



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment Reserved on: 20.04.2026*  
*Judgment pronounced on: 24.04.2026*

+ **CRL.A. 827/2001**

RAM PRASHAD

.....Appellant

Through: Mr. M.L. Yadav, Mr. Prashant, Mr. Piyush Saini, Mr. Hardeep Godara, Advocates along with appellant in person.

Versus

STATE OF DELHI

.....Respondent

Through: Mr. Utkarsh, APP for the State with Insp. R.N. Pathak, ACB/GNCTD.

**CORAM:**  
**HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA**

**JUDGMENT**

**CHANDRASEKHARAN SUDHA, J.**

1. In this appeal filed under Section 374(2) of the Code of Criminal Procedure, 1973, (the Cr.P.C.) the sole accused, in C.C. No. 154/1991 on the file of the Special Judge, Delhi, assails the judgment dated 30.10.2001 and order on sentence dated 01.11.2001 as per which he has been convicted and sentenced for



the offences punishable under Section 7 and Section 13(1)(d) of the Prevention of Corruption Act, 1988 (the PC Act).

2. The prosecution case is that the accused, while working as Constable at Jafarpur Kalan Police Station, Naib-Court in the Court of Metropolitan Magistrate, Room No. 326, Tis Hazari Courts, Delhi, on 26.07.1991 at 03:00P.M., demanded, accepted and obtained illegal gratification of ₹150/- from PW4 for returning the insurance papers of the scooter bearing registration no. DL-4-1817 and destroying challan papers from the court record belonging to his tutor/teacher (PW10). Accordingly, as per the charge-sheet/final report dated 26.08.1992, the accused was alleged to have committed the offences punishable under Sections 7 and 13 of the PC Act.

3. Sanction for prosecution was accorded by PW3, Additional Commissioner (Crime), Police Head Quarters, New Delhi, *vide* Ext. PW3/A order, which is undated.



4. Crime no. 19/1991, i.e., Ext. PW11/K FIR, was registered on the basis of PW4/A complaint of PW4. After completion of investigation by PW11, a charge-sheet was filed against the accused alleging the commission of the offences punishable under the aforementioned Sections.

5. When the accused was produced before the trial court, all the copies of the prosecution records were furnished to him as contemplated under Section 207 Cr.P.C. After hearing both sides, the trial court *vide* order dated 31.12.1993, framed a charge under Section 7 and Section 13 of the PC Act, which was read over and explained to the accused, to which he pleaded not guilty.

6. On behalf of the prosecution, PWs. 1 to 12 were examined and Exts. PW2/A-B, PW3/A, PW4/A-H, PW6/A, PW7/A, PW9/A-E and PW11/A-N were marked in support of the case.

7. After the close of the prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.P.C. regarding the



incriminating circumstances appearing against him in the evidence of the prosecution. The accused denied all those circumstances and maintained his innocence. He submitted that he has been falsely implicated in this case as he had never demanded and accepted any money as bribe. Moreover, Inspectors of AC Branch i.e. IO and RO are not authorised to investigate or lay the trap in his case as there was no notification in their favour by the appropriate government empowering them to investigate the cases under the PC Act.

8. No documentary evidence was adduced in support of the defence case.

9. On consideration of the oral and documentary evidence on record and after hearing both sides, the trial court *vide* the impugned judgment dated 30.10.2001 held the accused guilty of the offences punishable under Section 7 and Section 13 of the PC Act. *Vide* order on sentence dated 01.11.2001, the accused has been sentenced to undergo rigorous imprisonment for a period of



one year each along with fine of ₹100/- each, and in default of payment of fine, to undergo simple imprisonment for 10 days each for the offences punishable under Sections 7 and 13(1)(d) of the PC Act. The sentences have been directed to run concurrently. Aggrieved, the accused has preferred this appeal.

10. The learned counsel for the appellant/accused submitted that there are no materials on record to show that the demand had been made by him. To augment his contention, he drew the attention of this Court to the testimony PW4, wherein he has categorically deposed that the demand was not made to him by the appellant/accused but rather by another person who had asked him to give the money to the accused/appellant. The learned counsel also submitted that PW5 had not deposed anything about the demand being made, rather he has only mentioned about the recovery of the bribe amount of ₹150/-, which was not made from the hands of the appellant/accused, but from a register.



10.1. The learned counsel also drew the attention of this Court to paragraph no. 15 of the impugned judgement wherein the trial court noticed that demand had not been established, but still proceeded to find the accused guilty.

10.2. The learned counsel also submitted that Ex. PW3/A Sanction Order was made without any application of mind. A perusal of the order would clearly show that the draft order was accepted as such by merely scoring of the word “draft” from Ext. PW3/A Sanction Order.

10.3. Lastly, the learned counsel submitted that since the conviction is under Sections 7 and 13 of the PC Act, if the demand of bribe is not proved, then the other aspects need not be looked into by relying on the dictum in **C Sukumaran vs State of Kerala 2015 (2) JCC 1322**, and **Jayaraj vs. State of A.P. 2014 (13) SCC 55** where in it has been held that the demand of illegal gratification is *sine qua non* to constitute an offence under Section 7 of the PC Act.



11. *Per contra*, the learned Additional Public Prosecutor submitted that the impugned judgment does not suffer from any illegality or infirmity calling for an interference by this Court.

12. Heard both sides and perused records.

13. The only point that arises for consideration in the present appeal is whether there is any infirmity in the impugned judgement calling for an interference by this court.

14. I shall first briefly refer to the evidence on record relied on by the prosecution in support of the case. PW4 submitted a written complaint, that is, Exhibit PW4/A dated 26.07.1991 in the office of the Anti-Corruption Branch (ACB) in which he has stated thus: - He takes tuition from PW10. On 04.01.1991, PW10's two-wheeler scooter was issued a traffic challan (fine) for which the date of hearing fixed was 10.03.1991 and the next date of hearing was fixed as 22.07.1991. According to PW4, since PW10 was unable to go to the Court to settle the challan, the latter sent him to the court of the Metropolitan Magistrate, room no. 326 to find out



about the next date of hearing. On inquiring with Ram Prashad, *Naib Court* (the accused) he was told that the next date would have to be checked and that the fine for the challan would be around ₹400 to ₹500. But if he was ready to give ₹ 150/- to Ram Prashad (the accused), the latter would take out the insurance paper deposited along with the challan and tear up the challan papers in front of the former. He has been asked by Ram Prashad (the accused) to go to the front of room no. 326 at around 03:00 p.m. with the money. He is against taking or giving bribes but due to compulsion he has agreed. He has no dealings or enmity with Ram Prashad (the accused), action may be taken.

14.1 PW4, when examined before the trial court deposed that his tuition teacher Vijay Bharati (PW10) had a challan of his two wheeler scooter. PW10 had given him the challan for paying the fine in the court. According to PW4, someone outside the court told him that he should enquire about the challan from Ram Prashad (the accused). When he went inside the courtroom, he saw



Ram Prashad (the accused) sitting with one another person. The said person told him that he would have to pay ₹ 400 to ₹ 500 for the challan, but if he pays ₹150/-, the former would take out the papers and give them to the latter. The said person also told him to give the money to Ram Prashad (the accused) in case the former was not present on his seat. Subsequently, Ram Prashad (the accused) told him that he would take the money. PW4 further deposed that initially he did not know the rank of the accused, but later he came to know that the accused was the '*Naib Court*'. PW4 further deposed that saying that he would be returning after some time, he went to the ACB where he lodged a complaint in the name of Ram Prashad (the accused) as he did not know the name of the other person. PW4 further deposed that Mohinder Singh Garg (PW5) was also present when Ext. PW4/A complaint was recorded.

14.2 PW4 further deposed regarding the pre-raid proceedings. The *panch* witness (PW5) was directed to accompany



him and to give the signal when the money was given. When he reached the court, the *panch* witness was behind him and the officers of the ACB were following them. Since the other person who had demanded the money was not present in the court, he asked Ram Prashad (the accused) to take the money. Ram Prashad (the accused) asked him to keep the money on the table, but he gave the money in his hand. Ram Prashad (the accused) took the money in his right hand, but thereafter corrected himself by saying that he was unable to recall with which hand the accused had accepted the money. The accused kept the money inside the Register. When the money was received, PW5 gave the signal, immediately afterwards the officers of the ACB came and apprehended the accused. The Inspector (PW6) revealed his identity to the accused. The hand wash of the accused taken turned pink. The solution was transferred into two bottles and labels were affixed on the bottles on which he signed. The Inspector (PW6) recovered the notes from the register. PW4 also deposed in detail



regarding the post raid formalities undertaken by the Inspector (PW6). During the course of the examination-in-chief, the prosecutor is seen to have sought the permission of the trial court to conduct cross-examination of PW1 on the ground that he had resiled from his earlier statement made to the police. The same is seen allowed. On further examination, PW4 admitted that he had not stated in his complaint about the person sitting along with the accused. He had talked to one person and so he presumed that the name of the said person was Ram Prasad (the accused). PW4 denied the suggestion that he was deposing falsely in order to shield the accused. He came to know that the accused was '*Naib Court*' from the Inspector (PW6) who had recorded his complaint.

14.3 PW4 in his cross-examination admitted that Inspector Bhagavan Das working in the ACB is his maternal uncle. But when he went to the ACB to take his uncle's help, he came to know that the latter had already been transferred. PW4 further admitted that when the raid took place, the Magistrate was holding



court. The officials of the ACB had not spoken to the Magistrate before apprehending the accused. But when the accused was apprehended the Magistrate asked as to what was happening and then the officials informed the Magistrate that they were from the ACB.

15. PW5, the *panch* witness, deposed that in July 1991, he was posted as Inspector, Food and Supplier, Circle No. 5, Kalyan Vas, Delhi. On 26.07.1991, he was deputed on duty as a *panch* witness in the ACB. The complaint of PW4 had been recorded in his presence in which he affixed his signature. PW5 deposed in detail regarding the pre-trap proceedings. PW5 further deposed that he had been instructed to remain close to PW4 throughout the trap proceedings and was also instructed to give a pre-decided signal when he was satisfied that the accused had accepted the money. On the said day, the raiding party went into room no. 326, Tis Hazari Court building. He and PW4 were together. The accused was found at his seat. PW4 went to the accused and gave



₹150/- to the latter requesting him to tear off the challan (“*rafa dafa kar do*”). The accused did not reply, but took the money in his right hand and kept it in his register, lying on the table. Immediately, PW5 gave the pre- decided signal, pursuant to which, the members of the raiding party came in and apprehended the accused. PW5 further deposed that Inspector S.K. Sharma (PW6) disclosed his identity to the accused and asked the accused where had he kept the money. The accused kept mum. Thereafter, the money was recovered from the register by PW6. PW5 further deposed that the right hand wash of the accused taken had turned pink. PW5 also deposed regarding the post trap proceedings conducted.

15.1 PW5 in his cross examination, admitted that when PW4 had gone inside the room, there were many other persons in the court and the Presiding Officer was also in the chair. According to PW5, when PW6 along with his team entered into the court room, the Presiding Officer enquired as to what was happening. PW5



further deposed that the post-raid proceedings took place inside the court room. PW5 denied the suggestion that no money had been recovered from the register. PW5 admitted that neither the Presiding Officer, nor any other staff member had been asked to be a witness or signed the raid proceedings.

16. PW6, the TLO, broadly supported the prosecution version. PW6 deposed that on receiving the signal from PW5, he along with his team reached the spot. PW4 informed that the accused had accepted the currency notes and had kept the same in his register. PW6 further deposed that the accused became perplexed and kept mum on being challenged by him. PW6 also deposed that the money was recovered from the register and that when the right hand wash of the accused was taken, the colourless solution turned pink.

16.1 PW6, in his *cross-examination*, admitted that he and Bhagwan Das belonged to Delhi Police Service. However, PW6 denied the suggestion that he was aware of the fact that PW4 was



the nephew of Bhagwan Das. PW6 admitted that he was aware that the raid was to be conducted on the Naib Court of Court room no. 326. However, he never sought permission from the District Judge to conduct the raid inside the Court room. According to PW6, the Sub-Judge had been informed. However, he was unable to recollect the name of the Sub-Judge. PW6 admitted that he had not informed the Sub-Judge in writing. He had sought the permission and informed the Presiding Officer of the Court after apprehending the accused. To a specific query as to whether he had sought the permission of the District Judge or Presiding Officer, he admitted that he had not sought permission from either of them.

17. PW3, Deputy Commissioner of Police, South West District, New Delhi, deposed that on the request of D.C.P., ACB, he had gone through the police file and the judicial file of the case and after considering the allegations against the accused and the circumstances, granted sanction order *vide* Ext. PW3/A Sanction Order. PW3, in his cross-examination deposed that he could not



recall if he had received a draft sanction order from D.C.P., ACB. PW3 also admitted that Ext. PW3/A Sanction order is undated. PW3 further admitted that a word had been erased at the place encircled red and marked “X” in Ext. PW3/A and that the word erased was “draft”. PW3 further admitted that he had not initialled the erasure.

18. The offences alleged against the appellant/accused arise under Section 7 and Section 13(1)(d) read with Section 13(2) of the PC Act. It is now well settled that, to bring home an offence under Section 7 of the Act, the prosecution must establish: (i) that the accused was a public servant; (ii) that there was a demand of illegal gratification; and (iii) that such gratification was voluntarily accepted by the accused as a motive or reward for doing or forbearing to do any official act. Similarly, for an offence under Section 13(1)(d) punishable under Section 13(2), the prosecution is required to prove that the public servant, by corrupt or illegal means or by abusing his position, obtained for himself or for any



other person any valuable thing or pecuniary advantage. Crucially, the foundational requirement for both provisions is the proof of demand and acceptance of illegal gratification.

19. The prosecution case primarily is based on the testimony of PW4, PW5, PW6 and PW3. PW4 in the box does not fully support the prosecution case. While in Ext. PW4/A he attributes the demand to the accused, he develops a new version while testifying before the trial court, wherein, he stated that the initial demand of money was made by another person present in the court room along with the accused and not directly by the accused. According to PW4, on 26.07.1991 the said person told him to give the money to the accused and only thereafter the accused stated that he would take the money. The omission of such vital fact in the initial complaint given by PW4 casts doubt on his credibility. Further, PW4 is very uncertain regarding the manner of acceptance of bribe by the accused. He oscillates on whether the money was



directly accepted by the accused or whether the accused had kept the money on the table of the accused.

20. PW5, the *panch* witness, though supports the prosecution version to the extent of the recovery of the tainted currency note, does not corroborate the aspect of demand. PW5's testimony is confined only to the handing over of the money by PW4 to the accused and the subsequent recovery by the trap team. As contended by the learned counsel for the appellant, by relying on **Jayaraj** (*supra*) and **C. Sukumaran** (*supra*), proof of demand of illegal gratification is a *sine qua non* for establishing offences under Sections 7 and 13 of the PC Act, which position is well settled by the Constitution Bench of the Apex Court in **Neeraj Dutta v. State (NCT of Delhi), (2023) 4 SCC 731**. PW5 had remained silent with respect to any specific demand made by the accused at the time of the trap and he does not clarify the role of the alleged "other person" referred to by PW4.



21. PW6, the TLO deposed in line with the prosecution version. However, his testimony is essentially based on what was conveyed to him by PW4 and PW5. His testimony does not help the prosecution to establish that the accused had demanded money from PW4.

22. At this stage this Court finds it necessary to deal with the manner in which the trap proceedings were conducted. A perusal of Ext. PW11/A site plan clearly depicts that the alleged transaction took place inside Court Room No. 326, Tis Hazari Courts in close proximity to the seat of the presiding Magistrate. The markings 'A', 'B' and 'C' in Ext. PW11/A site plan show that PW5; the accused as well as the *panch* witness were all positioned within the court room itself, while the raiding party was stationed just outside. If that be so, the alleged demand and acceptance are stated to have occurred virtually under the immediate gaze and within the hearing range of the Presiding Officer, at a time when the Court proceedings were admittedly going on. I cannot but



wonder as to how such a transaction took place in the immediate presence or to put it in other words “under the nose of the Magistrate” presiding in the court. What was the Magistrate doing at that time that he did not notice such a transaction itself taking place inside his courtroom. The Magistrate seems to have been completely oblivious of the things happening inside his Court. The materials on record shows that it was when the accused was apprehended, the Magistrate asked what was happening and then the officers of the ACB seemed to have disclosed their identity. PW6 the TLO has categorically admitted that no prior permission had been obtained from the Presiding Officer or the District Judge before the raid inside the Court room was conducted and that too when the Court proceedings was going on. The Magistrate is never seen to have questioned the activities carried out without his permission inside his court room. The Magistrate seems to have been quite nonchalant about the raid conducted, though no permission was sought by the officer concerned. It is beyond my



comprehension as to how PW6 dared to conduct a raid and apprehend the accused inside the court hall, that too when the court proceedings were going on. In the light of the temerity/audacity of PW6, the TLO, in conducting the raid and arrest inside the court hall and that too while the court proceedings was going on, it was felt necessary that the Case Diary (CD) maintained in this case under Section 172 Cr.P.C. needs to be looked into. The CD was handed over during the course of the hearing by the learned APP. This Court has perused the same and has noticed the following anomalies.

23. Ext. PW4/A complaint given by PW4 does not refer to the time when he approached the ACB. From a reading of Ext. PW4/A, it appears that PW4 had approached the accused in the morning of 26.07.1991 when he was asked to come with the money at 03:00 p.m on the very same day. Pursuant to the demand, PW4 is stated to have proceeded to the office of the ACB. The materials on record do not show the time at which the accused



made the first demand or the time at which PW4 reached the office of the ACB. But the endorsements made on the bottom of Ext. PW4/A complaint reveals the following details. It is recorded that on the basis of the statement/information of PW4, at 02:15 p.m the pre-raid formalities were completed. Thereafter, at 02:50 p.m Inspector B. M. Sharma (PW11) formed the raiding team and the team along with PW4 and PW5 left the office of the ACB. At 02:55 p.m. they reached Room No. 326, third floor, central hall opposite the canteen at Tis Hazari Court. Thereafter, PW4 and PW5 are stated to have gone inside Room No. 326 and handed over the money to the accused, pursuant to which he was apprehended. It is further recorded thus -

*“Date and time: 3 p.m. on 26.7.1991*

*Place: Room No. 326, IIIrd Floor, Tis Hazari Courts, Delhi*

*Time of dispatch of tehrir report: 5:15 p.m. on 26.7.1991*

*Sd/- B.M. Sharma, Inspector, A.C.B., 26.7.1991”*

As noticed earlier the time at which Ext. PW4/A was recorded is not seen recorded anywhere in the materials before this



Court and not in the CD also. But it appears from the materials on record that soon after the complaint/information was recorded the Inspector had conducted the pre-raid formalities, formed the raid party and left for the Court for conducting the raid. The FIR that is produced before the Court says that the date and hour of occurrence as – 26.07.1991 at 03.00 p m. Column no. 01 in the FIR reads thus :

“1.	<i>रिपोर्ट की तारीख और समय Date and hour when reported</i>	<i>D.D. No. 13 at 05:20 p.m. dt. 26/7/91”</i>
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24. In the first page of the CD, it is stated that Inspector B. M. Sharma, ACB Delhi, the investigating officer had received the information on 26.07.1991 at 05:15 p.m. Going by the FIR, if the information was received at 05:20 p.m., how does the CD record the time as 05:15 p.m.? The investigating officer B. M. Sharma (PW11) is the person to whom PW4 is alleged to have given the complaint and he is the officer who is supposed to have recorded the complaint/information, conducted the pre-raid formalities,



conducted the raid as well as the post-raid formalities. As noticed earlier, the endorsements on the bottom of Ext. PW4/A complaint shows that PW11 had come to know about the complaint at least by 02:15 p.m. Therefore, the endorsement that information was received at 05:15 p.m. or 05:20 p.m. obviously cannot be correct. Further, no enquiry seems to have been conducted by PW11 to ascertain about the genuineness of the complaint before the raid was arranged and conducted. Going by the entries in CD, the information was received by PW11 at 05:15 p.m., but the FIR says that the information was received at 05:20 p.m.

25. Section 172 deals with the CD to be maintained during the course of investigation by the investigating officer. Sub-section (1) says that every police officer making an investigation under Chapter XII shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him and a statement



of the circumstances ascertained through his investigation. Sub-section (1B) says that the diary referred to in subsection (1) shall be a volume and duly paginated. Therefore, the CD to be maintained by the IO shall necessarily contain the time at which he received the information. Here the materials on records show different dates. The FIR shows one date and the CD shows another date and nowhere in the materials on record either before this court or in the CD, the time at which PW4/A complaint was recorded is seen noted. Apparently, everything happened during the course of the same day. No enquiry whatsoever regarding the genuineness of the complaint is also seen made. It is true that PW5, the *panch* witness, supports the case of acceptance of the bribe. But the evidence regarding the demand is quite unsatisfactory for the reasons hereinabove referred to. Materials do make out a case of strong suspicion against the accused, but suspicion however strong cannot take the place of proof.

26. The testimony of PW3, the sanctioning authority and Ext.



PW3/A Sanction order probabalises the defense version that there was never any application of mind before the Sanction Order was given. PW3 admits that the word 'draft' before the words 'sanction order' had been erased and that he had not initialled the erasure. Therefore, it appears that the draft sanction order sent to PW3 was merely signed by him after erasing the word 'draft' from the order. PW3 did not even take the pains to type out a fresh order, but he seemed to have merely scored off the word 'draft' before the words 'sanction order' and signed the same. Therefore, non-application of mind is evident and apparent or writ large on the face of the order itself.

27. In the light of the aforesaid discussion, I find that the evidence on record is insufficient to find the appellant/accused guilty of the offences punishable under Section 7 and 13 of the PC Act beyond reasonable doubt. Hence, I find that the trial court went wrong in convicting the accused.



28. In the result, the appeal is allowed and the impugned judgment of conviction and the order on sentence are set aside. The appellant/accused is acquitted under Section 248(1) Cr.P.C. of the charge under Sections 7 and 13(2) of the PC Act. He is set at liberty and his bail bond shall stand cancelled.

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

**CHANDRASEKHARAN SUDHA  
(JUDGE)**

**APRIL 24, 2026**  
*Rs/p'ma/kd*