IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J.) No. 790 of 2005

[Against the judgment and order of conviction and sentence dated 30.06.2005 passed by learned Special Judge, CBI, Ranchi in R.C. Case No.8(A) of 2003]

Santosh Kumar Sahay, son of Late Kedar Nath Sahay, resident of Quarter No.1, B-5, C.C.L, Rajendra Nagar Colony, P.S.-Sukhdeo Nagar, Ranchi, District-Ranchi (Jharkhand) ……Appellant

Versus

The State of Jharkhand …. Respondent

For the Appellant : Mr. A.K. Kashyap, Sr. Advocate
Mr. Anurag Kashyap, Advocate
For the Resp.-CBI : Mr. Deepak Kumar Bharti, Advocate

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

CAV On 10th August, 2026 **Pronounced On 05/10/2026**

1. I have already heard Mr. A.K. Kashyap, learned senior counsel for the appellant and Mr. Deepak Kumar Bharti, learned counsel for CBI.

2. Instant criminal appeal is preferred against the judgment and order of conviction and sentence dated 30.06.2005 passed by learned Special Judge, CBI, Ranchi in R.C. Case No.8(A) of 2003, whereby and whereunder, learned trial court has convicted the appellant for the offence punishable under sections 7 and 13(1)(d) read with section 13(2) of Prevention of Corruption Act, 1988 and sentenced him to undergo R.I. for 2 years along with fine of Rs.8,000/-(Rs. Eight Thousand) for the offence under section 7 of Prevention of Corruption Act and further sentenced to undergo R.I. for 3 years along with a fine

of Rs.12,000/-(Rs. Twelve Thousand) for the offence under section 13(1)(d) read with section 13(2) of Prevention of Corruption Act. Both the sentences were directed to run concurrently.

Factual Matrix:-

3. Factual Matrix giving rise to this appeal is that one Astab Ali filed a complaint on 01.04.2003 before the office of CBI, Ranchi stating *inter alia* that the present appellant, Santosh Kumar Sahay, who was working as Upper Divisional Clerk in C.M.P.F. Office, Region-I, Ranchi has demanded bribe of Rs.2,000/- (Two Thousand) from him for providing CMPF nominee certificate of his deceased father. It is further alleged that the complainant was seeking compassionate appointment in place of his deceased father. Therefore, he was required the copy of nominee certificate made by his father in his service record for which the complainant filed an application on 27.03.2003 in CMPF Office, Ranchi. The complainant pursued his application and went to the said office on 31.03.2003 and met with the accused (appellant), Santosh Kumar Sahay at about 10:30 am, and then the accused assured that his work will be done and also asked to come with Rs.2,000/- as illegal gratification on 01.04.2003. The complainant was not inclined to give bribe, hence, he lodged the complaint.

On instruction of Superintendent of Police, CBI/ACB, Inspector Vikash Gupta of CBI, Ranchi made an inquiry and verification of truth of the allegation by interrogating thoroughly with the complainant and on being satisfied with *prima facie* genuine

allegation that has been leveled against the accused, submitted verification report with recommendation to register a regular case. Accordingly, R.C. Case No.8(A) of 2003(R) was registered for the offence under Section 7 of Prevention of Corruption Act, 1988 and charge of investigation was entrusted to Inspector, K.K. Singh, CBI/ACB, Ranchi.

Pre-Trap Formalities:-

4. After registration of case, Sri K.K. Singh, Inspector of Police, CBI/ACB, Ranchi-cum-Investigating Officer planned to lay a trap to apprehend the accused named in the FIR red handed while demanding and accepting the illegal gratification of Rs.2,000/- from the complainant. For the said purpose, Superintendent of Police, CBI constituted a trap team consisting of Shri B.C. Chaurasia, Inspector, Shri Vikash Gupta, Inspector, Shri R.S. Solanki, Sub-Inspector, Shri R.K. Jha, A.S.I., Shri Vinod Kumar Ojha and Dilip Kumar and N.R. Day, all constables of CBI/ACB, Ranchi Branch under the leadership of Inspector, Shri K.K. Singh (I.O.). Two independent witnesses, Sri Om Prakash Sharma (Hindi Typist), and Shri M.N. Singh (Hindi Translator), both from the office of Senior Superintendent of Post Office, Ranchi were also arranged.

The members of CBI team along with independent witnesses and the complainant were directed to assemble in the I.O.'s Office of S.P. CBI/ACB, Ranchi on 01.04.2003 at about 11:30 am. Sri K.K. Singh, Inspector introduced each other and explained the purpose of

assemblage and also explained process of laying a trap and role of each member to be played during trap. The complaint petition was given to the independent witnesses and they went through the same and also made the some queries with the complainant about genuineness of the averment made in the complaint. Thereafter, Shri K.K. Singh explained use of phenolphthalein powder in laying of a trap and also explained its chemical reaction with the sodium carbonate in water, which was followed by a practical demonstration in presence of all persons including the independent witnesses. For this purpose, Vinod Kumar Ojha, constable smeared a piece of white paper with phenolphthalein powder and Sri Om Prakash Sharma was asked to touch the said piece of paper with his right hand finger. Sri Om Prakash Sharma touched the said paper with his right hand finger then Sri Vinod Kumar Ojha prepared a solution of sodium carbonate of plain water in clean glass beaker and asked Om Prakash Sharma to dip his right hand finger in the said solution. As soon as, Om Prakash dipped his right hand finger in the sodium carbonate solution, which turned pink. This pink solution was transferred to clean glass beaker and duly sealed and signed and marked as Ext. D for identification. Thereafter, the complainant was asked to give Rs.2,000/-(Two Thousand), then the complainant produced currency note of Rs.500/- denomination and 15 numbers of Rs.100/- denomination GC notes total amounting to Rs.2,000/-(Two Thousand). The number and denomination of GC Notes produced by the complainant was noted down and the same was properly treated

with phenolphthalein powder by Shri Vinod Kumar Ojha, Constable. Thereafter, Sri K.K. Singh, Inspector asked the complainant to keep the same with specific direction that the said notes were given to the accused only if he demands Rs.2,000/-(Two Thousand) as bribe. The complainant was instructed to keep the tainted money with him for giving to the accused. The complainant was also instructed that after contacting S.K. Sahay(appellant) in his office, he would negotiate the bribe matter in audible manner so that the conversation between him and Sri S.K. Sahay would be overheard by witnesses and other trap party members. The complainant was also asked to give signal by scratching his neck with his right hand fingers after acceptance of bribe amount by S.K. Sahay(appellant). The residual phenolphthalein powder was also sealed in an envelope and also signed by all present. Thereafter, Sri K.K. Singh, Inspector also instructed both the witnesses that after reaching the spot, they would move in an unobtrusive manner and Sri M.N. Sharma was asked to try to place himself as near as possible to the complainant and the accused for overhearing the conversation between them as well as to observe the acceptance the tainted bribe amount by the accused. K.K. Singh, Inspector also instructed the other members of the team to remain vigilant and took place themselves in an unobtrusive manner near the spot so that they would be able to hear the conversation as far as possible and also to watch the transaction of bribe amount. N.R. Day, Constable was instructed to carry kit with him for observing post-trap formalities.

Other members of the trap team along with both witnesses and the complainant washed their hand with shop and water. After completion of pre-trap formalities at about 12:30 hours on 01.04.2003, the memorandum of pre-trap formalities was prepared and the same was read over and explained, who were present there and other persons signed after being satisfied about the correctness.

Post-Trap Formalities:-

5. The trap team including the complainant and independent witnesses proceeded for the place of occurrence and reached near the office of Regional Commissioner, CMPF Region 1, Ranchi located adjacent to Municipal Corporation at about 12:50 hours on 01.04.2003. Thereafter, they studied the topography of the area and location of the office in which the accused used to work as clerk. There was an entrance from north to south to enter into the office hall, which is situated at the first floor of the office building. The accused got his sitting arrangement extreme south eastern part of the said hall and was found sitting on his chair office facing west. At about 13:00 hours, the complainant was asked to approach the accused and negotiate the bribe matter. Thereafter the complainant along with M.N. Singh proceeded towards the accused, S.K. Sahay and the other members of trap team and independent witness, Om Prakash Sharma took their suitable position near the entrance of the said hall and they were in a position to see the happening. The complainant and independent witness, M.N. Singh reached near the table of S.K. Sahay, which was reciprocated by the

accused. Thereafter, S.K. Sahay (accused) asked the complainant "तुम्हारा आवेदन आज हमारे पास प्राप्त हो गया है मैं तुम्हारे सामने तुम्हारे पिता जी का CMPF फाइल निकालता हूँ. तुम्हारा काम हो जायेगा। क्या कल जैसा तुमसे बात हुई थी, तुम दो हज़ार रुपये लाये हो". Upon this the complainant replied "हाँ, दो हज़ार रुपए लाये हैं. The accused asked the complainant "लाओ रुपये दे दो". Thereafter, the complainant took out the tainted G.C. notes worth Rs.2,000/- from his upper left chest pocket of wearing shirt with his right hand and handed over the same in the extended right hand of accused. Thereafter, accused S.K. Sahay stood up from his chair and kept the said G.C. notes worth Rs.2,000/- in the left side drawer of his office table. Thereafter, the accused S.K. Sahay asked the complainant रूको! मैं अभी तुम्हारे पिता जी का C.M.P.F. file जिसमे C.M.P.F. nomination रहता है उसका कॉपी कराकर forwarding letter बनाकर कमिश्नर साहिब से हस्ताक्षर करवाता हूँ". The above conversion and transaction of bribe amount was clearly over heard and seen by the shadow witness, M.N. Singh, who was standing behind the complainant. The above noted transaction of bribe amount was also seen by Shri K.K. Singh, Dilip Kumar, who was standing at the entrance gate of the office hall. After acceptance of the bribe amount by the accused, the complainant gave the prefixed signal. After receiving the prefixed signal, all the CBI trap team members and other witness, Om Prakash Sharma rushed

towards the accused and Shri K.K. Singh after disclosing his identity and the identity of the other members of the CBI trap team challenged the accused, S.K. Sahay of having demanded and accepted bribe amount Rs.2,000/- from the complainant, Astab Ali. Upon this, the accused, S.K. Sahay started shouting by saying "मैं घुस नहीं लिया हू". Thereafter, Shri B.C. Chaurasia and Vikash Gupta caught hold of right and left hands of the accused respectively. Thereafter the accused ordered his colleagues by saying "main दरवाजा में ताला लगा दो और दरबान को बोलो उसके पास चाभी है.". Thereafter, some officials of the said office assembled at the main gate and locked the door from outside and started creating nuisance and started to bring obstruction in the official duty of CBI and also threatened the complainant and independent witnesses. The above development was intimated to the S.P., CBI over telephone No.2301299 from the mobile phone of Vikash Gupta, Inspector bearing No.9838112188. Thereafter, Anil Kumar, Sub Inspector, Ranchi Police reached at the spot along with police party and got opened the door of the first floor of the said office. Thereafter, the trap kit was brought by N.R. Day constable and on the direction of K.K. Singh, N.R. Day prepared sodium carbonate solution in a clean glass beaker and S.K. Sahay was asked to wash his right hand finger in the said solution and on doing so, the colour of the said solution turned pink. The pink coloured solution was transferred in a clean glass bottle, which was leveled and sealed and was signed by all presents and marked as "R" for

identification. Again, N.R. Day prepared a fresh solution of sodium carbonate in plane water in another glass beaker and accused, S.K. Sahay was asked to wash his left hand finger in the said solution which he did but the colour of the said solution did not change. The milky solution was transferred to the clean glass bottle which was duly leveled, sealed and signed by all presents and marked as "L" for identification. Thereafter, Om Prakash Sharma was asked to take out the tainted G.C. notes from drawer of the office table of the accused upon which the Om Prakash Sharma took out G.C. notes from the drawer and was asked to tally the number and denomination of the said G.C. notes with the pre-trap memorandum of G.C. notes, which were accurately tallied. The recovered G.C. notes worth Rs.2,000/- kept in an envelope, which was duly sealed and signed. Thereafter, personal search of the accused was taken in presence of independent witnesses but nothing incriminating was found. The accused S.K. Sahay was declared arrested after explaining the reasons of his arrest and memo of arrest was prepared at the spot and copy of the same was given to the accused S.K. Sahay under proper acknowledgement. An intimation regarding his arrest was also given in writing to the Controlling Officer, Regional Commissioner, CMPF, Office, Ranchi through Fahim Alam, In-charge Barkana Section of C.M.P.F Office, Ranchi. The original application submitted by the complainant, Astab Ali address to Regional Commissioner and received in office, which was lying on the office table of the accused and C.M.P.F. refund file of Late Amjad Ali (father

of the complainant) recovered from Almirah of S.K. Sahay was seized through seizure memo by preparing seizure memo. At about 1:45 pm, the CBI trap team members including independent witnesses and the complainant along with the accused left CMPF office for CBI/ACB office due to law and order problem and reached CBI/ACB Office, Ranchi at about 2:00 pm on 01.04.2003. Thereafter, the house of the accused was searched and intimation in writing about arrest of the accused was given to his wife. Thereafter, memorandum of recovery and seizure was prepared. The contents of memorandum of recovery and seizure was explained to all the present and accused and a copy of the memorandum was also given to accused, S.K. Sahay under proper acknowledgement.

In course of investigation, Investigating Officer recorded the statement of several witnesses, obtained sanction order for prosecution of the accused got the pink solution scientifically tested and received its report.

6. After completion of investigation and finding sufficient evidence against the accused, the Investigating Officer(P.W.7) has submitted charge-sheet for the offence under section 7 and 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988.
7. The accused/appellant denied from the charges leveled against him and claimed to be tried.
8. In course of the trial, altogether 7 witnesses were examined by the prosecution, namely:

P.W.1-Rajesh Kumar

P.W.2-Fahim Alam

P.W.3-Maruti Nandan Singh

P.W.4-Om Prakash Sharma

P.W.5-Vinod Chandra Purkait

P.W.6-Astab Ali (complainant)

P.W.7-Kaushal Kishore Singh (I.O.)

9. Apart from the oral testimony of witnesses, following documentary evidences and material exhibits were also adduced by the prosecution i.e.,

Documentary Evidence:-

Ext.1-Sanction Order

Ext.2-Signature of Tirkey on application of Astab Ali dated 25.032003

EXt.3- Marking 7143 at 31.03.2003 on application of Astab Ali

Ext.4.-Endorsement on application of Astab Ali dated 25.03.2003

Ext.5-Letter receiving diary register of CMPF page 1 to 573

Ext.2/1 On page No.217 of letter receiving diary register of CMPF, Signature of accused, S.K. Sahay

Ext.6-File of claim case No.71(01-02) of late Amjad Ali page 1 to 31;

Ext.7-Seizure memo dated 01.04.03;

Ext.3- Signature of witness M.N. Singh on bottle Ext.I;

Ext.3/1-Signature of witness M.N Singh on envelope Ext.II;

Ext.3/2-Signature of witness M.N. Singh on envelope Ext.III;

Ext.3/3 to 3/7-Signature of witness M.N. Singh on five pages of pre-trap memo;

Ext.3/8-Signature of witness M.N. Singh on bottle (Ext.IV);

Ext.3/9- Signature of witness M.N. Singh on bottle (Ext.V);

Ext. 3/10- Signature of witness M.N. Singh on envelope containing G.C. notes (Ext.VI);

Ext.3/11 to 3/21- Signature of witness M.N. Singh on 11 sheets of memo of recovery;

Ext.8-Endorsement and signature of S.K. Sahay on memo of recovery;

Ext.3/22- Signature of witness O.P. Sharma on letter (D) (Ext.I);

Ext.3/23- Signature of witness O.P. Sharma on envelope Ext.II;

Ext.3/24- Signature of witness O.P. Sharma on envelope Ext.III;

Ext.3/25 to 3/29- Signature of witness O.P. Sharma on five pages of Pre-Trap memorandum;

Marked X for identification-Forwarding note of CFSL dated 02.04.03;

Ext.9-Expert report of CFSL in two sheets;

Ext.10-Forwarding letter with the report of CFSL;

Ext.3/30 to 3/32- Signature of B.C. Purkait on the three bottles Ext.I, IV & V;

Ext.3/33- Signature of witness O.P. Sharma on bottle Ext.IV;

Ext.3/34- Signature of witness O.P. Sharma on bottle containing left hand wash (Ext V);

Ext.3/35- Signature of witness O.P. Sharma on envelope (Ext.VI);

Ext.3/36 to 3/46- Signature of witness O.P. Sharma on eleven pages of memorandum of recovery;

Ext.11-Complaint petition of the complainant;

Ext.3/47-Signature of witness Astab Ali on bottle Ext.I;

Ext.3/48- Signature of witness Astab Ali on envelope Ext.II;

Ext.3/49- Signature of witness Astab Ali on envelope Ext.III;

Ext.3/50 to 3/54- Signature of witness Astab Ali on five pages of pre trap memo;

Ext.3/55- Signature of witness Astab Ali on bottle (Ext.IV);

Ext.3/56- Signature of witness Astab Ali on bottle (Ext.V);

Ext.3/57- Signature of witness Astab Ali on on envelope containing G.C. notes (Ext.VI);

Ext.3/58 to 3/68- Signature of witness Astab Ali on eleven pages of memo of recovery;

Ext. 12-FIR

Ext.8/1-Endorsement by Sri. N.C. Jha on written report of A. Ali;

Ext.13-Verification report;

Ext.3/69-Signature of Sri K.K. Singh on bottle Ext.I;

Ext.3/70 to 3/71- Signature of Sri K.K. Singh on two envelopes Ext.II & III;

Ext.14-Pre-trap memorandum

Ext.3/72 to 3/74 & 3/75- Signature of witness Sri K.K. Singh on bottle Ext-IV and bottle Ext-V and on envelope (Ext.-VI) & (Ext.VII);

Ext.15-Memorandum of recovery;

Material Exhibits:-

Ext.I-Bottle containing D. Wash;

Ext.II-Envelope containing treated pieces of papers;

Ext.III-Envelope containing P. Powder;

Ext.IV-Bottle containing right hand wash;

Ext.V-Bottle containing left hand wash;

Ext.VI-Envelop containing Trap G.C. Notes of Rs.2,000/-;

Ext.VII to VII/15-Sixteen GC notes of Rs.(500 one and 100x15) total Rs.2,000/-.

10. On the other hand, no witness has been examined by the defence. However, two documentary evidences have been adduced by the defence i.e. **Ext.A-**Application in format of description of family members of Amazad Ali and **Ext.B-** Certified Copy deposition of Khaliluddin.

11. The case of defence is denial from the occurrence and false implication.

Submission on behalf of appellant:-

12. Learned senior counsel for the appellant assailing the impugned judgment has strenuously argued that most of the prominent witnesses of this case have not been examined by the prosecution to substantiate the materials incriminating circumstances. Further elucidating his arguments, learned senior counsel has submitted that Inspector B.C. Chourasia, who is alleged to have caught hold of right hand of the appellant at the time of trap has not been examined. Inspector Vikas Gupta, who has submitted Inquiry-cum-Verification report about the allegation in the complaint and also caught hold of the left hand of the appellant at the time of trap, has also not been examined. Mr. Dilip Kumar, who had seen the accused while accepting the bribe, has also not been examined by the prosecution. The police constable, who made the recovery, has also not been examined. S.P. N.C Jha, who met with the accused at the time of alleged demand of bribe, has also not been examined. Likewise, one Baleshwar from whose table's drawer tainted money was recovered, which was just by side of the table of the appellant, has also not been examined by the prosecution. Therefore, the

main witnesses, who might have established the prosecution case, were not examined by the prosecution without offering any valid explanation. Therefore, adverse inference can be drawn against the prosecution. It is further submitted that the FIR, verification and trap was organized on the same day. As per the evidence of P.W.1, (Sanctioning Authority), no documents were produced before him for perusal and recording reasons for *prima-facie* case to accord sanction for prosecution. Therefore, the very sanction order itself is mechanical without appreciation of materials. It is further submitted that no bribe money through tainted G.C. notes were received from the conscious possession of the appellant. It is also surfaced in the prosecution evidence that just prior to this occurrence, one of the staffs of CMPF Office was trapped by CBI and at that time, the present appellant raised serious objection and showed his resentment. Therefore, he was under the evil eye of the CBI officials and they have manipulated a false trap with a view to falsely implicate the appellant with false charges. Learned senior counsel has further submitted that the witnesses examined by the prosecution have not been able to prove any demand of bribe by the appellant from the complainant or its acceptance and recovery from conscious possession of the appellant. P.W.1 Rajesh Kumar was the then Commissioner of CMPF, Dhanbad and stating nothing about the occurrence rather simply proved the sanction order. P.W.2-Fahim Alam, who was Assistant in CMPF Office, Ranchi has stated that the appellant received the order on 01.04.2003 at 10:00 am itself. Therefore, no question of prior demand

of bribe arises. This witness has also admitted in his cross-examination that three months prior to this occurrence, one Kailash Paswan was arrested by the trap team and there was exchange of arguments between the CBI team and the present appellant. Therefore, CBI team had no good terms with the appellant. The shadow witnesses, P.W.3 Maruti Nandan Singh and P.W.4 Om Prakash Sharma have also failed to prove any written requisition sent from the CBI Office and are pet witnesses of the CBI, who have been called for in several trap cases to attend the proceeding. P.W.5, Junior Scientific Office of CFSL, Kolkata has also proved that a bottle of left hand liquid collected during trap was found milky white. Therefore, CFSL report also is not believable. P.W.6-Astab Ali, the complainant has got service in CMPF, Dhanbad without showing the copy of nominee certificate made in the service record of his deceased father. This witness has been used as a tool by the CBI to falsely implicate the appellant in this case to satisfy their grudge. P.W.7 Kaushal Kishore Singh (I.O.) of this case has also given contradictory statements in material particulars regarding demand, acceptance and recovery of bribe from the possession of the appellant. The appellant has undergone protracted trial for more than 22 years. Learned trial court has ignored the said contradictions and discrepancies in the evidence of witnesses and arrived at wrong conclusion about the guilt of the appellant. Therefore, the impugned judgment of conviction and sentence of the appellant is absolutely illegal and beyond weight of evidence and based on wrong and improper appreciation of evidence of

witnesses and fit to be set aside allowing this appeal**.** Hence, the appellant deserves acquittal from the charges leveled against him.

13. Learned counsel for the appellant has placed reliance upon following reported judgment:-

(i) Neeraj Datta v. State (NCT of Delhi) (2023) 4 SCC 731;

(ii) K. Shanthamma v. The State of Telangana (2022) Supreme (SC) 154

(iii) Ganpathi Sanya Naik v. State of Karnataka (2007) 6 Supreme 578

(iv) Shashikant v. Central Bureau of Investigation & Ors. 2006(8) Supreme 564

Submission on behalf of State-ACB:-

14. On the other hand, Mr. Deepak Kumar Bharti, learned counsel for the CBI has vehemently opposed the aforesaid contentions raised on behalf of the appellant and submitted that it is the quality of evidence not the quantity, which matters in proving the case. There is no doubt that some of the important witnesses could not have been examined by the prosecution but the same cannot be held to be fatal for the prosecution. The main witnesses examined by prosecution or the complainant (P.W.6) and shadow witnesses (P.Ws.3 & 4), who have consistently proved the charges leveled against the appellant. It is further submitted that the trap proceeding and demand of illegal gratification, its conscious acceptance by the appellant and putting the GC notes in his drawer of his office table and subsequent recovery of the tainted GC notes, which also tallied with the Pre-Trap Memorandum of the GC notes, there is no inconsistency or any contradiction in the evidence of

witnesses to disbelieve their testimony. P.W.2 Fahim Alam is also employee of the same office of the appellant, who has proved the application submitted by the complainant for issuing of the copy of nominee certificate of the deceased father of the complainant, the forwarding letter and the receipt of the same from the head office, which was received by the appellant under his signature in the register and they were also seized from the table. Therefore, the meeting of the complainant with the appellant in connection with obtaining nominee certificate of his deceased father and for its delivery demand of Rs.2,000/- as illegal gratification as well as during trap, the demand and receiving of the said bribe as well as conscious acceptance and putting the same in the drawer of table of the accused and its subsequent recovery and seizure memo and chemical examination report conclusively proves the guilt of the appellant for the charges leveled against him. Nothing has been elicited in cross-examination of P.W.1, Rajesh Kumar, the CMPF Commissioner, the sanction order was based beyond the materials produced before the court. So far, verification report submitted by Inspector Vikash Gupta is concerned, that is not a statutory obligation rather a formality and merely because the said Vikash Gupta has not been examined in this case does not affect the core prosecution case. The appellant has been caught red handed while demanding and accepting the bribe money of Rs.2,000/- from the complainant. The plea of defence that just prior to 3 months of the present occurrence, another trap was conducted in the office of the

appellant, which was protested by him is not sufficient to furnish the motive for false implication of the appellant and any enmity with the CBI officials. The prosecution has conclusively proved the foundational facts against the appellant. Therefore, the learned trial court has legitimately granted the presumption under Section 20 of Prevention of Corruption Act to convict him for the offences charged against him. The citations relied by the appellant rather more principles and guidelines, which are not applicable in the facts and circumstances of the present case. Therefore, this appeal is devoid of merits and fit to be dismissed.

15. Learned counsel for CBI has also placed reliance upon following reported judgments:-

(i) Lalita Kumari v Government of U.P. & Ors. 2014(2) SCC 1

(ii) Prakash Singh Badal & Anr. State of Punjab and Ors. 2007 (1) SCC 1

(iii) Neeraj Dutta v. State (Govt. of N.C.T. of Delhi 2023(4) SCC 731

(iv) C.B.I. vs. Baljet Singh SLP (Cr.) 12486/2025

16. I have gone through the record of the case along with the impugned judgment and order in the light of the contentions raised on behalf of both side.

17. The only point for determination in this appeal is that "**as to whether the impugned judgment and order of conviction and sentence of the**

appellant passed by learned trial court suffers from any error of law calling for any interference in this appeal?"

18. Before imparting the verdict on above points of arguments, it would be appropriate to extract the relevant provisions of law applicable in this case which are **reproduced** hereinbelow:

The relevant provisions of Prevention of Corruption Act (prior to 2018 Amendment)

> "7. **Public servant taking gratification other than legal remuneration in respect of an official act**.— Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to seven years and shall also be liable to fine.
>
> Explanations —(a) "Expecting to be a public servant". If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.
>
> (b) "Gratification". The word "gratification" is not restricted to pecuniary gratifications or to gratifications estimable in money.
>
> (c) "Legal remuneration". The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is

permitted by the Government or the organisation, which he serves, to accept.

(d) "A motive or reward for doing". A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.

(e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section."

"13. Criminal misconduct by a public servant.-

(1) A public servant is said to commit the offence of criminal misconduct,-

(a)…….

(b)…….

(c)…….

(d) if he,-

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest;

(e)……."

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.

Section 20. Presumption where public servant accepts any undue advantage

"20. Presumption where public servant accepts gratification other than legal remuneration.—(1) Where, in any trial of an offence punishable under Section 7 or Section 11 or clause (a) or clause (b) of sub-section (1) of Section 13 it is proved that an accused person has accepted or obtained or has agreed to accept or attempted to obtain for himself, or for

any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in Section 7 or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

(2) Where in any trial of an offence punishable under Section 12 or under clause (b) of Section 14, it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in Section 7, or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the court may decline to draw the presumption referred to in either of the said sub-sections, if the gratification or thing aforesaid is, in its opinion, so trivial that no inference of corruption may fairly be drawn."

19. Now, I have to take brief resume of oral as well as documentary evidence laid by the prosecution to substantiate the charges leveled against the appellant.

P.W.1 Rajesh Kumar is the Commissioner of CMPF, Dhanbad. This witness has proved that in the month of April, 2003, Santosh Kumar Sahay was working as UDC in CMPF office, Ranchi Division and he was competent to dismiss or remove him from the service. He has further proved that sanction order for prosecution of Santosh Kumar Sahay for the offence under Prevention of Corruption

Act has been passed by him on the basis of documents submitted by CBI and applied his mind after perusing the documents and thereby dictated to his typists. He has proved the sanction order marked as Ext.3.

In his cross-examination, he has deposed that he had given dictation from the documents, which came before him, he did not enquire on his own level.

P.W.2-Fahim Alam was working as Assistant in CMPF Office, Ranchi in the year 2002-2003. According to his evidence, he was In-charge to deal with the file of Barkakana Colliery employees in connection with PF file. He also knows the accused, S.K. Sahay, who was working on the post of Upper Divisional Clerk in the month of 2003 at CMPF office, Ranchi and he was dealing with the PF file of Bhurkunda Colliery CCL employees. He has further proved the application of Astab Ali (complainant) addressed to Regional Commissioner, CMPF Office, Region-I, Ranchi, pertaining to issuance of certificate in connection with nominee certificate of his deceased father, late Amjad Ali dated 25.03.2003, which was forwarded to Personal Officer, CMPF, Regional Commissioner I, on 26.03.2003 and received in the office of Regional Commissioner, Ranchi-I on 28.03.2003, which is marked Ext.2. Thereafter, this application was sent to Central Diary endorsed by Assistant Baleshwar Prasad dated 31.03.2003 at Letter No.7143, which is marked Ext.3. After Central Diary, this application was produced before this witness on 31.03.2003

itself. Since, Bhurkunda Colliery matter was dealt with by S.K. Sahay(appellant). Hence, this witness sent the application to Santosh Kumar Sahay making endorsement, which is marked as Ext.4. The letter was received by S.K. Sahay(appellant) in letter receiving diary register maintaining official course of business at page 217, whereby Letter No. 7143 was received by the appellant on 01.04.2003 at about 10:00 am, which is marked Ext.2/1. He has further proved refund claim file of late Ajmad Ali (father of the deceased) wherein at Serial No.7 containing 31 pages maintained in official course of business is marked Ext.6. He has further proved that at page 22 of the file, there is description of live family members of the deceased, late Ajmad Ali wherein the name of two sons, namely, Astab Ali (complainant), aged about 28 years and Asjad Ali, aged about 24 years and wife Mustli, aged about 51 years has been mentioned. This witness has proved the seizure memo dated 01.04.2003 prepared by CBI Inspector, K.K. Singh, whereby the above documents were seized by him from this witness, which is marked Ext.7. One copy of the seizure lists was also delivered to this witness.

In his cross-examination, he has stated that on the day of incident, Sahay Ji was sitting next to me on the left side. His table has a drawer on the right side. He has further admitted that about 3 months prior to this occurrence, one Kailash Paswan was also apprehended in the trap by CBI and at that time, some hot talks took place between the CBI team and the appellant, S.K. Sahay.

P.W.3-Maruti Nandan Singh is one of the independent witness, who is working as typist (Hindi) in Chief PMG Office, Ranchi. According to his evidence, his Controlling Officer, Salini Kujur instructed him to attend the CBI office on 01.04.2003 at about 11:30 am. This witness went to the CBI office and met with Inspector, K.K. Singh, where he was introduced with other CBI team members and the complainant, Astab Ali. He has also gone through the complaint made by the complainant, Astab Ali against the accused, S.K. Sahay that he was demanding of Rs.2,000/- as bribe for issuing Nominee Certificate of his deceased father, who was desiring to apply for compassionate appointment due to death of his father in CMPF Office. He has further proved the Pre-Trap Memorandum prepared in his presence wherein he has proved his signature as Ext.3 to 3/7. He has further proved that at about 1:00 pm, the trap team along with the complainant and the witnesses arrived at CMPF office, Ranchi. This witness categorically stated that he along with the complainant went inside the office of the appellant situated at first floor of the building. There was exchange of good wishes, thereafter, Santosh Kumar Sahay said to Astab Ali that "तुम्हारा आवेदन प्राप्त हो चूका है और पूछे कि जैसा बात हुई थी तुम दो हज़ार रुपये लाये हो. जिसपर अस्ताब अली ने कहा की मैं दो हज़ार रुपये लाया हूँ. S.K. Sahay ने कहा की लाओ दो और अपनी दाहिना हाथ बढ़ा दिया। तब अस्ताब अली ने अपने शर्ट के बाये पॉकेट से रुपया निकालकर S.K. Sahay के

बढे हुए हाथ में दे दिया। तब S.K. Sahay उस रुपये को अपने टेबल के बाये दराज़ में रख दिया और S.K. Sahay ने कहा की CMPF nomination पर कमिश्नर साहिब से दस्तख़त कराकर देता हूँ. इसके बाद अस्ताब अली ने बतलाये हुए संकेत दिया।. तब बाहर जो सभी लोग खड़े थे तुरंत वह पहुंच गए. K.K. Singh, CBI Inspector ने S.K. Sahay को अपना परिचय देते हुए challenge किया और कहा की आपने घूस लिया है. S.K. Sahay का दाहिना हाथ B.C. Chaurasia, CBI Inspector और Vikash Gupta, CBI Inspector ने बायां हाथ कलाई से पकड़ लिया. Thereafter, he has proved the Post-Trap Memorandum and the chemical reaction of sodium carbonate and phenolphthalein powder and its seizure etc. This witness has stated that Recovery Memorandum-Cum-Seizure was prepared in 11 pages and a copy was given to S.K. Sahay (appellant). He has proved his signature as Ext.3/11 to 3/21 on its pages and receipt endorsement by S.K. Sahay as Ext.8. This witness has also admitted that the Post-Trap Memorandum was prepared at CBI office due to law and order situation created in the office of the accused.

There is nothing in his cross-examination to contradict his aforesaid testimony or caste any doubt on his evidence.

P.W.4-Om Prakash Sharma is also a shadow witness and Hindi Typist in the office of Senior Superintendent of Post Office, Ranchi. According to his evidence, he received instruction from Senior

Superintendent of Post Office to attend the CBI office, Ranchi at about 11:30 am, where he met with Inspector K.K. Singh. In his presence, Pre-Trap Memorandum with demonstration of reaction of phenolphthalein powder and sodium carbonate was done and after acquaintance with the facts and introduction with the complainant, Pre-Trap Memorandum was prepared. He has proved his signature as Ext.3/22 to 3/29. This witness has categorically deposed that at about 12:50 pm, he along with CBI team members and other witnesses reached at CMPF office, Ranchi. Thereafter, the complainant, Astab Ali and witness, M.N. Singh went to the office table of Santosh Kumar Sahay(appellant) then he asked to Astab Ali that "कल जो तुम्हारे पिता के नॉमिनेशन के कागज के संबंध में बात हुई थी उसके लिए क्या दो हज़ार रुपये लाये हो. तब अस्ताब अली ने कहा की हां लाया हूँ तब सहाय जी ने कहा की लाओ दो. तब अस्ताब अली ने अपने शर्ट के बाये तरफ के ऊपरी पॉकेट से रुपये निकालकर सहाय जी के दाहिने हाथ में दिया। उस रुपये को लेकर S.K. Sahai ने अपने टेबल के बाये ड्रावर में डाल दिया।. Thereafter, the complainant scratching his head made a signal and the trap team assembled in the office of the accused. Thereafter, Inspector, K.K. Singh disclosed his identification and challenged the accused that he has taken bribe from the complainant. He has further deposed that Inspector, B.C. Chaurisia caught hold of right hand of the accused and Inspector Vikash Gupta caught hold of left hand of the accused but the accused started raising

alarm that he has not taken any bribe and also ordered the other officials and the gate-keeper to lock the front door from the outside. Thereafter, several colleagues and employees of the accused assembled and main door was locked. He further stated that Inspector, Vikash Gupta made a telephonic call to S.P. CBI, thereafter additional forces along with S.P. arrived at the place of occurrence and pacified the matter. He has further proved the chemical reaction of sodium carbonate and phenolphthalein powder in the post-trap event and identified his signature on the memorandum prepared in this case. The copy of memorandum was given to the accused, S.K. Sahay.

There is nothing in his cross-examination. Although, this witness has been cross-examined at length by the defence but nothing material has been elicited to rebut the aforesaid core evidence. This witness has also denied the suggestion of defence that he has given false evidence at the instance of CBI and the accused never asked any bribe from Astab Ali nor he raised his hand before the complainant to take bribe money and he was not present near the office of the accused.

P.W.5-Binod Chandra Purkait was Junior Scientific Officer, CFSL, Kolkata. According to his evidence, he has conducted the chemical examination of seized materials of this case on direction of Director, CFSL. He compared the seals on bottles and seals mentioned in the forwarding letter, which tallied exactly. Thereafter, 'D' mark bottle was again marked as 29/03A, 'R' marked bottle was marked as 29/03 B and 'L' mark bottle 29/03 C. The seals of bottle were broken

one by one and liquid was measures. He has stated that in mark 29/03 A 125 cc pink solution, 29/03 B and 29/03 C were containing 135 cc pink colour solution. All the solutions were chemically examined separately through instrumental test and he found that solutions were containing phenolphthalein and sodium carbonate. Thereafter, the respective solutions were again put in the bottles and duly sealed. The report was prepared and sent by him in two pages and computer typed by B. Achrya, which is marked as Ext.9 and the forwarding letter as Ext.10. He has also proved the material Ext.I, IV and V and his signature over material exhibits as Ext.3/30, 3/31 and 3/32.

There is nothing in his cross-examination to rebut the aforesaid testimony.

P.W. 6-Astab Ali is the complainant. According to his evidence, his father who was working in CCL, Bhurkunda died on 13.06.2002. Therefore, he was intending to file an application for his service on compassionate ground for which Nominee Certificate was required. Hence, he applied for Nominee Certificate from the service record of his father. In that course, he met with dealing clerk, Santosh Kumar Sahay on 31.03.2003 and requested him for Nominee Certificate, then he told that "आपका काम हो जायेगा लेकिन आपको दो हज़ार रुपये घूस के रूप में देना होगा। परन्तु मै घूस नहीं देना चाहता था, इसलिए दिनांक 01.04.2003 को CBI office गया था और वहां जाकर complaint दी।". He has proved the written report as Ext.11. He has

further deposed that an inquiry was conducted on his complaint and he was interrogated with Inspector Vikash Gupta and Inspector K.K. Singh. Thereafter, a trap team was organized and two other employees of other department was also called upon, who were also introduced to him as Maruti Nandan Singh (P.W.3) and Om Prakash Sharma (P.W.4). He has further proved pre-trap proceeding and its memorandum bearing his signature marked Ext.3/52 to 3/54. Thereafter, the trap team went to the CMPF office, where the accused was working on first floor of the building as per prior instruction. This witness along with M.N. Singh (P.W.3) went inside the office hall where the accused, S.K. Sahay was sitting and working and other witnesses were standing on the main gate. He wished to S.K. Sahai, which was reciprocated. Thereafter, S.K. Sahay (appellant) told this witness that "पैसा लाये हो या नहीं। तब मैंने कहा की लाया हूँ, तब वो बोले दो और अपना दाहिना हाथ बढ़ा दिए। तब मैं शर्ट के ऊपरी पॉकेट से रुपये निकालकर संतोष सहाय के दाहिने हाथ में दे दिए। वो रूपये लेकर दोनों हाथो से गिना और टेबल के दराज़ में डाल दिया। पैसा लेने के बाद, वो बोले की काम हो जायेगा, जाओ। Thereafter, this witness gave a signal to the CBI team members by scratching his neck by right hands, then CBI team members entered into hall and caught hold of the accused, S.K. Sahay. Then, the accused, S.K. Sahay started shouting and commanded his colleagues to lock the main gate of the hall. He has further proved the tainted G.C. notes recovered from the drawer of the

accused and his hands were washed in the liquid of sodium carbonate which coloured pink. G.C. notes were also tallied with Pre-Trap Memorandum. Thereafter, Almirah of the accused was also searched by CBI officers and the file concerning with this witness was seized. He has also admitted that the Post-Trap Memorandum was prepared in the CBI office due to land and order situation in the CMPF office. The copy of Recovery-Cum-Seizure Memorandum was delivered to the accused, S.K. Sahay, which is marked as Ext.8.

In his cross-examination, this witness admits that tainted money was counted by the accused using both hands but he could not say what was in the left hand of the accused. He further deposed in his cross-examination that he visited the CMPF office twice before 01.04.2003.Once, six months ago to withdraw money for his father and the second time on 21.03.2003, apart from this he had never visited the CMPF office before. This witness got employment in the CCL on compassionate ground. He has failed to recall that in his statement before Investigating Officer (P.W.7), he has stated that left hand of the accused was dipped in the sodium carbonate which did not turn its colour and remained intact.

P.W.7-Kaushal Kishore Singh is the Investigating Officer of this case. This witness has proved the formal FIR Ext.12. According to this witness, the complaint was lodged by Astab Ali and was verified by Inspector, Vikash Gupta and has proved endorsement of S.P. in this regard as Ext.8/1. He has further proved the verification report

submitted by Inspector Vikash Gupta in compliance of instruction of S.P, CBI in the handwriting of Inspector, Vikas Gupta marked Ext.13. He was authorized for investigation of this case. Thereafter, he organized a trap team consisting of Vikash Gupta, Inspector, B.C. Chaurasia, Inspector, R.S. Solanki, Sub Inspector, Binod Kumar Ojha and Dilip Kumar, constable and ASI, R. K. Jha and two independent witnesses, M.N. Singh and Om Prakash Sharma along with the complainant, Astab Ali. He introduced the team members with each other and with the case of complainant. The independent witnesses were also gone through the complaint, interrogated with the complainant and satisfied with the allegation. Thereafter, pre-trap demonstration was conducted and Pre-Trap Memorandum was prepared. G.C. notes of Rs.2,000/- was produced by the complainant and reaction of phenolphthalein powder with sodium carbonate was explained. The numbers of G.C. notes were noted down and after preparation of pre-trap proceeding, M.N. Singh (P.W.3) was instructed to be a shadow witness and accompanied with the complainant and see the incident and conversation with the complainant and the accused. The complainant was also instructed to make a signal by scratching his head and give the money only on demand made by the accused as bribe. After search and washing hands of the team members, they proceeded to CMPF, office and reached there at about 12:50 pm. M.N. Singh along with the complainant went inside the first floor of the hall, which was used by the office of the accused and this witness was standing just near the gate

of the hall along with constable, Dilip Kumar and the accused was clearly visible to him. He saw that Astab Ali and M.N. Singh went near the accused, thereafter, Astab Ali and the accused started talking with each other. Thereafter, Astab Ali took out GC notes from his upper pocket of his wearing shirt and put in the extended right hand of the accused, which was kept by the accused in his office table at left side. Again, the complainant and the accused talked something and some documents were being shown by the accused to the complainant. In the meantime, the complainant raised signal as earlier, then the trap team members surrounded the accused after introducing themselves. In the meantime, S.K. Sahay started shouting to lock the door and the gate-keeper and staffs locked the main door of the office. He further deposed that Inspector B.K. Chaurasia and Inspector Vikas Gupta caught hold of the accused by hand and was informed for additional forces, then local police team arrived and situation was controlled. Thereafter, post-trap formalities were observed by putting the right hand fingers of the accused in the sodium carbonate liquid, which turned pink. Thereafter the left hand of the accused was also dipped in the sodium carbonate liquid, which did not turn its colour. Thereafter, memorandum of post-trap was prepared and a copy of which was given to the accused. He has signed on each pages of the memorandum. He has also sent the material exhibits to CFSL, Kolkata and obtained the sanction of prosecution to prosecute the accused. He interrogated with the witnesses and finding sufficient evidence against the appellant submitted charge-sheet.

In his cross-examination, the attention of this witness was drawn towards the statement of Inspector Vikash Gupta, who has stated before him nothing about allegation made in the complaint and he has also not asked about the verification report. This witness has been cross-examined at length by the defence but nothing material has been elicited to rebut his aforesaid testimony rather he was remained firm in cross-examination.

20. In the case of "***Neeraj Dutta vs. State (NCT of Delhi)" reported in (2022) Supreme SC 1248 or (2023) 4 SCC 731***, wherein, ***the moot question arose for answering the reference that in absence of complainant letting in direct evidence of demand owing to unavailability of complainant or owing to his death or other reason, whether demand for illegal gratification could be established by other evidence?***

The constitution Bench of the Hon'ble Apex Court, after taking into consideration the conflict judgment passed by the Hon'ble Apex Court has led relevant provision of law has summarized the principle as under:-

> "88.1.(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 PC Act. 88.2. (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.

88.3. (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.

88.4. (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 Sections 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 Sections 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 Sections 13(1)(d)(i) and (ii) of the Act.

88.5. (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.

88.6. (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.

88.7. (g) Insofar 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 Sections 13(1)(d)(i) and (ii) of the Act.

88.8. (h) We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to above in sub-para 88.5(e), above, as the former is a mandatory presumption while the latter is discretionary in nature."

21. In the instant case, I have to proceed with evaluation of evidence in relation to the charges leveled against the appellant keeping in mind the aforesaid principle of law propounded by the Hon'ble Apex Court. It is admitted fact that the appellant is a public servant and was posted as Upper Divisional Clerk at CMPF Office, Ranchi at the relevant time of occurrence. This fact also finds corroboration from the evidence of

Rajesh Kumar (P.W.1), CMPF Commissioner and P.W.2, Fahim Alam, employee of the same office.

22. The specific allegation against the appellant is that he has demanded Rs.2,000/- as bribe for issuing nominee certificate from the service record of the deceased father of the complainant, which was required for his service in CCL on compassionate ground. It appears from the evidence as discussed above that pre-trap formality was conducted by the CBI Officials for laying a trap against the appellant. The shadow witnesses, namely, M.N. Singh (P.W.3) and Om Prakash Sharma (P.W.4), both of Post-Office employees were also arranged. The pre-trap formalities were conducted in presence of witnesses and memorandum was prepared. As per instruction, the complainant (P.W.6) along with P.W.3, Murli Nandan Singh entered into the office of the appellant and other witnesses took place themselves in an unobtrusive manner near the table of the appellant so that they would be able to hear the conversation as far as possible and also to watch the transaction of bribe amount. Both the complainant (P.W.6) and the shadow witness, M.N. Singh (P.W.3) have entered into the CMPF office and approached to the appellant without raising any suspicion, the complainant(P.W.6) greeted to the appellant. Thereafter, the appellant asked for Rs.2,000/- as illegal gratification from the complainant as per prior talk between them, then the complainant agreed to give the bribe amount to the appellant and the complainant took out the tainted G.C. notes worth Rs.2,000/- from his upper left chest pocket of wearing shirt

with his right hand and handed over the same in the extended right hand of accused. Thereafter, the complainant gave a signal to the CBI officials by scratching his neck by right hand fingers, then the trap team members surrounded the appellant and K.K. Singh, Inspector disclosed his identity and challenged the appellant saying that he has accepted the bribe amount and Inspector, Vikash Gupta and Inspector B.C. Chaurasia caught hold of both the hands of the appellant respectively and the right hand of the appellant was dipped into the solution of sodium carbonate, which turned pink. Thereafter, the left hand was also dipped into solution of sodium carbonate but the same did not turn pink and remained intact. The tainted G.C. notes, which were kept in the drawer of the table was recovered and the numbers and denomination of the notes were tallied with the Pre-trap Memorandum, which was found exact. Hence, foundational facts regarding the demand of illegal gratification and its acceptance and recovery from the conscious possession of the appellant has been proved beyond all reasonable doubts by the prosecution to draw a presumption under section 20 of the Act against the appellant. In rebuttal of above presumption, the appellant has offered no satisfactory explanation or adduced any evidence.

23. Other witnesses of the facts, Om Prakash Sharma (P.W.4), Binod Chandra Purkati (P.W.5) and Kaushal Kishore Singh (P.W.7) have also corroborated the above facts deposed by Astab Ali (P.W.6) and M.N. Singh (P.W.3).

24. The documentary evidence adduced by the defence has not bearing to rebut the prosecution evidence.

25. Learned counsel for the appellant in the course of argument has pointed out that most of the trap team members, namely, Inspector B.C. Chourasia and Inspector Vikas Gupta, who have caught hold of both hands of the appellant respectively and Constable Dilip Kumar, who claimed to have seen the appellant accepting the bribe amount and S.P., N.C. Jha, who met with the accused at the time of alleged demand of bribe as well as one Baleshwar from whose drawer of the table tainted money was recovered have not been examined by the prosecution without offering any valid explanation. However, mere non-examination of the above named trap team members does not affect the core of prosecution case, which has been proved during trial by cogent and reliable evidence.

26. Another argument raised by learned counsel for the appellant that the appellant has falsely been implicated in this case due to serious objection raised by him at the time of trap of one of the staffs of CMPF Office, namely, Kailash Paswan by the CBI team but the said argument is not sufficient to furnish the motive for false implication of the appellant and any enmity with the CBI officials.

27. The further argument of the appellant is that the appellant has claimed that the drawer of the table, from which the alleged bribe money was recovered, was not being used by him rather the same was being used by his colleague staff, Baleshwar. But the prosecution's evidence has

firmly established that M.N. Singh (P.W.3), who was accompanied the complainant (P.W.6) have heard the conversation between the complainant and the appellant regarding bribe for issuance of nominee certificate and its acceptance by the appellant and other witnesses, P.W.4 Om Prakash Sharma and P.W.7 Kaushal Kishore Singh have also categorically stated that they have overheard the conversation of bribe and its acceptance and all the facts have also been corroborated by the chemical examination after being washed his right hand with the solution of sodium carbonate, which turned pink but the solution of left hand wash does not turn pink. Although, P.W.3, P.W.4 and P.W.7 have deposed in their examination-in-chief that the appellant has extended his right hand to take bribe amount from the complainant so the only point of not getting turned pink of sodium carbonate liquid of left hand wash does not falsify the case. The further point of argument of the appellant is that the liquid wash of both hands ought to have turned pink as per the deposition of the complainant that the bribe amount was counted by the appellant with both hands but the left hand wash did not turn pink, which also cast doubt on prosecution case and false implication. However, the defense cannot claim the benefit of the doubt based solely on the left hand's neutrality when the right hand’s positive result stands uncontroverted and other shadow witnesses, P.W.3, P.W.4 and P.W.7 have not supported the version of the complainant by stating that they have seen the appellant accepting the bribe amount by extending his right hand towards the complainant.

28. Further point of argument of the appellant is that the post-trap memorandum was prepared in the CBI office, which has no value in the eyes of law and also cast doubt in the post-trap formalities, but it is admitted fact that due to breakdown of law and order in the CMPF office caused by the appellant, the post-trap formalities was done in the CBI office and all the events were also supported by the witnesses, hence, this point of argument of the appellant also does not inspire confidence to disbelieve the prosecution case.

29. It appears that the learned trial court has considered all aspects of the case including the points of arguments raised on behalf of the appellant while hearing this appeal. Above pleas are answered in negative by learned trial court with sound reasons in view of the evidence available on record.

30. I have also given anxious consideration to the overall facts and circumstances of the case, the evidence available on record and find no legal substance in the points of arguments raised on behalf of the appellant and no merits in this appeal.

31. In view of the above discussion and reasons, the impugned judgment of conviction of the appellant requires no interference, which is hereby upheld and confirmed. Accordingly, this appeal is **dismissed**.

32. The appellant is on bail, thus his bail bond is cancelled and the appellant is directed to surrender before the concerned trial court within two months from the date of the judgment to suffer the sentence awarded to him, failing which, learned trial court shall take all coercive steps for

taking him into custody and sending the appellant to jail for sustaining the sentence awarded to him.

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

34. 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.)

High Court of Jharkhand, Ranchi

Dated:-05/10 /2026

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

Uploaded on 06 /10/2026