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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Judgment Reserved on: 20.04.2026**
Judgment pronounced on: 27.04.2026

+ **CRL.A. 862/2004**

CONST. SATISH KUMARAppellant

Through: None.

Versus

STATE OF DELHIRespondent

Through: Mr. Utkarsh, APP for the State with
SI Bheem Singh, P.S. ACB, GNCT
Delhi.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. This appeal under Section 374 of the Code of Criminal Procedure, 1973 (the Cr.P.C.) has been filed by the sole accused in C.C.No.56/1998 on the file of the Court of Special Judge, Delhi, challenging the conviction entered and sentence passed against him for the offences punishable under Section 7 and 13(1)(d) read with 13 (2) of the Prevention of Corruption Act, 1988 (the PC Act).



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2. The prosecution case is that, on 26.07.1994, the accused, while posted as a Constable at Police Station Mehrauli, Delhi, demanded and accepted a sum of ₹1,000/- as illegal gratification from one Narender Kumar (the informant) in consideration for returning the latter's identity card, which had earlier been taken by a Head Constable during a police checking on the intervening night of 26.07.1994-27.07.1994 at Aaya Nagar, Delhi.

3. On 30.07.1994, the informant lodged a complaint, that is, Ext. PW5/A, with the Anti-Corruption Branch, New Delhi, based on which, Crime No. 20/1994, FIR was registered alleging commission of the offences punishable under Section 7 and 13 of the PC Act.

4. PW6, Inspector, Anti-Corruption Branch, New Delhi, conducted investigation into the crime and on completion of the same, submitted the charge-sheet/ final report alleging



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commission of the offences punishable under the Section 7 read with 13 of the PC Act.

5. Ext. PW6/A Sanction Order for prosecuting the accused was accorded by Vivek Gogia, IPS, Additional Deputy Commissioner of Police-I, South District, New Delhi.

6. When the accused on receipt of summons appeared before the trial court, the Court after complying with the formality contemplated under Section 207 Cr.P.C, and after hearing him, on 08.07.1999, framed a Charge under Section 7 and 13(1)(d) read with 13 (2) of the PC Act against the accused, which was read over and explained to him to which he pleaded not guilty.

7. On behalf of the prosecution, PW1 to PW10 were examined and Exts. PW3/A, PW4/A-B, PW5/A-H & 5/DA, PW6/A, PW9/A, PW10/A were marked in support of the prosecution case.



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8. 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. It was submitted by the accused that he neither demanded nor accepted any illegal gratification from the informant at any point of time. It was further submitted that he had not taken the identity card of the informant, and therefore, the question of demanding money for its return does not arise. The accused further asserted that the raiding party had come to apprehend another police official, namely, Satbir Singh, who was not present at the spot at the relevant time, and that he has been falsely implicated in the present case to justify the raid and its outcome.

9. On consideration of the materials on record and after hearing the parties, the trial court *vide* the impugned judgment dated 26.10.2004 held the accused guilty of the offences



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punishable under Section 7 and Section 13(1)(2) read with 13(2) of the PC Act. Accordingly, the accused has been sentenced to undergo rigorous imprisonment for a period of one year for each of the said offences and to pay a fine of ₹ 1000/- on each count. In default of payment of fine, the accused shall further undergo rigorous imprisonment for a period of 2 months. The sentences have been directed to run concurrently. Aggrieved, the accused has preferred this appeal.

10. When the appeal was taken up for hearing, it was reported that the appellant/ accused was no more. The death has been verified by the SHO concerned. Though, opportunity was granted, his legal representative(s) has not come forward to contest the appeal. Hence, relying on the dictum of the Apex Court in **Bani Singh & Ors. v. State of U.P., (1996) 4 SCC 720**, this Court is proceeding to consider the appeal on merits after going through the entire records in the case.



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11. In the appeal memorandum, it is alleged that the trial court has erred in convicting the accused under Section 7 and Section 13(2) read with Section 13(1)(d) of the PC Act, as Narender Kumar, the informant, who is the material witness to prove the demand and acceptance of illegal gratification, was admittedly not examined, thereby creating a lapse in the prosecution case. Even otherwise, the testimony of PW5, the shadow witness, does not corroborate the prosecution case and is inconsistent with the alleged demand and acceptance. It is also alleged that the sanction for prosecution is not valid inasmuch as the accused was appointed by the Deputy Commissioner of Police, whereas the impugned sanction has been accorded by an Assistant Commissioner of Police, who was not the competent authority.

12. *Per Contra*, it was submitted by the Additional Public Prosecutor (APP) appearing for the State that the impugned judgment does not suffer from any infirmity warranting



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interference by this court as the trial court has duly considered each and every ground raised in the present appeal and, upon an overall appreciation of the materials on record, adjudicated the matter on merits.

13. Heard and perused the records.

14. 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.

15. I shall first briefly refer to the evidence on record relied on by the prosecution in support of the case. The initial demand in this case is alleged to have taken place in the intervening night of 26.07.1994-27.07.1994 and the trap laid on 30.07.1994. From the TCR it is seen that though summons was issued to Narender Kumar, the informant, several times, the same returned unexecuted with the report that his whereabouts could not be traced. Hence, he was not examined before the trial court. Ext. PW5/A is the information alleged to have been given by



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Narender Kumar to PW9, Inspector, ACB, New Delhi. The gist of the information roughly translated reads thus:- “...I, Narendra Kumar, son of Ram Niwas Yadav, permanent resident of Village Manethi, District Rewari, Haryana presently residing at S.P. Colour Lab, G-17, Green Park, Delhi, working as a property dealer by the name of Kumar Associates Property Dealer , do hereby state the following facts: On 26th July 1994 or 27th July 1994, my relatives forcefully took me in a car DL 1J 4431 Fiat car from Delhi to Haryana. My brother in law (wife’s sister’s husband) Om Prakash was driving the car. When the car reached the Aya Nagar Police check post, then I broke the window in the back of the car and started shouting “Bachao Bachao” (“Help! Help!”) The car climbed onto the pavement and came to a halt. At that moment, Head Constable (H.C.) Satbir Singh and Satish came to the vehicle from the check post. It was approximately 02:00 AM at the time. Then H.C. Satbir Singh took me, Mukesh Yadav, and Rajesh Yadav inside the



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check post. The driver Om Prakash and Prem Chand were also there. Rajendra Yadav fled the spot. Inside the check post, H.C. Satbir Singh and Satish beat me and also abused me and took ₹3,000/- from my pocket (in 100-rupee denomination). H.C. Satbir Singh kept the money and also confiscated my identity card. He told me to return on the evening of 30.07.1994, with another ₹1,000/- to collect my Identity Card. If I do not give ₹1,000/- as a bribe, the identity card will not be returned, and they will implicate me in a robbery case. When I asked as to who would take the money, H.C. Satbir directed me to give the money to whoever was present, and take back my card. I do not want to give bribe to H.C. Satbir and Constable Satish (accused), but I am being forced to give it out of necessity. I have no other dealings with H.C. Satbir and Constable Satish (the accused). I have brought ₹1,000/- rupees with me; please take action...”



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16. PW5 LDC, Land and Building Department, when examined, deposed that on 30.07.1994 he was deputed as *panch* witness to the office of the ACB. On the said day, he reached the office of the ACB at about 09:30 AM. At about 02:45 PM, Narinder Yadav came and his Ext. PW5/A statement was recorded. PW5 further deposed about the pre-raid proceedings conducted. The phenolphthalein treated notes were handed over to Narinder Yadav who kept them in his shirt pocket. He was instructed to remain close to the complainant and observe the transaction and to give a pre-arranged signal by moving his hand over his head once the money was accepted by the accused. After the pre-raid formalities conducted he along with Narender Yadav; PW9, the Trap Laying Officer (the TLO) and other four police officials left the office of the ACB at about 04:00 PM and reached Aya Nagar Check Post at about 04:15 PM. The vehicle was parked at a distance and thereafter he along with Narender Yadav proceeded to the spot. The accused



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was present at the check post. Narender Yadav demanded return of his ID card and stated that he had brought the money. The accused arranged tea and thereafter demanded money and took Narender Yadav to the side of the check post where the latter handed over the money to the former who accepted it with his left hand and kept it in the left pocket of his pant. Following this, he gave the pre-arranged signal. The raiding party reached the spot and the accused was apprehended. He recovered the tainted money from the left pocket of the accused and it was seized *vide* memo Ext. PW5/C. The number of the currency notes recovered tallied with the ones recorded in the pre raid report. Thereafter, the left hand wash and pant pocket wash were taken with sodium carbonate solution which turned pink. The wash were sealed in bottles marked LHW I, LHW II, LPPW I, LPPW II and seized *vide* memo Ex. PW5/D. The pant Ex. P7 was seized *vide* memo Ex. PW5/E. The accused was arrested and his personal search was conducted *vide* memo Ex.



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PW5/F. PW5 more or less stood by his case when cross examined.

17. PW7, Constable, deposed that on 30.07.1994, he was on duty along with the accused and at about 05.00 PM, two persons came to the check post and shook hands with the accused. The accused offered them tea and they started talking while sitting on a cot, whereas he continued performing his duty. PW7 further deposed that after some time, the accused and those two persons went outside the check post room. Thereafter, he saw those two persons catching hold of the accused. On his inquiry, they informed him that the accused had been arrested in a bribery case and that they were officials from the Anti-Corruption Branch.

18. PW8, Constable, who was posted at Aya Nagar Police Post from 25.07.1994 to 01.08.1994 along with accused, HC Satvir Singh, Jeet Kumar and others deposed that on the intervening night of 26.07.1994-27.07.1994, he was on duty



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along with Constable Jeet Kumar from 12:00 midnight to 08:00 AM. The accused was present at the check post along with Constable Anand Pal, though the former was not on duty. At about 03.30 AM, one Fiat car came from the Delhi side and stopped at Aya Nagar Police Post. One Narinder, who was sitting in the car, informed them that he had been kidnapped by the occupants of the car and was being taken to Haryana. On receiving this information, they conveyed the message to PS Mehrauli, whereupon one Sub Inspector along with constables arrived at the spot and took the accused along with HC Satbir and two other persons, who were related as Jeeja and Sala, to PS Mehrauli. On 27.07.1994, the accused and HC Satbir returned to the police post and informed him that a compromise talk was going on among the persons apprehended. He further deposed that on 30.07.1994, he and Constable Jeet Kumar were on duty from 08:00 AM to 04:00 PM and after completion of duty at



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about 04:00 PM, he left for his residence. PW8 deposed that he does not know any person by name Narinder Kumar.

19. PW9, the TLO, when examined, fully supported the prosecution case.

20. Going by the prosecution case, the accused, a constable, while performing his official duty, demanded ₹1,000/- as illegal gratification from one Narinder Kumar for returning his identity card, which had been confiscated during a police checking conducted on the intervening night of 26.07.1994 - 27.07.1994 at Aya Nagar, Delhi, and was subsequently apprehended while accepting the said amount during a trap proceeding laid by PW9. The main question that arises for consideration is whether the prosecution has succeeded in establishing beyond reasonable doubt that the accused had actually demanded and accepted illegal gratification as a motive or reward for performing a specific official act, thereby attracting the offences punishable under



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Sections 7 and 13(2) read with Section 13(1)(d) of the PC Act. It is well settled that both the offer by the bribe giver and the demand by the public servant constitute foundational facts which must be proved by the prosecution. Mere acceptance of illegal gratification, in the absence of proof of demand, would not be sufficient to bring home the guilt under Sections 7 and 13(1)(d)(i) and (ii) of the PC Act.

21. As seen earlier, Narinder Kumar, the informant, who had lodged Ext. PW5/A before the Anti-Corruption branch regarding the demand of the illegal gratification of ₹1,000/- by the accused, could not be examined by the prosecution as he remained untraceable despite repeated summons. But as held by the Apex Court in **Neeraj Dutta v. State (Government of NCT of Delhi), (2023) 4 SCC 731, Para 68(f) & 70**, in cases where the complainant/informant is unavailable, or is dead, or turns hostile, the demand of illegal gratification can still be proved through the testimony of other witnesses, documentary



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evidence, or even by circumstantial evidence. The case does not abate nor does it automatically result in acquittal. Therefore, the non-examination of the informant does not, by itself, preclude the prosecution from establishing the offence of demand and acceptance of illegal gratification by a public servant.

22. In the case on hand, of PW5, the *panch* witness who had accompanied the Narinder Kumar, throughout the trap proceedings, fully stood by the prosecution case when examined. Nothing has been shown as to why he should depose falsely. It is a settled principle that evidence has to be weighed and not counted, and conviction can be based on the testimony of a single witness if found wholly reliable. Thus, perusal of the testimony of PW5 clearly establishes the consistent demand made by the accused in connection with the informant's identity card confiscated by him and the demand and acceptance of bribe for returning the same. In the absence of any material to show that PW5 is an interested or partisan witness who would



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depose otherwise, I do not find any reason(s) to disbelieve his version, which by itself is sufficient to prove the demand. Further, the acceptance also stands clearly established, inasmuch as no dispute has been raised with regard to the recovery of the tainted currency from the possession of the accused. Therefore, the factum of acceptance also stands duly proved.

23. Section 20 of the PC Act mandates a statutory presumption in favour of the prosecution, however, such presumption is not automatic and can only be invoked when the prosecution first establishes the foundational facts, namely, the demand for and acceptance of illegal gratification by the accused. It is only upon such proof that the burden shifts upon the accused to rebut the presumption by adducing cogent and credible evidence on the touchstone of preponderance of probabilities.



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24. In the present case, once the demand and acceptance stand duly proved from the cogent testimony of PW5 coupled with the recovery of the tainted currency, the statutory presumption under Section 20 of the PC Act stands invoked and shifts the burden upon the accused. However, the accused has failed to discharge the said burden as no plausible or probable explanation has been furnished to rebut the presumption, thereby leaving the prosecution case un rebutted.

25. Coming to the question of validity of Ext. PW6/A Sanction order and whether the Sanction authority gave the same is valid. The sanction order Ext. PW6/A was accorded by Vivek Gogia IPS, who was holding the position of Additional Deputy Commissioner of Police at the relevant time. A bare reading of Section 12 and Section 21 of the Delhi Police Act, 1978 makes it clear that the Additional Deputy Commissioner of Police is empowered to appoint as well as order removal from service of officers of subordinate rank, which includes



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constables. Since the test under Section 19(1)(c) of the PC Act is whether the sanctioning authority is competent to remove the accused from office, and since that power expressly vests in the Addl. DCP under the abovesaid statute, Vivek Gogia IPS was fully competent to accord sanction *vide* Ext. PW6/A Sanction order.

26. In light of the aforesaid discussion, I find no infirmity in the impugned judgement calling for an interference by this court.

27. In the result, the appeal, *sans* merit, is dismissed.

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

**CHANDRASEKHARAN SUDHA
(JUDGE)**

APRIL 27, 2026/kd/mj/rs