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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
SANJAY KUMAR; J., K. VINOD CHANDRAN; J.
Special Leave Petition (Crl.) No. 1808 of 2026; April 15, 2026
The State of Kerala *versus* **K.A. Abdul Rasheed**

Prevention of Corruption Act, 1988 – Sections 7, 13(1)(d), 13(2), and 20 – Conviction Restored – Hostile Witness – Efficacy of Testimony – The Supreme Court set aside the High Court's acquittal, holding that the testimony of a hostile witness cannot be discarded in toto if certain portions remain creditworthy - Even if a complainant prevaricates or turns hostile regarding the specific demand at the time of the trap, the prior demand established through the First Information Statement (FIS), affirmed in court and corroborated by independent witnesses, is sufficient to bring home the guilt of the accused.

Prevention of Corruption Act, 1988 – Demand and Acceptance – Proof of Demand – While proof of demand is a sine qua non for conviction, it can be inferred from the overall evidence and the conduct of the parties - Noted that the accused admitted to accepting the money but provided a false and inconsistent explanation (claiming it was a loan repayment), which serves as a compelling circumstance pointing toward guilt - The evidence of a person allowed to be cross-examined by the party who called him is not "washed off the record" - The Judge of fact must determine if the witness is thoroughly discredited or if parts of the testimony remain believable in light of other evidence. *[Relied on Neeraj Dutta v. State (NCT of Delhi) (2023) 4 SCC 731; Sat Paul v. Delhi Administration (1976) 1 SCC 727; Paras 11-18]*

For Petitioner(s) Mr. Raghenth Basant, Sr. Adv. Mr. Harshad V. Hameed, AOR Mr. Dileep Poolakkot, Adv. Mrs. Ashly Harshad, Adv. Mr. Mahabir Singh, Adv. Mr. Muhammed Siddick, Adv. Ms. Hima Bhardwaj, Adv. Ms. Kaushitaki Sharma, Adv. Dr. Arunender Thakur, Adv.

For Respondent(s) Mr. P.B Suresh Kumar, Sr. Adv. Mr. Pranav Krishna, AOR Mr. Akhil Suresh, Adv. Mr. Pattathil Pranav Menon, Adv

JUDGMENT

K. VINOD CHANDRAN, J.

Leave granted.

2. We have before us, divergent findings in a prosecution initiated under Section 7 and 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988[1]. The trial court convicted the accused and imposed a sentence of two years both under Section 7 and Section 13(1)(d) read with Section 13(2) to be suffered concurrently along with a fine of Rs.10,000 and default sentence under each of the two provisions. The High Court found that the prevaricating deposition of the complainant who was examined as PW1 failed to establish the necessary ingredients to prove offences under both the sections; particularly the demand. Placing reliance on the Constitution Bench decision of this Court in ***Neeraj Dutta v. State (NCT of Delhi)***[2] the accused was acquitted and the State is in appeal.

3. We heard Shri Raghenth Basant, learned Senior Counsel appearing for the State who took us through the deposition of PW1 to argue that though inconsistent statements were made, there was sufficient oral evidence regarding the demand and the acceptance

[1] 'the Act'
[2] (2023) 4 SCC 731

stood proved by the evidence of PW1 corroborated by that of PW2 an independent witness and PW17, the officer who led the trap. The acceptance of the amount is admitted by the accused and the explanation offered was a deliberate falsehood.

4. Shri P.B. Suresh Kumar, learned Senior Counsel appearing for the respondent/accused would first urge that the presumption of innocence available to the accused stands fortified by the order of acquittal passed by the High Court. Reliance was placed on ***Jayaraj B. v. State of Andhra Pradesh***[3] wherein, it is urged, on identical facts, this Court found the demand to be not proved resulting in the acquittal of the accused. The cross examination is specifically read out to point out that the complainant had denied every line of his statement under Section 161 regarding the demand.

5. The complainant was an Authorized Ration Dealer (ARD) whose activities were subject to the control and supervision of the Civil Service Department through the Taluk Supply Office. The ARDs are required to produce the weekly accounts before the Revenue Inspector (RI) in the Taluk Supply Office and get verified the 'Abstract' of the changes in the ration cards, every three months. The 'Abstract' is a copy of a register maintained at the Taluk Supply Office, kept in the ration shop, which is required to be verified by the RI and then countersigned by the Taluk Supply Officer (TSO). The accused was the TSO responsible for the ARD run by the complainant who consistently refused to countersign the 'Abstract' and as per the prosecution case demanded a bribe of Rs.500/- which was handed over pursuant to a trap laid. The High Court found that the demand was not established by the evidence of PW1 and one of the independent witnesses who had accompanied the complainant into the cabin of the TSO, wherein the handing over of the note took place, had not been examined; thus creating a lacuna insofar as no direct evidence of a demand having been adduced. There was also no proof of an offer made by the complainant to the accused at the time of handing over, which, in the absence of a demand is a necessary ingredient under Section 7. The demand though alleged to have been made, the complainant turned hostile at the trial. These were the grounds on which the acquittal was ordered by the High Court.

6. The deposition of the complainant PW1 in the translation has been read over to us and that produced by the respondents/accused in the vernacular was read by one of us (KVC, J.), who is conversant with the language. As per the deposition of PW1 when the 'Abstract' was produced before the TSO, who is the accused, identified from the dock, he refused to so to do. Again, the TSO refused to countersign the 'Abstract' in the next week also when the complainant was informed by other ration dealers that the TSO would countersign only if he is given a bribe which was specified to be Rs.500/-. The statement made before the Vigilance that there was a demand of Rs.500/- from the accused, when confronted to PW1, though not denied, the answer was that the complainant was informed that the refusal to countersign was since he had not given a bribe. There were inconsistent statements made which we will come to a little later.

7. The fact that the complainant had approached the vigilance department was not denied. It was also the statement of PW1 that he had approached the vigilance department only because he was not willing to bribe the TSO to get the counter signature. The complaint having been made orally, it was taken down in hand by PW17, who read over the same to the complainant and the independent witnesses present, which stood confirmed as correct by PW1, as deposed by PW1. The pre-trap proceedings were in the presence of the independent witnesses; one an Assistant Engineer of the PWD Special

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[3] 2014 KHC 4199

Building Section and the other a Special Tahsildar, the former of whom was examined as PW2. PW1 admitted having entrusted a note of Rs.500/- with the Dy.S.P (PW17) for laying the trap, the details of which were noted in a Mahazar after which the Dy.S.P put his initials on it. The note was then covered with a powder after which, the effect of the powder coating on the test solution was demonstrated. The First Information Statement, which was the complaint taken down by PW17, was marked as Ext.P1 and the marked note was marked as M.O 1, before Court.

8. The independent witnesses along with the vigilance team proceeded to the Taluk Supply Office in two vehicles. The complainant along with the Special Tahsildar, the independent witness went to the cabin of the TSO and handed over the money. The TSO is said to have received the note by his left hand and placed it on the right upper drawer of his table. The complainant and the independent witness walked out, and the complainant raised his hand, which was the pre-arranged signal to the trap team who rushed into the room led by PW17 and accompanied by PW2, the other independent witness. The complainant also followed the trap team into the cabin of the TSO where he saw the Dy.S.P. securing the hands of the TSO/the accused. The Dy.S.P. then introduced the independent witnesses to the accused and asked the complainant as to where the marked note was placed by the accused. On the complainant pointing out the drawer in which the note was placed, the independent witnesses opened the drawer but found no currency note inside that. On further search, from the shirt pocket of the accused certain currency notes were recovered, one of which was the marked note handed over by the complainant to the accused. The right hand of the accused was immersed in the test solution which did not evoke any result, but the left hand when immersed into the test solution, it turned pink. The shirt pocket also, on being sprinkled with the solution, turned pink which the complainant said he did not remember. There was further currency notes recovered from the trouser pockets of the accused in excess of that declared by him; which however is explained as the proceeds of the sale of tickets in connection with a boat race as deposed by PW3, the RI attached to the Taluk Supply Office, with which we are not concerned.

9. The acceptance of the marked currency note from the complainant PW1 by the accused, stands established unequivocally. The pre and post-trap proceedings also were spoken of by PW1 corroborated by both PW2 and PW17, the independent witness and the lead trap officer. The finding of the High Court was that the independent witness who accompanied the complainant to the cabin of the accused was not examined before Court. If at all there was an offer or demand of bribe for the purpose of counter signature at the time of handing over of the bribe it was he who could have deposed on that fact. The prosecution, in any event did not have a case that there was any offer made by PW1 pursuant to which the note was handed over. Thus, there was no case of any offer made by the bribe giver which along with the proof of acceptance of money could have enabled a presumption under Section 20 of the Act, to bring in the guilt of the accused under Section 7 of the Act. As far as the demand is concerned, there were prevaricating statements made by the witness, which absolved the accused, was the finding of the High Court. Before looking at the deposition of the witness, we would look at the decisions relied on.

10. ***Jayaraj B***[3] as relied on by the learned Senior Counsel for the accused was a case in which the complainant disowned the very complaint and stated in his deposition that the amount paid to the accused was with a request to deposit it with the bank as a fee for renewal of his license. The complainant having disowned the very complaint made by him and there being no other evidence available, the prosecution failed to bring home the

offence under Section 7, by the mere possession and recovery of the currency notes from the accused. The use of an illegal means and abuse of public office to obtain a pecuniary advantage also was held to be not established which is required to prove the offence under Section 13(1)(d)(i)&(ii) of the Act. Immediately, we have to observe that the facts here are quite distinct since the complaint is admitted, the pre and post trap proceedings are spoken to by the complainant and corroborated by one of the independent witnesses. Section 161 statement made by PW1, of the TSO having enquired as to whether the money was brought, confronted to PW1 by the prosecution in cross examination was denied. Probably the examination of the other independent witness, who accompanied PW1 to the cabin of the accused, would have led to credible evidence regarding the demand at the time the money was handed over. But that is not to say that the demand could not have been inferred otherwise from the deposition of PW1.

11. ***Neeraj Dutta***[2] in fact arose from a reference made with respect to divergent opinions of three Judge Benches, one of which as per the reference order was in ***Jayaraj B***[3]. ***Jayaraj B***[3] was eventually approved, but on distinct facts as we found earlier. ***Neeraj Dutta***[2] having considered the various decisions found that in establishing illegal gratification by a public servant, an offence under Section 7 is made out if there is an offer to pay, by the bribe giver, without there being any demand by the public servant who is proved to have accepted and received the illegal gratification. This ingredient on facts is absent in the present case and so was the demand at the time of handing over denied by PW1. ***Neeraj Dutta***[2] held that proof of demand and acceptance of illegal gratification by a public servant as a fact in issue is a *sine qua non* in order to establish the guilt of the public servant under Section 7 and 13(1)(d) of the Act. Hence our enquiry is confined as to whether the demand has been made, since the complaint, laying of the trap and what transpired at the trap including the acceptance of the bribe is proved beyond reasonable doubt.

12. As far as the demand is concerned, true, PW1 prevaricated in his deposition though the complaint was that a specific demand of Rs.500/- was made for the purpose of counter signing the 'Abstract'. PW1, the complainant, deposed that it was his inference that twice when the TSO, the accused, failed to countersign the 'Abstract', it was for the purpose of taking a bribe which was said to be spoken of by the other ration dealers also. As is noticed by the High Court, in cross-examination the complainant affirmed every suggestion made by the defense. This is clearly with the purpose of helping the accused, especially looking at the contents of the chief-examination.

13. We pause here to notice that the Constitution Bench in ***Neeraj Dutta***[2] had specifically dealt with the efficacy of the deposition of hostile witnesses. It referred with approval to ***Sat Paul v. Delhi Administration***[4] wherein it was held:

"52. From the above conspectus, it emerges clear that even in a criminal prosecution when a witness is crossexamined and contradicted with the leave of the court, by the party calling him, his evidence cannot, as a matter of law, be treated as washed off the record altogether. It is for the Judge of fact to consider in each case whether as a result of such crossexamination and contradiction, the witness stands thoroughly discredited or can still be believed in regard to a part of his testimony. If the Judge finds that in the process, the credit of the witness has not been completely shaken, he may, after reading and considering the evidence of the witness, as a whole, with due caution and care, accept, in the light of the other evidence on the record, that part of his testimony which he finds to be creditworthy and act upon it. If in a given case, the whole of the

[4] (1976) 1 SCC 727

testimony of the witness is impugned, and in the process, the witness stands squarely and totally discredited, the Judge should as a matter of prudence, discard his evidence in toto."

[underlining supplied for emphasis]

14. With this in mind, as a matter of prudence, every court considering the deposition of a hostile witness has to look at the extent of the deposition, which is creditworthy to provide proof, of the case set up. PW1 in his evidence spoke of the refusal of the TSO to countersign the 'Abstract', which the ARD is liable to maintain in his shop. PW1 was specifically confronted with a statement that the demand of Rs.500/- was made by the accused for the purpose of passing the card register which was the statement made by him before the Vigilance Department; which though not denied, he stated he did not remember. He was then specifically confronted with a statement from his complaint that on 13.07.2009 and 20.07.2009, the accused had demanded an amount of Rs.500/-, which he affirmed and followed up with the statement that he had gone to the vigilance office to hand over the money. He spoke of the complaint having been given before PW17, Dy.S.P, and at that time, there were three to five people present there. He confirmed that the two independent witnesses, the Special Tahsildar and the Assistant Engineer were present at that time. The prosecution put a specific question as to whether the statements made, taken down and read over to him were confirmed as truthful before the witnesses, which was affirmed by him before Court. His specific answer was that he was asked whether the statements made were correct and he confirmed it. Ext. P1 complaint was confronted to him and he gave an evasive answer that whatever was in his memory he had stated to be correct. Yet another question was put to him that Ext. P1 speaks about the accused having twice demanded money from him. He confirmed that he had stated so to the independent witnesses. A further statement made in Ext. P1 that he endorsed the complaint fully to the independent witnesses as truthful was also affirmed by him.

15. PW2 who was the independent witness spoke of he being summoned to the vigilance office by 9:30 in the morning. On reaching there he found the Special Tahsildar also present there along with the Dy.S.P. and the complainant who were introduced. PW1 made an oral complaint which was taken down by the Dy.S.P. and PW1 confirmed to the independent witnesses that what has been stated by him and later read over were correct. The further trap proceedings regarding the marking of note and so on were spoken of as deposed by PW1 itself. PW17 also spoke of the complaint having been made by PW1 in the presence of the independent witness, orally, which he had taken down and read over to the complainant in the presence of the witnesses. Ext. P1 confronted to PW17 was further proved to be the FIS as recorded by PW17 on the oral recital by PW1. The statements made in Ext. P1 having been affirmed by PW1, his further statements regarding his inference, personal feelings and the denial of various statements in the Section 161 statement regarding the demand, pales into insignificance. So much of the evidence of PW1 is creditworthy and despite PW1 having accepted every suggestion made by the defense in the cross examination, the credible portion cannot be eschewed. True, PW1 prevaricated, but so much of the facts brought out by the prosecution on his examination brings forth a demand having been made by the accused to the complainant. The earlier demand, hence, stands established despite the non-examination of the other independent witness who could have only spoken of what transpired in the course of the trap.

16. We also have to emphasize that the acceptance of the Rs.500/- note is not only established but also admitted by the accused. In the cross-examination of PW1, a suggestion was made that PW1 was returning the amount taken as a loan from the

accused through one Swayam Prakash; denied by PW1. However, under Section 313 the response as extracted by the trial court indicates that the complainant had entrusted Rs.500/- to the TSO for handing it over to one Swayam Prakash, working in the same office as Office Attendant. Swayam Prakash examined as PW8 turned hostile and did not have a consistent case and his evidence was that he had borrowed money from PW1 and there was no reason for PW1 to borrow money from him. Though the accused is entitled to take inconsistent stances in defense, the explanation offered for accepting the amount cannot validly lead to a rebuttal, if the suggestion made and explanation offered are contrary and the subject of the alleged loan itself having spoken yet otherwise in his evidence. The false explanation given by the accused insofar as the acceptance is another compelling circumstance pointing to the guilt of the accused.

17. In fact, the High Court has noticed various portions in the deposition of PW1 where he admits the demand, especially certain portions of Ext. P1. The demeanor of the witness in the box, as discernible from the evidence recorded, especially his hesitance to make an answer immediately on a question being asked was also noticed by the High Court. The evidence of PW2, it was observed by the High Court, was not impeached by a shred in the cross-examination by the defense. Despite these observations, the High Court chose to find no demand having been established; according to us erroneously. The evidence of PW1 was pock marked with inconsistent versions, but it is for the court to scrutinize the same and find out whether there is anything creditworthy enabling proof of the allegation raised, which was done by the trial court.

18. Herein the demand was raised as a complaint before the vigilance and the statements to that extent made in the complainant before the Vigilance Officer in the presence of independent witnesses were affirmed by the complainant when he was examined as PW1, which PW2 the independent witness fully corroborated. This was further corroborated by the Vigilance Officer, the lead trap officer PW17, who wrote down the allegations on the oral complaint of PW1. He also spoke of the complaint having been read over to the complainant who confirmed it to himself; the scribe, and the independent witnesses present. We allow the appeal setting aside the order of the High Court and restoring the order of the trial court. Considering the fact that the sentence awarded is the statutory minimum for the offences we find no reason to tinker with the same.

19. Pending application(s), if any, shall stand disposed of.

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