sultan Ahmad
06.	Zorawar Pd. Singh	Member of the Trap Team
07.	Anup Kumar	FSL Expert
08.	Vandana Preyesi, I.A.S. and	Sanctioning Authority of



	District Magistrate, Gaya	appellant Poonam Devi
09.	Amritendu Shekhar Thakur	Investigating Officer
10.	Praduman Singh	2nd Investigating Officer
11.	Jay Prakash Pathak	Constable and Member of the Trap Team.

12. The **Exhibits** put forward by the prosecution is/are as follows:

S. No.	Description of documents	Exhibit Numbers
1.	Endorsement and signature Sri Sudhir Kumar, S.H.O of Vigilance P.S registration of F.I.R.	Exhibit-1
2.	Verification Report	Exhibit-2
3.	Recommendation Sri Sudhir Kumar, S.H.O. Vigilance P.S on verification report for constitution of trap team.	Exhibit-2/a
4.	Order of Sri P.K. Thakur, A.D.G Vigilance on verification report for constitution of trap team.	Exhibit-2/b
5.	Pre Trap Memorandum	Exhibit-3
6.	Post Trap Memorandum	Exhibit-4
7.	Trap Team Proceeding Report	Exhibit-5
8.	Recommendation Sri Sudhir Kumar, S.H.O. Vigilance P.S on trap team proceeding report for registration of F.I.R.	Exhibit-5/a
9.	Order of Sri P.K. Thakur, A.D.G Vigilance on trap team proceeding report for registration of F.I.R.	Exhibit-5/b



10.	Formal F.I.R.	Exhibit-6
11.	Complaint Petition	Exhibit-7
12.	Signature of complainant on formal F.I.R.	Exhibit-8
13.	Sanction order	Exhibit-9
14.	F.S.L. Report	Exhibit-10
15.	Sanction Order	Exhibit-11
16.	Signature of Sri Sudhir Kumar on Trap Proceeding Team Proceeding Report.	Exhibit-5/c
17.	Charge Sheet	Exhibit-12
18.	Charge Sheet	Exhibit-13
S. No	Description of the materials	Number of material exhibits
1.	9 G.C Notes of Rs.1000/-and 2 G.C Notes of Rs.500/- denominations.	Exhibit-1 to 1/10

13. The list of document provided by the Defence is/are as follows:

S. NO	Description of the documents	Exhibit Numbers
1.	C.C of the written Statement in T.S. 170/2011 (seven Sheets)	A
2.	Order passed in CWJC no. 13624/2018 by the Honorable High Court	B
3.	The attested copy of judgment passed in T.S 58/11(170/11)	C
4.	The attested copy of the deposition of Kunal Goswami	D
5.	Memo no 242, dated, 25/06/2012 issued by C.O, Belaganj Gaya	E



6.	Certificate issued by Mukhiya, Gram Panchayat Lodipur.	F
7.	Web copy of Map of Gaya Town	G
8.	Report of Gaya Municipal Corporation	H
9.	Photo copy of Gaya Town Map	I

14. **P.W.-1**, is **Dinesh Tiwary, an ASI** posted with **'the Bureau' at Patna**. According to this P.W., he was assigned the duty on 21.06.2011 by the Station Head Officer, Sudhir Kumar to get the complaint verified. On 22.06.2011, he went to Belaganj from Patna and contacted the complainant. Later, along with her, he went to the Circle Office at 12:30 P.M. where the appellant, Sultan Ahmad serving as Circle Officer, Belaganj demanded the bribe of Rs. 10,000/- (Rs. 8000/- for himself and Rs.2000/- for Poonam Devi, another appellant and the (Head Clerk). They later went to meet Poonam Devi, who also made the same demand and directed them to come on 23.06.2011 in the evening near the residence of the Circle Officer with further assurance that she will also accompany them.

15. Accordingly, he submitted his report which led to constitution of Trap Team and after completion of formalities, they went to Gaya and reached near Millat



Hospital. Though Poonam Devi failed to appear, they later, moved to the Circle Officer's residence. The complainant handed over the money, the bribe was accepted by him whereafter he was caught and his fingers were put in the solution which turned pink. Thereafter, in the presence of the independent witnesses, the formalities were completed and he was arrested.

16. During the cross examination, the P.W.-1 failed to identify the appellant, Sultan Ahmad. He further informed that the complainant, Priya Sharma had submitted an application before the Circle Officer, Belaganj for getting the possession of the land which was allotted by the Government to her husband. The P.W.-1 further stated that he had taken a private vehicle to move to Belaganj but later made the statement that he had taken the bus to Belaganj from Mithapur Bus Stand. He further denied the fact that the complainant had brought the independent witnesses from her own village in whose presence, the trap process was completed.

17. **P.W.-2** is the **Deputy S.P., Nand ji Singh** posted with '**the Bureau' Patna**. He was heading the Trap Team and after getting an order on 23.06.2011 and once the complaint was verified through P.W.-1, Dinesh Tiwary, they



went to the place and once got the signal caught hold of the accused-appellant, Sultan Ahmad from whom the money was recovered.

18. This P.W. stated that Poonam Devi did not come to the place as had assured, whereafter they went to the appellant Sultan Ahmad's residence, who accepted bribe and was caught hold of by the Trap Team. The crowd gathered from which two independent witnesses were requested who signed the memo.

19. In the cross-examination, he acknowledged that no paper relating to settlement was handed over by the complainant though it was informed that the area of 12.5 decimal has been settled. He also did not know which of the complainant's agnate has taken possession of the land. So far as the dispute about Millat Hospital and Railway Hospital is concerned, he clarified that it is one and the same hospital known as **Millat Hospital/Railway Hospital** which is/was across the residence of the Circle Officer. The settlement paper by the government never came to light and it was only orally informed by the complainant that it was settled in favour of her husband.

20. P.W.-2 also accepted during the cross



examination that both the independent witnesses belonged to the village of the complainant. He denied the question put forward by the defence that the appellant was called at **Millat Hospital** and trapped whereafter, false documents were created to implicate him.

21. **P.W.-3** is the **complainant, Priya Kumari @ Priya Sharma @ Priya Kumari Sharma**. According to her, 12.5 decimal of land was allotted to her husband by the government who is/was serving in Indian Army but some part of it was in the illegal possession of her husband's agnate (the grandfather-in-law) and for getting possession of the said land, she went to the Circle Office, Belaganj who demanded bribe of Rs.10,000/- as narrated above.

22. Thereafter, she submitted a complaint with 'the Bureau'. Later, verification took place when the demand was again made and the Circle Officer, Belaganj directed her to meet the Head Clerk who assured that on the next day, she will be accompanying them to the Circle Officer's residence. Later, as Poonam Devi failed to present herself whereafter, they went to the Circle Officer's residence. The demand was made, payment made. She, thereafter, signaled which led to the Trap Team arriving and the accused was caught red handed. The



post trap process was completed thereafter.

23. During the cross-examination, she stated that an application was submitted for getting possession of the land before the Circle Officer. She further denied the fact that any Title Suit was pending when she made the application. Upon query, **the P.W.-3** again denied of signing any Vakalatnama or being part of the any written statement submitted in **Title Suit No. 170 of 2011**. According to the P.W.-3, while she was taking care of the Circle Office matter, her husband was looking after the civil suit case. The lady denied that both the independent witnesses, **Ayush Kumar** and **Randhir Sharma** belonged to her own village Silonja.

24. **P.W.-4 Dr. Sudesh Yadav, Member of the Trap Team** narrated the same story as stated by other P.Ws. According to this witness, **Sanjay Chaturvedi** and **Sanjay Kumar Singh**, the two Constables with the Trap Team caught hold of the two hands of the appellant, Sultan Ahmad. During the cross examination, the P.W.-4 accepted that both the independent witnesses were not locals and she had no knowledge about the verification having been done earlier.

25. **P.W.-5 is Ashok Vardhan, the Principal Secretary, Revenue and Land Reforms Department, Bihar,**



Patna and a formal witness who signed the sanction order to go ahead with the trial of the appellant, Sultan Ahmad. He verified the documents/signature put in by him by which the sanction order was given.

26. P.W.-6 is Zorawar Pd. Singh, Sub-Inspector of Police and the member of the Trap Team. He also narrated the same story and during the cross-examination, has accepted that the locals were not made witnesses to the said trap. The appellant, Sultan Ahmad was arrested inside his house and chose to ignore the question whether in the post trap memorandum, the number of the notes which were recovered/seized were recorded or not.

27. P.W.-7 is Anup Kumar, the Assistant Director, Regional Forensic Science Laboratory, Bhagalpur. He is formal witness who submitted the FSL report relating to the trap.

28. P.W.-8, Vandana Preyeshi, again is the formal witness and an IAS Officer. She was posted at the relevant time as the **District Magistrate, Gaya** and sanctioned the prosecution of the **Head Clerk, Poonam Devi**. She identified the document/signature.

29. P.W.-9 is the Additional S.P., Economic



Offence Unit, Patna who at the relevant time was posted as the **DSP of ‘the Bureau’, Patna**. The story narrated by the other Police Officials has been repeated by this witness and during the cross-examination, he accepted that there was a Title suit pending between the complainant and her husband on the one side and her grand-father-in-law on the other side since May, 2011 on the land which the complainant claimed to have been allotted by the Government. He further stated that the complainant had forcefully informed him that the land which has been allotted by the Government is under their physical possession.

30. P.W.10 is Praduman Singh, the Police Inspector with ‘the Bureau’ and part of the Trap Team. He has also narrated the same story and further during the cross-examination accepted that he had gone through the plaint of the Title Suit but no Khata-Khesra details were there.

31. P.W.-11 is Jai Prakash Pathak who at the relevant time was posted as **Inspector** with ‘the Bureau’. The Trap Team included him and was also visiting Gaya when the alleged recovery/seizure of the amount took place. He accepted that both the independent witnesses were not locals rather from outside the place of occurrence.



32. The two appellants, Sultan Ahmad and Poonam Devi on the other hand claimed themselves to be innocent and alleged that they have been implicated. There was no such recovery/seizure of the amount and 'the Bureau' connived with the complainant and created the Trap story. The defence pleadings are/were that:

- (i) T.S. No. 58 of 2011 (170/11) was pending between the parties in which the claim of husband of complainant was that they are in continuous possession. Thus, there was no question of approaching the appellant for getting the possession of the land;
- (ii) no application was ever submitted or pending before the appellants;
- (iii) the two independent witnesses were not from the Mohalla where alleged trap took place but from the village Silonja from where the complaint belonged to.
- (iv) his dismissal from service following the departmental proceeding was quashed by the Patna High Court.



33. After hearing the parties and going through the prosecution story as also the witnesses, the learned Trial Court came to the conclusion that the prosecution has been able to prove the demand, acceptance and recovery of the amount by producing unequivocal evidence. It as such held that the prosecution has successfully proved the charges against the accused, **Sultan Ahmad** for commission of offence under section **7 and 13(1) r/w 13(2)** of 'the Act'. It further held that **Poonam Devi** has actively abetted in the commission of offence and as such the prosecution has been successful in substantiating and proving the charge **under section 12 of 'the Act'** against her. Accordingly, the two appellants were convicted on 24.11.2023 and sentenced as under:

Sr. No.	Appellant's name	Sentence	Fine	In Default of Fine
1.	Sultan Ahmad	R.I. six months years under Section 7 of the P.C. Act,1988. Further, R.I. for one year u/s 13(1) (d)r/w 13(2) of the P.C. Act.	Rs.5000/- Rs. 5000/-	S.I. for one month.



Sr. No.	Appellant's name	Sentence	Fine	In Default of Fine
1.	Punam Devi	R.I. for one year under Section 12 of the P.C. Act	Rs.5000/-	S.I. for one month.

34. Aggrieved, the present appeals.

35. Learned counsel for the appellant, Sultan Ahmad submits that the P.W.-3, the complainant, Priya Kumari @ Priya Sharma @ Priya Kumari Sharma is an untrustworthy witness. According to the learned counsel, the complaint of the said P.W.-3 is that an application was pending before the Circle Office, Belaganj as also the second appellant, Poonam Devi for part possession of land allotted to her husband for which she met the two appellants who demanded bribe.

36. Learned counsel submits that contrary to the claim neither any petition was pending before the said office nor she wanted entry of name rather the case is that she wanted possession of the land which according to her was in unauthorized possession of her grandfather-in-law. The submission is that during cross examination in the year 2019, she recorded her statement that prior to the complaint made



before the Vigilance office, no Title Suit was pending. He submits that this statement is/was contrary to the fact as the Title Suit No. 170 of 2011 was already there having been filed on 03.05.2011 itself whereas the complaint was made in the month of June, 2011.

37. He submits that further statement of P.Ws. was that she never signed any Vakalatnama or was part of any written statement in the Title Suit whereas the document on record shows that the written statement was filed on behalf of the defendant nos. 3 to 5 in the Title Suit No. 170 of 2011 however her signature on 19.01.2012. Further, despite the two independent witnesses belonging to her own village Silonja the statement was that she had no knowledge that they belonged to her own village.

38. Learned counsel submits that the aforesaid facts clearly show that the complainant wanted the appellant to help her in getting the illegal possession of the land occupied by her grandfather-in-law for which a Title Suit was already pending. The same was not being in domain of the Circle Officer, Belaganj, naturally, there was a refusal on his part, infuriated, the lady conspired and --- the trap story with the help of 'the Bureau'. It is his further case that actually neither the demand



was there nor acceptance but it was forcibly handed over only to implicate him in the present case. The fact that the two independent witnesses were not even examined clearly show the appellant was implicated in the matter.

39. He has taken this Court to the statement made by P.W.-1 Dinesh Tiwary, an A.S.I. posted with 'the Bureau' and the person who verified the complaint. He failed to recognize the appellant during the trial and his case was that the complainant Priya Sharma had submitted an application before the Circle Officer, Belaganj. This again is contrary to the reality as record shows that no such application was pending before the circle office.

40. Learned counsel submits that this witness is also an untrustworthy witness inasmuch as while earlier the statement was that he took a private vehicle to move to Belaganj but later changed stand and narrated that he went to the said place on a bus which he took from Mithapur Bus Stand.

41. Learned counsel appearing on behalf of the appellant, Poonam Devi also submits that the entire chain of the complaint theory is not completed inasmuch as despite their complaint that the Head Clerk also demanded amount and



assured to accompany to the Circle Officer's residence, it is not the case of the prosecution that she actually appeared. However, based on the said dubious complaint, she was also made an accused and now stands convicted.

42. Learned counsel submits that two important witnesses namely Sanjay Chaturvedi and Sanjay Kumar Singh, the Constables who caught hold of Sultan Ahmad were never examined making the prosecution story dubious. He as such submits that the learned Trial Court completely erred in ignoring all these facts while convicting the two appellants. As such, the appeal be allowed and the order in question be set aside.

43. The case of the appellant is that the P.W.-2, the Dy. Superintendent of Police posted with 'the Bureau' and who headed the Team, in his cross examination acknowledged that no paper relating to settlement was handed over by the complainant though it was informed that the said 12.5 decimal has been settled in favour of her husband. He further accepted that both the independent witnesses belonged to the appellant's village.

44. Learned counsel submits that with regard to the two important witnesses namely Sanjay Chaturvedi and



Sanjay Kumar Singh, the Constables of 'the Bureau' who according to the prosecution story caught hold of the hands of the appellant Sultan Ahmad when he allegedly received the bribe amount were not examined, no reasons whatsoever has been given as to why the prosecution failed to present them before the Trial Court.

45. The submission is that the inconsistent statement of the complainant, the failure on the part of the verifier (P.W.-1) either to identify the appellant and/or even record the mode of conveyance on his movement to Belaganj to verify the complaint clearly shows that the appellant, Sultan Ahmad as also Poonam Devi were framed. The submission is that when the chain of demand and receipt is/are not completed, the Trial Court ought to have exonerated them of all the charges. It is his submission that in the pre-trap memo, the number of notes were recorded but a vague statement was made later that the notes as recorded. He submits that in that background both the appellants deserve relief.

46. In support of their respective cases, the learned counsel for the appellants have jointly taken this Court to an order of the Hon'ble Apex Court in the case of **Madan Lal vs.**



the State of Rajasthan reported in **2025 Live Law (SC) 310**
with special reference to **paragraphs 15 and 16** which read as
follows:

15. On an examination of the evidence, there is considerable doubt raised in our mind which qualifies as reasonable doubt, as to whether there was acceptance of bribe amounts by both the accused. True, the officers of the trap team spoke about the handing over of the money by the complainant to the 1st accused who handed over half, to the 2nd accused, which amounts were said to have been put by both the accused in their trouser pockets. PW 8 who led the trap team merely spoke of a recovery of the bribe amounts from the possession of the accused and the hands and trousers of the accused having positively reacted to the test solution. The said deposition is contrary to the statements made by the independent witnesses that some notes



were found thrown on the floor. None of the officers spoke of any of the accused having taken out the notes and thrown it on the floor.

16. *On an examination of the entire evidence, we are of the opinion that the prosecution has failed to establish beyond all reasonable doubt, the demand of bribe and its acceptance, in a trap laid by the trap team of the ACB. In that circumstance there is no question of a presumption under Section 20 arising in this case. The conviction and sentence of the accused as brought out by the Trial Court and affirmed by the High Court, hence, is set aside. The bail bonds, if any executed by the accused, in these cases, shall stand cancelled.*

47. Learned counsels submit that when reasonable doubt has been created, the P.W.-3, the complainant is an untrustworthy witness, her entire statement is contrary to the facts on record, the other witnesses have also sung different



tunes, in that background, the appellants are entitled to relief.

48. Mr. Anil Singh, learned counsel representing 'the Vigilance Bureau' on the other hand supports the order and judgment passed by the learned Trial Court. According to him, the husband of the appellant was in the military service, was provided a piece of land by the Government. Her grandfather-in-law however, had occupied some of the portion of the allotted land and for getting it back, she had visited the Circle office.

49. There a demand was made, as she was not ready to make payment, the complaint. He submits that subsequently, the complaint was verified through one of the police officials of 'the Bureau' who went to Belaganj and once the demand was repeated both by the Circle Officer and the Head Clerk, the two appellants herein, the complaint was finally lodged and the Trap Team constituted.

50. They subsequently went to the place (Belaganj, Gaya), waited for the Head Clerk who was supposed to come, as she failed to appear, the complainant went on her own to the Circle Officer's residence, the bribe amount was handed over, signaled. Thereafter, the Trap Team rushed and caught hold of the Circle Officer. He submits that a fair trial took place and



there was consistencies in the statements put forward by all the witnesses, whereafter, the Trial Court came to the conclusion that both the Circle Officer and the Head Clerk were found guilty and accordingly, convicted.

51. He submits that missing of certain links and/or non-examination of the independent witnesses and/or the officials who caught hold of the hands of the accused-appellant, Sultan Ahmad does not vitiate the entire trap or the entire prosecution story. He further submits that the Title Suit finally went in favour of the complainant vide an order dated 20.04.2015. Upon query why the two witnesses who were officials of 'the Bureau' and caught hold of the accused, Sultan Ahmad after he accepted bribe were not examined, no answer is forthcoming. He however, submits that a fair trial took place which followed their conviction.

52. In support of the case, learned Vigilance Counsel has relied upon a judgment of **Neeraj Dutta vs. State (Government of N.C.T. of Delhi)** decided by the Constitution Bench reported in **2023 (1) SC 63** with special reference to paragraphs **68 to 70** which read as follows:

68. What emerges from the aforesaid discussion is summarised as under:



(a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of the Act.

(b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.

(c) Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.



(d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:

(i) if there is an offer to pay by the bribe giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.

(ii) On the other hand, if the public servant makes a demand and the bribe giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the



public servant. This is an offence under Section 13(1)(d)(i) and (ii) of the Act.

(iii) In both cases of (i) and (ii) above, the offer by the bribe giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Section 13(1)(d), (i) and (ii) respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe giver and in turn there is a payment made which



is received by the public servant, would be an offence of obtainment under Section 13(1)(d) and (i) and (ii) of the Act.

(e) The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the material on record, the Court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands.



(f) In the event the complainant turns 'hostile', or has died or is unavailable to let in his evidence during trial, demand of illegal gratification can be proved by letting in the evidence of any other witness who can again let in evidence, either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant.

(g) In so far as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law.



Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Section 13(1)(d) (i) and (ii) of the Act.

(h) We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to above in point (e) as the former is a mandatory presumption while the latter is discretionary in nature.

69. *In view of the aforesaid discussion and conclusions, we find that there is no conflict in the three judge Bench decisions of this Court in B. Jayaraj and P. Satyanarayana Murthy with the three judge Bench decision in M. Narsinga Rao, with regard to the nature and quality of proof necessary to sustain a conviction for offences under Sections 7 or 13(1)(d) (i) and (ii) of the Act, when the direct evidence*



of the complainant or "primary evidence" of the complainant is unavailable owing to his death or any other reason. The position of law when a complainant or prosecution witness turns "hostile" is also discussed and the observations made above would accordingly apply in light of Section 154 of the Evidence Act. In view of the aforesaid discussion, we hold that there is no conflict between the judgments in the aforesaid three cases.

70. *Accordingly, the question referred for consideration of this Constitution Bench is answered as under:*

In the absence of evidence of the complainant (direct/primary, oral/documentary evidence) it is permissible to draw an inferential deduction of culpability/guilt of a public servant under Section 7 and Section 13(1)(d) read with Section



13(2) of the Act based on other evidence adduced by the prosecution."

53. Learned counsel for 'the Bureau' further relies on another case of **State of Karnataka vs. Chandrasha** of the Hon'ble Supreme Court reported in **2025 (I) PLJR SC- 123** with reference to paragraphs **9.2 as also 12, 14, 16, 19 and 21 to 25** which read as follows:

9.2. According to the respondent, he passed the bill relating to the complainant and others on 29.07.2009 and the cheque was prepared by the Treasury Office on 30.07.2009 and hence, no work was pending with him as on the date of trap i.e., on 05.08.2009. However, the cheque was not issued to the complainant nor any intimation in this regard, was given to the school authorities.

12. In the instant case, the respondent was charged under Sections 7 and 13(1)(d) r/w Section 13(2) of the Act, for demand and acceptance of bribe amount of Rs.2,000/- from the complainant (P.W.1) for passing the bill of encashment of Earned Leave Surrender for



Rs.43,323/- pertaining to the complainant and three non-teaching staff of his school. Though the trial Court found him guilty of the aforesaid offences and sentenced him for the same, the High Court reversed the said findings and acquitted the respondent from the charges framed against him. Thus, this appeal is against the judgment of acquittal of the respondent.

14. The law is well settled. In C.M.Girish Babu v. CBI⁷ and in B.Jayaraj v. State of A.P.⁸, while considering the case under Sections 7, 13(1)(d)(i) and (ii) of the Prevention of Corruption Act, 1988, it is reiterated that it has to be proved beyond reasonable doubt that the accused voluntarily accepted money knowing it to be bribe; absence of proof of demand for illegal gratification and mere A.Subair v. State of Kerala (2009) 6 SCC 587 (2009) 3 SCC 779 : (2009) 2 SCC (Cri) 1 (2014) 13 SCC 55 : (2014) 5 SCC (Cri) 543 possession or recovery of currency notes is not



sufficient to constitute such offence; and the presumption under Section 20 of the Act can be drawn only after demand for and acceptance of illegal gratification is proved.

16. Concededly, the respondent herein is a government servant. As per Section 19 of the Act, to proceed against any public servant of Central Government or State Government, necessary sanction should be obtained for a Court to take cognizance of an offence punishable under Sections 7, 10, 11, 13 and 15 of the Act. In this case, the prosecution obtained necessary sanction (Ex.P25) from P.W.11, who is the disciplinary authority as well as the competent authority. The sanction order (Ex.P25) clearly states that the Director of Treasury, Bangalore, (P.W.11) after perusal of the documents forwarded by the Lokayukta police, such as, complaint, FIR, entrustment panchanama, seizure panchanama, report from F.S.L, sketch of the scene of occurrence along with the relevant documents pertaining



to the case including the statements of witnesses and also the statement of the respondent, accorded sanction to initiate prosecution against the respondent. Therefore, we do not find any procedural irregularity in grant of sanction. It was also deposed by the sanctioning authority (P.W.11) that after going through all these documents which were made available to him by the Lokayukta Police and after satisfying himself that there was a prima facie case to initiate the prosecution against the respondent and after having arrived at such satisfaction, he accorded sanction (Ex.P.25). Thus, it is clear that the prosecution initiated the proceedings against the respondent, after obtaining the sanction order from the competent authority.

19. *Thus, from the aforesaid materials, it is absolutely clear that the evidence of P.W.1 to P.W.3 read with the evidence of P.W.4 and P.W.5 along with Investigating Officers (P.W.10 and P.W.12) who supported the case*



of the prosecution in entirety about 'demand' and 'acceptance' of the bribe amount and also recovery of the same from the possession of the respondent.

21. *It is settled law that the two basic facts viz., 'demand' and 'acceptance' of gratification have been proved, the presumption under Section 20 can be invoked to the effect that the gratification was demanded and accepted as a motive or reward as contemplated under Section 7 of the Act.*

However, such presumption is rebuttable. Even on the basis of the preponderance of probability, the accused can rebut the same. In the present case, the prosecution proved its case beyond reasonable doubt, in respect of the 'demand' and 'acceptance' of the bribe amount from the complainant and recovery of tainted currency notes from the possession of the respondent. The said operation is preceded by recording of the demand in the tape recorder. In such circumstances, the



respondent has to rebut the presumption by disproving the case of the prosecution either in the cross- examination of the prosecution side witnesses or by adducing material evidence that the receipt of Rs.2,000/- was not a bribe amount, but a legal fee or repayment of loan. However, he failed to do so and on the contrary, we find the prosecution to have proved the case beyond any doubt.

22. Though the respondent in his statement recorded under Section 313 Cr.P.C as well as before the Lokayukta Police, stated that there were loan transactions between himself and the complainant; 8 to 10 days prior to the date of incident the complainant borrowed a hand loan of Rs.2,000/- from the respondent; and when the respondent pressurized the complainant to return the loan amount, the present false case was registered against him, there was absolutely no evidence either in oral or documentary adduced to substantiate the same. It is an admitted fact that the



complainant was working in a private aided school and the respondent was working as First Division Assistant in the Office of the Sub Treasury, Afzalpur. There was no material evidence produced to the effect that both were related closely to each other so as to grant a hand loan and to prove the grant of loan. In the absence of such material evidence produced, the plea so taken by the respondent, seems to be unbelievable. Therefore, it can safely be inferred that the respondent had received or accepted the currency notes on his own volition and the testimony of P.W.1 to P.W.5 including the testimony of P.W.10 and P.W.12 would go to show the demand, acceptance and recovery of the bribe amount from the possession of the respondent and the prosecution proved the charges framed against the respondent beyond reasonable doubt.

23. In view of the aforesaid analysis, we find that the trial Court based on the oral and



documentary evidence adduced by the parties, rightly found the respondent guilty of the offences punishable under Sections 7 and 13 (1)(d) r/w Section 13 (2) of the Act and sentenced him for the same. However, the High Court by placing reliance on the decision of this Court in A.Subair's case (supra), held that since no work was pending with the respondent as on the date of trap, the ingredient to attract and complete the offences punishable under Sections 7, 13(1)(d) read with Section 13(2) of the Act was not met. The view so taken by the High Court is unsustainable as the decision of this Court in A.Subair's case (supra) did not support the view. It was a case where the complainant was not even examined and there were discrepancies in the evidence of the other witnesses. In the present case, we do not find such infirmities. Insofar as the reference to sub section (3) to Section 20 regarding the triviality of the gratification, the act sought or



performed, and the amount demanded cannot be considered in isolation to each other. The value of gratification is to be considered in proportion to the act to be done or not done, to forbear or to not forebear, favour or disfavour sought, so as to be trivial to convince the Court, not to draw any presumption of corrupt practice. It is also not necessary that only if substantial amount is demanded, the presumption can be drawn. The overall circumstances and the evidence will also have to be looked into. Section 20 would come into operation only when there is no nexus between the demand and the action performed or sought to be performed. But, when the fact of receipt of payment or an agreement to receive the gratification stands proved, there is a clear case of nexus or corroboration and the presumption itself is irrelevant. Section 20 gets attracted when it is proved that the public servant has accepted or agreed to accept any gratification other than



legal remuneration and in that case, presumption is that it is the motive or reward for any of the acts covered under Section 7, 11 or 13(1)(b) of the Act. The presumption under Section 20 is similar to Section 118 of the Negotiable Instruments Act, 1881, where the onus is on the accused to prove that he is not guilty of the offences charged. The first two limbs under sub- sections (1) and (2) of Section 13 make it clear that adequacy of consideration is irrelevant to draw the presumption. That apart, sub-section (3) only grants a discretion to Court to decline from drawing any presumption if the amount is so trivial so that such inference of corruption is not fairly possible in the facts of the case. Therefore, it is not a rule but an exception available to the Court to exercise its discretionary power in the facts and circumstances of the case. In the present facts of the case, we are not inclined to exercise such discretion. As such, the judgment of



acquittal passed by the High Court is illegal, erroneous and contrary to the materials on record.

24. We are conscious of the fact that in an appeal against acquittal, if two views are possible and the Court below has acquitted the accused, the appellate Court would not be justified in setting aside the acquittal merely because the other view is also possible. In the present case, the recovery of bribe amount from the respondent having been proved, the explanation offered by the respondent in the absence of any concrete material, is clearly off the wall. Once the aspects of 'demand' and 'acceptance' of the bribe amount having been established beyond doubt, in our opinion, no two views are possible in the matter, and thus the approach adopted by the High Court is perverse and liable to be interfered with.

25. Accordingly, this Criminal Appeal stands allowed by setting aside the judgment and order passed by the High Court and by



restoring the judgment and order passed by the trial Court. The trial Court is directed to take necessary steps to secure the respondent and commit him in prison to undergo the remaining period of sentence and to recover the fine imposed on him.”

54. The last case cited by the learned counsel is of the Hon'ble Apex Court in the case of **Sita Soren vs. Union of India** reported in **AIR 2024 SC-1701** with reference to **para-188.11** which read as follows:

188.11. The offence of bribery is agnos-tic to the performance of the agreed action and crystallizes on the exchange of illegal gratification. It does not matter whether the vote is cast in the agreed direction or if the vote is cast at all. The offence of bribery is complete at the point in time when the legislator accepts the bribe;

55. Having heard the parties and perusing the record as also the judgment of the learned Trial Court, the fact that emerges is/are as follows:

(i) the lady Priya Sharma, the complainant



of the case and P.W.-3 alleged that for getting possession of the certain piece of the land which was allotted to her husband, a military man by the government, she visited the Circle Office, a demand of Rs.10,000/- was made, Rs.8000/- for the Circle Officer and Rs.2000/- for the Head Clerk.

(ii) as she was not interested in making payment, the complaint was made before the Vigilance Bureau.

(iii) it got verified through P.W.-1, Dinesh Tiwary whereafter, the complaint was lodged, Trap Team constituted under P.W.-2, Nand Jee Singh.

(iv) they visited to Belaganj, Gaya waited for some time as the lady, Head Clerk (appellant, Poonam Devi) was supposed to accompany them to the Circle Officer's residence.

(v) however, as she failed to present herself, the complainant went her own,



offered bribe money accepted, she signaled which followed the trap.

(vi) this led to the filing of chargesheet, cognizance taken and rolling of the trial in which the two appellants stand convicted and sentenced as recorded above.

56. This Court has already taken note of the submissions of the appellants on the statements made by the P.W.-3, Priya Kumari @ Priya Sharma @ Priya Kumari Sharma to show that despite the Title Suit pending between her grandfather-in-law on one side and the complainant, her husband and father-in-law on the other hand side vide Title Suit 170 of 2011, she wanted the Circle Officer to commit illegality by getting a part of the piece of land in the possession of grandfather-in-law back to her family.

57. According to the learned counsels for the appellants, the complainant fattered on informing whether a proper petition was pending before the Circle Office, Belaganj or not. Further, though the complainant claimed that when she visited the Circle Office, no Title Suit was pending which is contrary to the facts on record that has emerged inasmuch as on 13.05.2011 itself, the Title Suit No. 170 of 2011 came to be



filed in which she was one of the defendant along with her husband and father-in-law, the plaintiff being her grandfather-in-law.

58. Further and again contrary to the statement made during the cross examination that while she was pursuing the case before the Circle office, the husband was taking care of Title Suit, the fact remains that not only she signed the Vakalatnama but had also put in her signature on the written statement filed on behalf of the defendants. This makes her an untrustworthy witness.

59. Same is the case of P.W.-1 and he too cannot be put in the category of trustworthy witness inasmuch as, according to him, the said witness visited Belaganj in a private vehicle. Later he changed his stand and stated that he took a bus from Mithapur Bus Stand. During the trial, he failed to even recognize the appellant, Sultan Ahmad. This makes his presence at the place of occurrence doubtful. He also informed the Trial Court that an application of complainant was pending before the Circle office, Belaganj which is contrary to the fact as the finding is that no application whatsoever of the complainant was pending before the Circle office.

60. The P.W.-02, the DSP and the head of the Trap



Team has cleared the air inasmuch as he has acknowledged that no application of the complainant was pending before the Circle office and further accepted the fact that the witnesses belonged to the village of the complainant.

61 This Court cannot further ignore the fact that two of the most important witnesses namely **Sanjay Chaturvedi** and **Sanjay Kumar Singh**, the Constables who allegedly caught hold of the appellant, Sultan Ahmad hands when he accepted the bribe were not examined/cross-examined. No reason whatsoever has been recorded as to why the prosecution side failed to get them examined.

62. Same is the case with the two independent witnesses namely **Ayush Kumar and Randhir Sharma**. They belonged to the village **Silonja** from where the complainant comes from, still they were not examined. The case of the prosecution is that after the appellant, Sultan Ahmad was caught taking the bribe, a crowd gathered from which two independent witnesses were requested to stand and in their presence, the entire process were completed.

63. The place of trap is near Millat Hospital/Karimganj which is 25 kilometers away from Silonja, still, the two witnesses who were picked up by the



Trap Team from the crowd surprisingly belonged to the village Silonja from where the complainant belongs to. Worse, they were not examined and the prosecution has also not given any reason why the two independent witnesses were not examined/cross-examined.

64. The aforesaid facts inasmuch as absence of any application before the Circle Office, the presence of Title Suit, the alleged failure of the Head Clerk to appear at the scene, the inconsistent statements of P.W.-3 as also other witnesses make the case of acceptance of bribe in the presence of independent witnesses doubtful inasmuch as in the opinion of the Court, the chain of demand and acceptance is/are not completed.

65. In that background, the case put forward by the appellants of **Madan Lal** (supra) becomes important. When on the examination of the witness, if considerable doubt raises in the mind which qualifies as reasonable doubt whether there was acceptance of bribe or not, the benefit of doubt has to be extended to the appellants.

66. On the other hand, so far as the case laws put forward by the learned Vigilance Counsel relating to the



Neeraj Datta (supra) are concerned, the same shall come into picture only when the prosecution is able to prove that the demand of bribery and acceptance chain is completed.

67. Though this Court has to be in conformity with the order passed by the Hon'ble Apex Court in **Neeraj Dutta** (supra) case but the same shall be applicable only when the facts of the case matches inasmuch as the demand and acceptance is completed. Where there is reasonable doubt, as in the present case, the relief has to be extended to the appellants. Unless the prosecution is able to prove the demand of illegal gratification and its acceptance, the applicability of Neeraj Datta (supra) case shall not come into picture.

68. Again, so far as the case of **State of Karnataka vs. Chandrasa** (supra) is concerned, this Court has to take note of the observation made in para-21 of the said order. It is definitely a settled law that the basic facts of demand and acceptance of gratification has to be proved which in the opinion of the Court, in the present case, the prosecution has not been able to prove. Thus, the order of the State of Karnataka (supra) shall also be not applicable in



the present case.

69. The last judgment of **Sita Soren** (supra) is also of no help as this Court has repeatedly held that in the present case the prosecution has failed to complete the chain of demand and acceptance on the part of the appellants.

70. While this Court echoes the observation made by the Hon'ble Supreme Court in **Sita Soren** (supra) case that the offence of bribery is agnostic to have performance of the agreed action and crystallizers on the exchange of illegal gratification, in the present case, clearly the same has not been proved beyond reasonable doubt as the examination/cross examination of P.W.-3 who is the main witness of the complaint clearly shows that she is an untrustworthy witness.

71. The complainant repeatedly flip flopped on the pendency of the application and/or the pendency of the Title Suit before the Court and/or her role in the said Title Suit. In the chain of event, the Head Clerk was supposed to be present and it is not the case of the prosecution that as alleged, she presented herself and accompanied the complainant to the Circle Officer's residence.



72. The two independent witnesses of Silonja though allegedly picked up from the crowd were also not examined. Same is the case with the two important Trap Team members who caught hold of the hands of the accused-appellant, Sultan Ahmad. They too were not examined.

73. This Court in that background safely holds that entire chain is not completed and thus the judgment/orders put forward by the learned Vigilance Counsel do not come to the aid of the Vigilance Bureau. This lead the Court to only one conclusion; the prosecution has not been able to prove its case beyond the reasonable doubt.

74. In that circumstances, the order dated 24.11.2023 by which the conviction of appellant, Sultan Ahmad under sections 7, 13(2) r/w 13(1)(d) of 'the Act' and the second appellant Poonam Devi under section 12 of 'the Act' has to be interfered with.

75. Accordingly ordered. The order of conviction and sentence dated 24.06.2023 passed by the learned Special Judge, Vigilance, Patna in Special Case No. 34 of 2011 (arising out of Vigilance Case No. 37 of 2011) is hereby set



aside. The two appellants, Sultan Ahmad and Poonam Devi are on bail. Their bail bonds stand dispensed with.

76. Both the two appeals viz. **Cr. Appeal (SJ) No. 5364 of 2023 and Cr. Appeal (SJ) No. 5460 of 2023** stand allowed.

(Rajiv Roy, J)

Ravi/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	19.04.2025
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