2026 INSC 1031

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2137 OF 2014

JASWINDER SINGH (DEAD THROUGH LRS.) ...**APPELLANT(S)**

VERSUS

STATE OF PUNJAB ....**RESPONDENT(S)**

J U D G M E N T

UJJAL BHUYAN, J.

This appeal takes exception to the judgment and order dated 28.11.2013 passed by the High Court of Punjab and Haryana at Chandigarh (briefly 'the High Court' hereinafter) whereby the conviction and sentence of the appellant has been affirmed.

2. It may be mentioned that appellant was prosecuted under Section 7 read with Section 13(2) of the Prevention of

Corruption Act, 1988 (for short 'the PC Act' hereinafter). By the judgment and order dated 25.02.2004 in Corruption Case No. 7 of 2002, learned Special Judge, Hoshiarpur convicted the appellant under the aforesaid sections of the PC Act and sentenced him to undergo rigorous imprisonment (RI) for a period of two years and to pay a fine of Rs. 10,000/- with a default stipulation.

3. Appellant assailed his conviction and sentence before the High Court in Criminal Appeal No. S-596-SB of 2004. By the impugned judgment and order dated 28.11.2013, the High Court dismissed the appeal by affirming the conviction and sentence.

4. This Court by order dated 30.07.2014 had issued notice on the related special leave petition as well as on the application for bail. On 26.09.2014, leave was granted whereafter considering the fact that appellant was in jail for about 7 months, he was directed to be released on bail.

5. Subsequently, the appellant died. *Vide* order dated 12.10.2018 passed by the learned Chamber Judge, the

application for substitution of the deceased appellant was allowed. Consequently, the legal representatives of the deceased appellant have stepped into the shoes of the appellant to contest the appeal.

6. Prosecution case may be briefly noted.

7. At the relevant time, Jaswinder Singh was serving as a Patwari. Informant Kulwant Singh had met him for the purpose of mutation of the property of his brother in favour of his legal heirs. Allegation is that Jaswinder Singh had demanded Rs. 10,000.00 as a bribe from the informant for doing the needful. A deal was made as per which the informant would pay Jaswinder Singh Rs. 9,500.00.

7.1. Appellant Jaswinder Singh had asked the informant to visit his office on 19.04.2002 alongwith the bribe money. Informant approached the office of the Vigilance Bureau. Deputy Superintendent of Police (DSP) registered FIR on the basis of the statement of the informant and organized a raid. Informant handed over 19 currency notes in the denomination of 500 each to the DSP who returned the same to the informant after application of *phenolphthalein* powder. Informant was directed to hand over the said currency notes to the appellant on demand. One Onkar Singh was instructed to act as a shadow witness and was directed to give signal to the raiding party when the bribe money was accepted by the appellant on demand. Harnandan Singh and Balkar Singh were joined as official witnesses. Working of *phenolphthalein* powder was shown to the witnesses whereafter the DSP alongwith the other members of the raiding party left for the raid.

7.2. Informant and the shadow witness entered the office of the appellant Jaswinder Singh. Informant handed over the tainted currency notes to the appellant on demand. Appellant kept the said currency notes in the pocket of his trouser. On receipt of signal from the shadow witness, the DSP alongwith the members of the raiding party entered into the office and confronted the appellant and recovered the currency notes from the pocket of his trousers. When the fingers of the appellant Jaswinder Singh were dipped in a solution of sodium carbonate, the colour of the solution turned pink. The said solution was thereafter put and sealed in a parcel.

7.3. After completion of investigation and necessary formalities, chargesheet was presented against the appellant Jaswinder Singh for commission of offence punishable under Section 7 read with Section 13(2) of the PC Act.

7.4. In order to prove its case, prosecution examined seven witnesses whereafter appellant was examined under Section 313 of the Code of Criminal Procedure, 1973 (Cr.P.C.). Appellant also examined one defence witness in support of his plea of innocence.

7.5. *Vide* the judgment and order dated 25.02.2004, the Court of Special Judge, Hoshiarpur convicted the appellant under Sections 7 and 13(2) of the PC Act and sentenced him as above.

7.6. As noticed supra, the appeal filed by the appellant was dismissed by the High Court.

8. Before we examine the evidence tendered by the relevant witnesses, it would be useful to refer to Sections 7 and 13 of the PC Act. Section 7 as it stood at the relevant point of time dealt with public servant taking gratification other than legal remuneration in respect of an official act. Section 7, as it stood then, is extracted hereunder:

> 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 three years 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 organization, 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.

9. Section 13 of the PC Act deals with criminal misconduct by a public servant. Section 13 as it stood at the relevant time reads as under:

> 13. *Criminal misconduct by a public servant.* – (1) A public servant is said to commit the offence of criminal misconduct, -
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> (a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in section 7; or
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> (b) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or
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> (c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any

property entrusted to him or under his control as a public servant or allows any other person so to do; or

(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; or

(e) if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

Explanation- For the purposes of this section, 'known sources of income' means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant.

(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.

10. As per Section 7, 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 other than legal remuneration as a motive or reward for doing or not doing any official act or for showing or not showing in the exercise of his official function(s) favour or disfavour to any person etc. with the Central Government or State Government or any authority mentioned in the said section or with any public servant, shall be punishable with imprisonment which shall be not less than three years but which may extend to seven years and shall also be liable to fine.

10.1. There are five explanations to Section 7. As per Explanation (a), the expression 'expecting to be a public servant' refers to and is in respect of a person not expecting to be in office, who obtains a gratification by deceiving others into believing that he is about to be in office and that he would then serve them, may be guilty of the offence of cheating but would not be guilty of the offence defined in Section 7. Explanation (b) clarifies that 'gratification' is not restricted to pecuniary gratification or a gratification which is estimable in terms of money. Explanation (c) clarifies that the words 'legal remuneration' are not restricted to remuneration which a public servant can lawfully demand but will include all remuneration which a public servant is permitted to accept. The expression 'a motive or reward for doing' has been explained in Explanation (d). It says that 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 the ambit of this expression. In terms of Explanation (e), where a public servant induces a person erroneously to believe that his influence with the Government has obtained the title for that person and thus induces that person to give the public servant, money or other gratification as a reward for this service, the public servant has committed an offence under this section.

11. Sub-section (1) of Section 13, as it stood at the relevant point of time, declared that a public servant would commit the offence of criminal misconduct if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward as mentioned in Section 7. This would include any valuable thing without consideration or for a consideration which is inadequate in terms of the official transaction and would also include dishonest or fraudulent misappropriation of property.

11.1. In terms of sub-section (2), any public servant who commits criminal misconduct shall be punished with imprisonment for a term which shall not be less than one year (four years w.e.f. 16.01.2014) but which may extend to seven years (ten years w.e.f. 16.01.2014) and shall also be liable to fine.

12. 'Public servant' is a defined expression under the PC Act. As per Section 2(c), 'public servant' means and includes any person in the service or pay of the Government or recommended by the Government by fees or commission for the performance of any public duty; any person in the service or pay of a local authority etc.

13. This Court in *P. Satyanarayana Murthy Vs. State of A.P.*[1] held that proof of demand of illegal gratification is the gravamen of the offence under Sections 7 and 13(1)(d)(i) and (ii) of the PC Act; in absence thereof, the charge would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, *dehors* the proof of demand, *ipso facto* would thus not be sufficient to bring home the charge under the aforesaid two sections of the PC Act. Therefore, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Sections 7 or 13 of the PC Act

[1] (2015) 10 SCC 152

would not entail his conviction thereunder. This Court held thus:

> 23. The proof of demand of illegal gratification, thus, is the gravamen of the offence under Sections 7 and 13(1)(d)(i) and (ii) of the Act and in absence thereof, unmistakably the charge therefor, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, *dehors* the proof of demand, *ipso facto*, would thus not be sufficient to bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Section 7 or 13 of the Act would not entail his conviction thereunder.

14. A Constitution Bench of this Court in *Neeraj Dutta Vs. State (Government of NCT of Delhi)*[2] considered the following question for determination:

> Whether, in the absence of evidence of complainant/direct or primary evidence of demand of illegal gratification, is it not permissible to draw an inferential deduction of culpability/guilt of a public servant under Section 7 and Section 13(1)(*d*) read with

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Section 13(2) of the Prevention of Corruption Act, 1988 based on other evidence adduced by the prosecution?

14.1. After analyzing various decisions of this Court as well as provisions of the Indian Evidence Act, 1872 and the PC Act, the conclusions have been summarized 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 Act.
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> 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.
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> 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.
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> 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 Section 13(1)(*d*)(*i*) and (*ii*), respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe-giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when

> accepted by the bribe-giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Sections 13(1)(*d*)(*i*) and (*ii*) of the Act.

14.2. Thus among other things what the Constitution Bench declared was that proof of demand and acceptance of illegal gratification by a public servant is the *sine qua non* to establish the guilt of the public servant under Sections 7 and 13 (1) (d) (i) and (ii) of the PC Act. An offer by the bribe giver and the demand by the public servant have to be proved by the prosecution as a fact in issue for conviction under Sections 7 and 13(1)(d)(i) and (ii) of the PC Act.

14.3. Following the discussions and the conclusions arrived at, the Constitution Bench answered the question framed in the following manner:

> In the absence of evidence of the *complainant* (direct /primary, oral/documentary evidence) it is permissible to draw an inferential deduction of culpability/guilt of a public servant under Section 7 and Section 13(1)(*d*) read with Section 13(2) of the Act based on *other evidence* adduced by the prosecution.

15. A two-Judge Bench of this Court in *Aman Bhatia Vs. State*[3] was considering challenge to the conviction of a stamp vendor under Sections 7 and 13(1)(d) read with Section 13(2) of the PC Act. After holding that stamp vendor is a public servant within the meaning of the PC Act, the Bench examined the legality and validity of his conviction under the aforesaid provisions of the PC Act. In that context, the Bench held that mere recovery of tainted money, by itself, is insufficient to establish the charges against an accused under the PC Act. To sustain a conviction under Sections 7 and 13(1)(d) of the PC Act, it must be proved beyond reasonable doubt that the public servant voluntarily accepted the money, knowing it to be a bribe. The demand for a bribe is *sine qua non* for establishing an offence under Section 7 of the PC Act. It has been held as under:

> 52. It is well-settled that mere recovery of tainted money, by itself, is insufficient to establish the charges against an accused under the PC Act. To sustain a conviction under Sections 7 and 13(1)(d) of the Act respectively, it must be proved beyond reasonable

[3] 2025 SCC OnLine SC 1013

> doubt that the public servant voluntarily accepted the money, knowing it to be a bribe. The courts have consistently reiterated that the demand for a bribe is *sine qua non* for establishing an offence under Section 7 of the PC Act.

15.1. The Bench also referred to the five-Judge Bench decision of this Court in *Neeraj Dutta* which has categorically held that an offer by a bribe-giver and the demand by the public servant have to be proved by the prosecution as a fact in issue for conviction under Sections 7 and 13((1)(d)(i) and (ii) of the PC Act. Mere acceptance of illegal gratification without proof of offer by the bribe-giver and demand by the public servant would not make an offence under Sections 7 and 13(1)(d)(i) and (ii) of the PC Act.

15.2. After a thorough analysis of the legal position, the Bench held as follows:

> 55. From the above exposition of law, it may be safely concluded that mere possession and recovery of tainted currency notes from a public servant, in the absence of proof of demand, is not sufficient to establish an offence under Sections 7 and 13(1)(d) of the PC Act respectively. Consequently, without evidence of

demand for illegal gratification, it cannot be said that the public servant used corrupt or illegal means, or abused his position, to obtain any valuable thing or pecuniary advantage in terms of Section 13(1)(d) of the PC Act.

16. Coming to the facts of this case, informant Kulwant Singh deposed as PW-1. His deposition was more or less on the lines of the complaint. In his examination-in-chief, he has stated that Satwinder Kaur, widow of his brother Chain Singh, had approached the Naib Tehsildar i.e. the appellant for mutating the land of her deceased husband in the name of his legal heirs. She moved the application on 13.03.2002 which was marked to the appellant who in turn demanded bribe for doing the needful. After negotiations, the bribe amount was fixed at Rs. 9,500.00.

16.1. PW-1 met his friend Onkar Singh at the village bus stop and narrated to him about the demand for bribe by the appellant. On his advice, both of them went to the office of the Deputy Superintendent of Police (DSP), Vigilance Bureau, where he lodged the complaint.

16.2. He deposed that 19 currency notes of the denomination of Rs. 500.00 were handed over by him to the DSP which were powdered with the chemical whereafter those were handed back to him. Thereafter, a raid was arranged on 19.04.2002. PW-1 stated that as planned he had handed over the tainted currency notes to the appellant on demand. When PW-2 Onkar Singh gave the signal, the raiding party led by the DSP entered into the office of the appellant and apprehended him. The currency notes were recovered from the pocket of his trousers and when dipped in the solution, the colour of the solution turned pink.

16.3. PW-1 reiterated the same thing in his cross-examination. He admitted that Onkar Singh, PW-2, and Harnandan Singh, PW-4, were two of the witnesses. He also stated that PW-2, Onkar Singh, had gone out to give the signal to the raiding party when the money was handed over by him to the accused (appellant).

17. However, it is the evidence of PW-2, Onkar Singh and PW-4, Harnandan Singh, which are relevant. In his deposition

PW-2 stated that informant Kulwant Singh was known to him and that he had met him at the village bus stop where he narrated about the appellant demanding bribe for recording mutation entry of the names of the legal heirs against the estate of his late brother. He stated that it was on his insistence that Kulwant Singh reported the matter to the DSP. According to him, the DSP called two official witnesses, one of them being Harnandan Singh, PW-4. PW-2 was also made a member of the raiding party and he was told by the DSP to accompany the informant Kulwant Singh to the office of the appellant.

17.1. In his examination-in-chief, PW-2 stated that he and Kulwant Singh went to the office of the accused-appellant and sat in his office for some time. After a while, PW-2 came out of the office because the accused was showing that he was busy. According to him, he had told the vigilance party headed by the DSP waiting outside the office that it would take some time. He went inside when Kulwant Singh, PW-1, gave him the signal that he had given the money. He clarified that the money was not paid by Kulwant Singh to the accused-appellant in his presence because at that time he had come out of the office for some time.

17.2. In his cross-examination, he stated that it would be wrong to suggest that the amount of Rs. 9,500.00 was given by Kulwant Singh, PW-1 to the accused-appellant in his presence. Elaborating further, he stated that the entire vigilance party had entered the office of the appellant after the money was given by the informant to the appellant. The DSP held the appellant by both his arms whereafter search of the appellant was carried out. The entire proceedings were done by the vigilance party by themselves. PW-2 was standing behind them. So, he could not see what proceedings were conducted. Though the colour of the solution turned pink when the hands of the appellant were dipped therein, he admitted that the money was not recovered from the possession of the appellant in his presence.

18. This evidence of PW-2 matched his statement made before the police under Section 161 CrPC where it was recorded that he was informed by the vigilance party that recovery of the amount was from the shirt pocket of the accused while he was

standing behind other members of the vigilance party; in his cross-examination, he asserted that the recovery was not made in his presence. There is a contradiction in as much as PW-1 in his complaint and evidence stated that appellant had kept the bribe money in the pocket of his trousers from where it was recovered and seized. But according to PW-2, he was informed by the vigilance party that the money was seized from the shirt pocket of the appellant.

19. PW-4, Harnandan Singh, was an official witness, deputed to be a part of the raiding party under orders of the Deputy Commissioner, Hoshiarpur. In his evidence-in-chief, he stated that Kulwant Singh and Onkar Singh went inside the office of the accused-appellant. When Onkar Singh, PW-2, gave the signal then all of them (raiding party) went inside the office. The accused was apprehended whereafter the DSP recovered 19 numbers of currency notes from the front pocket of the shirt of the appellant. Particulars of the currency notes tallied with the particulars already prepared.

19.1. In his cross-examination, he stated that the money was not handed over by the informant to the appellant in his presence.

20. Though as noticed above, there are discrepancies in the evidence tendered, what is however most relevant and significant is that both PW-2 and PW-4 had deposed that the money was neither paid by the informant to the appellant nor recovered from the possession of the appellant in their presence. In fact, PW-2 categorically stated that the money allegedly paid by Kulwant Singh, the informant, to the accused-appellant was not in his presence because at that point of time, he had come out of the office. According to him, none from the raiding party saw any demand nor acceptance of the bribe money.

21. Under such circumstances, it is evident that neither the demand nor acceptance of the bribe can be said to have been proved. As a matter of fact, no one saw the appellant making the demand for bribe and no one saw PW-1 handing over the bribe money to the appellant nor acceptance of the same by the appellant. The fact situation of this case, thus, is

squarely covered by the judgments of this Court in *Satyanarayana Murthy*, *Neeraj Dutta* and in *Aman Bhatia.*

22. That being the position, the conviction and sentence of the appellant Jaswinder Singh cannot be sustained. Accordingly and in the light of the above, the impugned judgment and order of the learned Special Judge, Hoshiarpur dated 25.02.2004 in Corruption Case No. 7 of 2002 as affirmed by the High Court *vide* the judgment and order dated 28.11.2013 are hereby set aside. It is declared that the charge framed against Jaswinder Singh under Sections 7 and 13(2) of the PC Act could not be proved. Jaswinder Singh is thus cleared of the said charges.

23. Consequently, the appeal is allowed.

………………………..J.
[UJJAL BHUYAN]

…………………………..J.
[ARUN PALLI]

NEW DELHI;
SEPTEMBER 22, 2026.