
(2011) 179 DLT 613 : (2011) 5 RCR(Criminal) 836

Delhi High Court

Case No: Criminal Appeal 56 of 2003

Suresh Chand Joshi

APPELLANT

Vs

CBI

RESPONDENT

Date of Decision: April 21, 2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) " Section 313, 374#Prevention of Corruption Act, 1947 " Section 20#Prevention of Corruption Act, 1988 " Section 13(1), 13(2), 7

Citation: (2011) 179 DLT 613 : (2011) 5 RCR(Criminal) 836

Hon'ble Judges: Rajiv Shakdher, J

Bench: Single Bench

Advocate: Anurag Jain, for the Appellant; Sonia Mathur and Sushil Kumar Dubey, for the Respondent

Judgement

Rajiv Shakdher, J.

The present appeal u/s 374 of the Code of Criminal Procedure, 1973 (here in after referred to as the "Code") is

directed against the judgment dated 07.01.2003 passed by Shri M.L. Sahni, Special Judge, Tis Hazari Court, Delhi in CC No. 136/1999.

2. By virtue of the impugned judgment, the Appellant has been convicted for offences u/s 7 and Section 13(2) read with Section 13(1)(d) of the

Prevention of Corruption Act, 1988 (hereinafter referred to as the "P.C. Act"). In respect of offences u/s 7 of the P.C. Act, the Appellant has

been sentenced to simple imprisonment for a period of two years and a fine of Rs. 5,000/-. In default of payment of fine, the Appellant is required

to undergo a further period of incarceration (i.e., simple imprisonment) for a further period of two months. In so far as the Appellant's conviction

u/s 13(2) read with Section 13(1)(d) of the P.C Act is concerned, he has been sentenced to undergo simple imprisonment for a period of three

years in addition to a fine of Rs. 10,000/-. In default of payment of fine, the Appellant is required to undergo a further period of simple

imprisonment for a period of three months. The case of the prosecution is briefly as follows:

2.1. Based on a written complaint of one Sh. Kulwant Singh (PW-1) dated 06.12.1991 (Ex. PW1/C) that the Appellant had demanded a bribe of

Rs. 10,000/- as illegal gratification for forbearing from demolishing his house situate at 260-B, Gali No. 4, New Lahore Colony, Shastri Nagar,

Delhi; a trap team was set up after due verification of the ingredients of the complaint.

2.2. The complainant Kulwant Singh (PW-1) had alleged that the Appellant had demanded the bribe in two installments of Rs. 5,000/- each. The

first installment was to be paid on that very date i.e., 06.12.1991 and the second installment were to be paid on 09.12.1991. The complaint also

makes a reference to the fact that the Appellant had met him a couple of days before the material date i.e., 06.12.1991, when similar threats had

been made.

2.3. This complaint was received by the Superintendent of Central Bureau of Investigation (in short, "CBI"), ACB, Delhi. The complaint was

marked to Inspector Ramesh Kumar (PW-9). Immediately thereafter, a trap team was formed. In the trap team, two independent witnesses i.e.,

Nankoo Ram (PW-4) and Ved Pal Singh (PW-5); the employees of Ministry of Civil Supplies & Public Distribution, were also included. Both

independent witnesses were shown the complaint dated 06.12.1991 (Ex. PW1/C).

Nankoo Ram (PW-4) and Ved Pal Singh (PW-5) after going

through the complaint, satisfied themselves as regards the ingredients of the complaint by interacting with the complainant Kulwant Singh (PW-1).

2.4. The complainant, who had brought a sum of Rs. 5,000/- in the form of 50 notes of a denomination of Rs. 100/- each had their numbers

recorded in the annexure (Ex.PW1/B) appended to the Handing over Memo (Ex. PW1/A) in the presence of Inspector Ramesh Kumar (PW-9)

and the two independent witnesses i.e., Nankoo Ram (PW-4) and Ved Pal Singh (PW-5) amongst others. One of the members of the trap team

also gave all those present including the said independent witnesses, a practical demonstration as to how the trap would operate. Resultantly, the

said currency notes amounting to Rs. 5,000/- (hereinafter referred to as "GC notes") brought by the complainant Kulwant Singh (PW-1) were

treated with phenolphthalein powder. Nankoo Ram (PW-4) was then asked to touch the treated GC notes with his left hand and then dip the same

in a freshly made colorless solution of sodium carbonate . The colorless solution of sodium carbonate turned pink. It was explained to all

concerned including the said independent witnesses that the colorless solution of sodium carbonate turns pink on coming in contact with

phenolphthale in powder, which was smeared on the left hand of Nankoo Ram. After the demonstration was over, the pink solution was

discarded. The complainant, Kulwant Singh (PW-1) kept the treated GC notes in the right side pocket of his trouser. It was explained to the

complainant Kulwant Singh (PW-1) that he was to hand over the same to the Appellant only on a specific demand made by him. Ved Pal Singh

(PW-5), was assigned the role of a shadow witness and thus instructed to stay close to the complainant Kulwant Singh (PW-1) so that he would

be able to observe the transaction which may take place between the complainant Kulwant Singh (PW-1) and the Appellant. Ved Pal Singh (PW-

5) was also told to signal the completion of the transaction by scratching his head with his right hand.

2.5. With the aforesaid done, a trap bag was prepared which contained empty glass bottles, glass tumblers, sodium carbonate powder, sealing

material and CBI seal amongst others. The excess phenolphthalein powder was returned to the malkhana. The trap team carried with it a sum of

Rs. 200/- to meet incidental expenses, if any, on the way.

2.6. Having completed the preparatory work to execute the trap, the members of the trap team washed their hands so that traces, if any, of

phenolphthalein powder were removed. The members of the trap team subjected each other to a search; having completed the search proceeded

to execute the trap. The pre-tap proceedings as they transpired, in the office of the CBI, were recorded in a Handing Over Memo (Ex. PW1/A).

As indicated above, the numbers of the GC notes were recorded in an annexure appended to the said Handing Over Memo.

2.7. The trap team left their office at about 12.30 p.m. to reach Shastri Nagar, where the Appellant was supposed to be available. On reaching the

main road at Shastri Nagar, the members of the trap team disembarked from the vehicle; while the complainant and the shadow witness proceeded

to the place where the Appellant was to meet the complainant Kulwant Singh (PW-1), the other members of the trap team followed them even

while maintaining a respectful distance from the duo.

2.8. On the way, the complainant Kulwant Singh (PW-1) met another employee of Delhi Development Authority (in short, DDA) one Purshotam

Dass Dixit (PW-3) who directed them to the post office. On entering the post office, the complainant Kulwant Singh (PW-1) sat on the bench next

to a counter where postage stamps were sold. Within a short while the Appellant entered the post office and approached the complainant Kulwant

Singh (PW-1). On receipt of a pre-arranged signal from the shadow witness, Ved Pal Singh (PW-5), the other members of the trap team entered

the post office. The members of the trap team after disclosing their identity and challenging the Appellant that he had demanded and accepted a

bribe of Rs. 5,000/- from the complainant Kulwant Singh (PW-1) caught hold of his wrist. On being informed by the shadow witness Ved Pal

Singh (PW-5) that the Appellant had kept the treated GC notes in his right side trouser pocket, Nankoo Ram (PW-4) was asked to search the

Appellant. On doing so, Nankoo Ram (PW-4) recovered the treated GC notes. The serial numbers of the treated GC notes were tallied by both

independent witnesses i.e., Nankoo Ram (PW-4) and Ved Pal Singh (PW-5) with those given in the annexure Ex. PW1/B. After they had

confirmed the fact that the numbers of the treated GC notes, which had been recovered tallied with numbers available with them; a solution of

sodium carbonate was prepared in a glass tumbler. The right hand of the Appellant was dipped in the said solution. On the Appellant's right hand

coming in contact with the said solution, it turned pink. Since the treated GC notes were kept by the Appellant in his right side trouser pocket, a

similar exercise was carried out vis-à-vis the right side trouser pocket of the Appellant and an identical result emerged i.e., the colorless solution

of sodium carbonate turned pink on coming in contact with the affected part of the trouser worn by the Appellant.

2.9. The results of both solutions was transferred into two separate empty bottles. The bottles were corked and wrapped with cloth, with the seal

of CBI affixed on them. The right hand wash of the Appellant was labeled as RHW, while the trouser wash was labeled as RSPPW. The

independent witnesses Nankoo Ram (PW-4) and Ved Pal Singh (PW-5) appended signatures on the cloth wrappers, labels as well as the inner

lining of the right side trouser pocket of the Appellant. The impression of the CBI seal was taken on the recovery memo (Ex. PW1/E), which was

prepared in the presence of all including the said two independent witnesses. The proceedings which transpired were recorded in the recovery

memo (Ex. PW1/E). A personal search of the Appellant was also carried out and a memo being Ex. PW1/D was generated, on which the

signatures of the Appellant were obtained. The CBI seal was, however, handed over to Nankoo Ram (PW-4) for safe custody. The statements of

the complainant Kulwant Singh (PW-1), Nankoo Ram (PW-4) and Ved Pal Singh (PW-5) were also recorded.

2.10. Post the execution of the trap, reports of the chemical analyzer was also received, which established the presence of phenolphthalein powder

on the hand of the Appellant as well as in the right side pocket wash of the trouser worn by the Appellant.

3. Thereafter, steps were taken to obtain sanction of the competent authority i.e., Sh. S.P. Jakhanwal (PW-7), who was the Vice-Chairman of the

DDA, at the relevant point in time. Based on the material placed before Sh. S.P. Jakhanwal (PW-7), which included the FIR, the copies of

memos, statements of witnesses and investigation report he accorded sanction for prosecution of the Appellant which was forwarded along with a

letter dated 03.08.1992 under the signatures of Sh. U.S. Rawat, Addl. Director (Vigilance), DDA. The sanction order being Ex. PW7/A.

3.1. Resultantly, a charge-sheet was filed against the Appellant. The trial court after taking cognizance of the same, summoned the Appellant and

framed charges against the Appellant in respect of the offences referred to above.

3.2. After completion of the trial, the trial court vide the impugned judgment has convicted the Appellant. In convicting the Appellant, the trial court

has relied upon, essentially, amongst others, the testimony of the complainant Kulwant Singh (PW-1), the testimony of Inspector Ramesh Kumar,

TLO (PW-9), forensic evidence in the form of the report (PW2/A) and the statutory presumption, which is available where acceptance of bribe

money is established u/s 20 of the P.C. Act.

4. Before me, the impugned judgment has been assailed by Sh. Anurag Jain, Advocate, who appears for the Appellant, while in rebuttal,

arguments have been advanced by Ms. Sonia Mathur, who appears for the State/CBI.

4.1. Mr. Jain has stated that there are far too many inconsistencies in the testimony of the witnesses produced by the prosecution. It was submitted

that the said two independent witnesses i.e., Nankoo Ram (PW-4) and Ved Pal Singh (PW-5) had turned hostile and not supported the case of

the prosecution.

4.2. To demonstrate, inconsistencies in the testimony of prosecution witnesses, Mr. Jain drew my attention to the testimony of Inspector Ramesh

Kumar, TLO (PW-9) and that of the shadow witness Ved Pal Singh (PW-5). In this regard, he also referred to the testimony of the complainant

Kulwant Singh (PW-1). Particular emphasis was laid on that part of the testimony where the complainant Kulwant Singh (PW-1) adverted to a

conversation which took place between him and the Appellant. The relevant portion of the testimony referred to as follows:

S.C. Joshi: paisa laye ho

Myself: Han Laya hun.

S.C. Joshi: Jaldi Layo

Myself: Itni Jaldi bhi kaya hai. Baithai ek kap chai pilate hun. Aise na ho ki ap paise lekar pher meri jamin per bulldozer pher den.

S.C. Joshi: Aise nahin, hamari jaban hoti hai. Hum bulldozer nahi pherein gain - jaldi paise layo.

Thereafter, I took out Rs. 5,000/- from my pant pocket (right side) and gave that money to accused S.C. Joshi. Accused S.C. Joshi asked me

how much is the amount to which I replied it is Rs. 5,000/-. I do not remember as to by which hand the accused accept that amount but after

accepting the same, he kept the same in his pant pocket he kept those currency notes. Thereafter, accused asked me:

Tum jail jayo, or baki jo panch hazar rupaye hai wo somvar ko mujhe de dena, 09.12.1991 ko de dena to which I replied:

Baitho jaldi kaya hai, ek kap chaye ap ko pilatey hain.

Accused replied that, ""Nahi chaye phir kise din piye gain.

Thereafter, I gave the pre appointed signal and immediately, thereafter Ved Pal caught hold of the wrist of the accused and other members of trap

party also reached there and they caught hold the accused. CBI officials asked me as to by which hand accused had accepted the money to which

I replied that I do not know. Inspector Ramesh asked the accused as to whether he had accepted bribe from me to which accused replied ""hai jai

li hai"". PW Ved Pal also told Inspector Ramesh that accused had accepted the money (objected to by the accused). Pant pocket of the accused

was searched but I do not remember as to who took out the currency notes from the pant pocket of the accused. During the search of the pant

pocket, tainted currency notes of Rs. 5,000/- were recovered and they were in the denomination of Rs. 100/- each. PW Ved Pal and Nanku Ram

and other members of trap party compared those tainted currency notes with handing over memo and the numbers of currency notes were tallied.

Thereafter, one hand of the accused was dipped in a colorless solution and that solution turned into pink color. However, I cannot say as to which

hand of the accused was dipped in that solution. That solution was transferred into a clean empty bottle and was sealed identification label was

pasted on that bottle.

4.3. The learned Counsel submitted that as against what PW-1 had stated, a perusal of testimony of the shadow witness Ved Pal Singh (PW-5)

would show that at the relevant point in time he was actually standing in the tea shop near the post office and not inside the post office contrary to

what was sought to be portrayed by the complainant Kulwant Singh (PW1). Therefore, the complainant, Kulwant Singh (PW-1) being interested

witness his testimony as to what transpired inside the post office could not be given credence to by the court.

4.4. In so far as the recovery of treated GC notes was concerned, Mr. Jain also pointed out to that part of the testimony of inspector Ramesh

Kumar (PW-9) wherein he was asked as to what transpired when, evidently, the Appellant was confronted with the fact that he had demanded

and accepted bribe from the complainant Kulwant Singh (PW-1). According to inspector Ramesh Kumar (PW9) the Appellant had kept mum,

whereas the complainant Kulwant Singh (PW-1) had stated that the Appellant had responded by saying: ""hanji liye hai"".

4.5. Mr. Jain drew my attention to the fact that while the complainant Kulwant Singh (PW-1) stated in his testimony that he did not remember as to

who took out the treated GC notes from the right side trouser pocket of the Appellant; Inspector Ramesh Kumar, TLO (PW-9) had emphasized

in his testimony that the search was carried out by Nankoo Ram (PW-4), who had recovered the said treated GC notes from the right side trouser

pocket of the Appellant.

4.6. Based on the above, it was argued that neither the demand nor recovery of the treated GC notes was established and hence, the case of the

prosecution ought to have failed.

4.7. Learned Counsel further argued that no motive could be attributed to the Appellant to demand or accept the bribe since the Appellant was in

no position to demolish the house of the complainant Kulwant Singh (PW-1); an allegation which formed the substratum of the prosecution's case.

4.8. The Appellant was only, according to the learned Counsel, in charge of fencing the land, which was proximate to the house of the

complainant. Mr. Jain laid stress on the fact that the complainant Kulwant Singh (PW-1) was motivated by malice in as much as he had acted at

the behest of one, Mool Chand Gaur, who was a known land grabber. The complainant Kulwant Singh (PW-1) was a local leader who had been

instigated by the said Mool Chand Gaur to lodge a complaint against the Appellant since the Land Protection Branch of the DDA had demolished

illegal structures which had come up on the land belonging to the Government, and one such structure, was in illegal occupation of the said Mool

Chand Gaur.

4.9. In this regard, the learned Counsel referred to the statement of the Appellant recorded under the provisions of Section 313 of the Code.

5. Mr. Jain also submitted that the presumption u/s 20 of the P.C. Act would only arise if the prosecution was able to discharge its initial burden. In

the instant case, it was Mr. Join's submission, the prosecution had miserably failed to discharge even its initial burden and hence, the trial court had

erred in invoking the provisions of Section 20 of the P.C. Act. Mr. Jain in support of his submissions, relied upon the judgment of the Supreme

Court in the case of Banarsi Dass Vs. State of Haryana, .

6. Ms. Sonia Mathur, on the other hand, has largely relied upon the impugned judgment in response to the submissions of the learned Counsel for

the Appellant. She specifically laid specific emphasis on the testimony of Inspector Ramesh Kumar, TLO (PW-9). It was submitted that once the

court is convinced that the testimony of Inspector Ramesh Kumar, TLO (PW-9) is credible; then there would be no impediment in law in

convicting the Appellant solely on such testimony. It was submitted that the corroboration of the TLO's testimony is not a rule of law but a rule of

prudence.

6.1. Ms. Mathur also drew my attention to the relevant part of the testimony of the complainant Kulwant Singh (PW-1) to establish the fact that

not only had he proved the complaint lodged by him and thus, established the initial demand, but by his deposition in court, established the

subsequent demand and acceptance of bribe by the Appellant, on 06.12.1991.

6.2. Ms. Mathur submitted that the discrepancies pointed out by the learned Counsel for the Appellant were minor, which did not in any manner

dilute the main charge against the Appellant, which was that he had demanded and accepted the bribe from the complainant Kulwant Singh (PW-

1), and the fact that the treated GC notes were recovered from him. Ms. Mathur submitted that once the recovery is established then, the court is

entitled to draw a statutory presumption in terms of Section 20 of the P.C. Act. In this regard, she drew my attention to paragraph No. 38 of the

impugned judgment.

6.3. Ms. Mathur submitted that the argument that there was no motive since the Appellant was not in the position to demolish the house of the

complainant Kulwant Singh (PW-1) is belied on perusal of the testimony of S.K. Sood (PW-6). She submitted that a reading of the testimony of

PW-6 would show that the Appellant was in a position to convey to the complainant Kulwant Singh (PW-1) an impression that demolition of

structures such as the Appellant's house was within the ambit of his job function. In support of her submission, the learned Counsel relied upon the

judgment of the Kerala High Court in Dr. V. Sebastian v. State 1998 Cri. L.J. 1150. A particular emphasis was made on the observations made in

paragraph No. 8 of the said judgment at page No. 1151.

7. I have heard the learned Counsel for both the Appellant as well as the State (CBI) and also perused the evidence placed on record. The

prosecution, in order to prove its case, had examined nine (9) witnesses. The Defendant except for making a statement u/s 313 of the Code has

not examined any witness. As is usual in such like cases what would be crucial to the prosecution's case is its ability to establish demand and

acceptance of alleged bribe by the Appellant as also its recovery. The learned Counsel for the Appellant has submitted (as noticed hereinabove by

me) that none of these ingredients, which are necessary for conviction of the Appellant, have been established in this case. Therefore, in my view,

what would be necessary is to examine the testimony of witnesses which are crucial to the case of the prosecution from this angle.

7.1. Therefore, first in line, is the testimony of the complainant Kulwant Singh (PW1).

7.2. Complainant Kulwant Singh (PW1) in his examination-in-chief has stated that his wife owned a house bearing No. 260-B, Gali No. 4, New

Lahore Shastri Nagar, Delhi which was purchased in the year 1989. The Appellant evidently was getting some fencing work done on the land

which was in close proximity to the aforementioned house of the complaint. This work was being carried out by the Appellant for about 15-20

days and he seems to have approached the complainant Kulwant Singh (PW1) 2-3 days prior to 06.12.1991. Evidently, the Appellant came

across the complainant Kulwant Singh (PW1) when he purportedly conveyed to him that his house would be razed to the ground; to which the

complainant Kulwant Singh (PW1) stated that he was a poor man and that he should refrain from doing so. The complainant Kulwant Singh

(PW1) in his testimony goes on to say that thereafter on 06.12.1991 at about 10.00 a.m. the Appellant was seen standing outside his house, which

is when, the complainant Kulwant Singh (PW1) approached him. At this point it appears that the Appellant informed him that he would raze his

house to the ground if he did not pay him Rs. 10,000/-. As on the earlier occasion, the complainant Kulwant Singh (PW1) made protestations that

since he was poor, the Appellant should have mercy on him. At this point of time the Appellant, evidently told the complainant Kulwant Singh

(PW1), that he should pay him Rs. 5000/- by 10.00 o'clock the same day, and the balance sum of Rs 5000/- by 09.12.1991. The Appellant,

evidently, further went on to threaten the complainant Kulwant Singh (PW1) that if, the money was not received then, i.e., by 09.12.1991 he

would dispatch a report to his superiors, which would result in the complainant's house being demolished. These assertions have also been made

by the complainant Kulwant Singh (PW1) in his complaint (Ex. PW1/C); the contents of which the complainant went on to prove in his deposition

in court as also the fact that it was in his hand writing and bore his signatures at point "A".

7.3. The complainant Kulwant Singh (PW1) further went on to state that being under threat of demolition, he went straight to the CBI office where,

he lodged a complaint; to which reference is made by me hereinabove. At his request a FIR (Ex. PW9/A) was registered on the same date at

about 11.00 a.m.

7.4. The complainant Kulwant Singh (PW1) went on to prove, in his examination-in-chief the prosecution's case with regard to the manner in

which the trap team was constituted, and also the inclusion of two independent witnesses, i.e., Nankoo Ram (PW4) and the shadow witness Ved

Pal Singh (PW5).

7.5. The complainant Kulwant Singh (PW1) as regards the execution of the trap had stated as follows: At about 1.00 p.m. on 06.12.1991, he

along with other members of the trap team left the office of the CBI and reached Shastri Nagar at about 1.30 p.m. where some fencing work was

being carried out. The vehicles in which they arrived were parked at some distance. He along with shadow witness Ved Pal Singh (PW5) walked

to the spot where the fencing work was being carried out.

7.6. The complainant Kulwant Singh (PW1) went on to state that on reaching the spot where the fencing work was going on he sat on a "pulia"s.

On seeing him, the Appellant came to him and told him that, since there were a lot many people around he should proceed to the post office which

was in close proximity.

7.7. To be noted, in the course of his deposition the witness, i.e., PW1 identified the Appellant.

7.8. The complainant Kulwant Singh (PW1) went on to state that between fifteen (15) minutes to half-an-hour the Appellant came to the post

office. All this while the shadow witness Ved Pal Singh (PW5) was standing outside the post office near a tea shop. The complainant Kulwant

Singh (PW1) testified that inside the post office the following conversation apparently took place between him and the Appellant:

S.C. Joshi: Paise laye ho.

Myself: Han laya hun.

S.C. Joshi: Jaldi layo.

Myself: Itni jaldi bhi kya hai, baithai ek kap chai pilata hun. Aisa na ho ke ap paise lekar pher meri jamin per bulldozer pher den.

S.C. Joshi: Aise nahin, hamari jaban hoti hai. Hum bulldozer nahin pherain gain. Jaldi paise layo.

7.9. Upon conclusion of the aforesaid conversation, complainant Kulwant Singh (PW1) testified, that he took out a sum of Rs 5000/- from the

right side pocket of his trouser and handed over the same to the Appellant; at which point the Appellant asked him as to what was the total

amount, to which the complainant (PW1) replied by saying that it was 5000/-. At this juncture the Appellant evidently told the complainant to go

away and, reminded him that he should bring the balance sum of Rs 5000/- on 09.12.1001.

8. In order to delay the Appellant, the complainant Kulwant Singh (PW1) tried to engage him in conversation by offering him a cup of tea. The

Appellant was not interested in having tea since he did not want to get detained. The complainant Kulwant Singh (PW1) made a signal suggesting

that the transaction was complete. On receiving the signal Ved Pal (PW5), shadow witness caught hold of the Appellant. The other members of

the trap team, it appears, also converged at the spot where, the Appellant and the complainant Kulwant Singh (PW1) were located.

8.1. The complainant Kulwant Singh (PW1) deposed, that on the Appellant being confronted by Ramesh Kumar (PW9) that he had demanded

and accepted bribe from the complainant, he is stated to have said: ""haan ji liye hain"". This fact, according to the complainant Kulwant Singh

(PW1), was also confirmed by Ved Pal Singh (PW5), the shadow witness.

8.2. The complainant Kulwant Singh (PW1) went on to say that thereafter the trouser pocket of the Appellant was searched, and the search

resulted in the recovery of the treated GC notes amounting to Rs 5000/-. The complainant Kulwant Singh (PW1), however, stated that he did not

recollect as to who had carried out the search of the Appellant.

8.3. The complainant Kulwant Singh (PW1) further asserted that Ved Pal Singh (PW5) and Nankoo Ram (PW4) along with other members of the

trap party had compared the serial numbers of the treated GC notes with those which had already been recorded in the handing over memo.

8.4. The complainant Kulwant Singh (PW1) also stated that the Appellant's hand was dipped in a colorless solution whereupon, it turned pink as

also the fact that the colored solution was transferred into empty bottles which was sealed thereafter. He also stated that the signatures of the

witnesses were obtained on the label as well as on the cloth wrapper with which the mouth of the bottle was sealed.

8.5. The complainant Kulwant Singh (PW1) has also deposed that a recovery memo was prepared which, amongst others, bore his signatures at

point "A". He also identified the trouser of the Appellant which was recovered on the relevant date, i.e., (Ex. P-1).

8.6. In the cross-examination he accepted the fact that he had purchased the built up house about 8-9 years ago and that before purchasing the

house he had not ascertained whether the plans for constructing the super structure had been sanctioned. The complainant Kulwant Singh (PW1)

went on to say that the Appellant was involved in the work of fencing and getting encroachment removed from the land proximate to his house.

8.7 The complainant Kulwant Singh (PW1), further, denied knowledge of any tiff between the Appellant and Mool Chand Gaur in that connection.

The complainant Kulwant Singh (PW1), however, accepted the fact that he had got one O.P. Chhikara trapped in a bribery case and that he was

the complainant in that case. He denied, however, the suggestion that the Investigating Officer (I.O.) in that case was Ramesh Kumar (PW9). He

clearly recollected that the IO in that case was one, Azad Singh.

8.8. The complainant Kulwant Singh (PW1) also accepted the fact that he had been engaged in the litigation with one Mohd. Faruq and Sh. V.K.

Sharma, Manager of Canara Bank, Krishna Nagar and that he had filed complainants against them which were pending adjudication in that court.

The complainant Kulwant Singh (PW1), however, denied that he had encroached upon the government land.

8.9. In the cross-examination the complainant Kulwant Singh (PW1) continued to maintain his stand that the Appellant had come to him on

06.12.1991 at about 10.00 a.m. He specifically denied that after his interaction with the Appellant he had gone to meet Mool Chand Gaur. The

complainant Kulwant Singh (PW1) maintained that he went straight to the office of the CBI after he had collected Rs. 5000/- from his house.

9. On a suggestion being made as to the source from which he had obtained the sum of Rs. 5000, he stated that he had withdrawn the sum from

his bank, i.e., Delhi Nagrik Sehkari Bank to purchase stocks for his shop; though he failed to recollect with precision as to whether he had

withdrawn the money on 06.12.1991 or a day prior to that date.

9.1. On being asked as to the time at which the bank opened, the complainant Kulwant Singh (PW1) replied by saying, that the bank opened at

about 8.00-8.30 a.m. in the morning.

9.2. He denied the suggestion that he had visited the office of the CBI four or five days prior to 06.12.1991 to lodge a complaint against the

Appellant. The complainant Kulwant Singh (PW1) in the cross-examination maintained that after his interaction he went straight to the CBI office

where he wrote out the complaint in his own handwriting in the presence of Inspector Ram Chander (PW8).

9.3. Furthermore, in the cross-examination, Kulwant Singh (PW1) maintained broadly that on reaching Shastri Nagar he sat on a "pulia", where he

was met by the Appellant who, asked him to go to a post office which was proximate to where they were located. He also maintained that the

Appellant entered the post office within fifteen (15) minutes to half-an-hour of his having entered the post office. He further testified to the effect

that, he was followed by the two independent witnesses and the CBI officials, to the post office. He also deposed that on entering the post office,

the Appellant came to him and said ""jaldi paise de"". The complainant further stated that they were sitting near the entrance door to the post office.

He further maintained that on completion of the transaction, he give the pre-arranged signal whereupon, the other members of the trap team

converged to the spot.

9.4. The complainant Kulwant Singh (PW1) denied having had any quarrel with the Appellant as also any knowledge of any quarrel that the

Appellant had had with Mool Chand Gaur. The complainant Kulwant Singh (PW1) went on to deny that either Mool Chand Gaur had threatened

the Appellant or he had knowledge of any such threat. The complainant specifically denied the suggestion made to him that the bribe money was

given to him by Mool Chand Gaur and that it was Mool Chand Gaur who had taken him to the CBI Office.

9.5. He did not recollect having filed any contempt petition against the Appellant on behalf of a milk society, as was sought to be suggested to him.

9.6. The complainant denied the suggestion that he had falsely implicated the Appellant in connivance with Mool Chand Gaur.

10. Let me also deal with the relevant part of the testimony of Sh. N.K. Pershad (PW-2), the Chemical Examiner. The said witness proved the

contents of the CFSL report (Ex.P2/A) and also testified to the effect that it bore his signatures at point "A".

10.1. Sh. N.K. Pershad (PW-2) testified to the effect that on 13.12.1991 he had received two sealed water bottles for chemical analyses. He

deposed that the seal on the bottle was intact, and that the seal on the bottle was the same which was appended as a specimen on the forwarding

letter signed by the Superintendent of Police, CBI.

10.2. Sh. N.K. Pershad (PW-2) further stated that the bottle mark RHW contained 175 ml. of colorless liquid having some dirty white sediment.

The said bottle was marked Exhibit 1. The other bottle which bore the mark RSPPW contained 180 ml of pink colored liquid with dirty white

sediment. This bottle was marked Exhibit 2. He went on to say that the contents of the bottles were chemically examined in the laboratory by him

and his analyses of Exhibit1 & 2 gave positive test for phenolphthalein and sodium carbonate. The remnants of the two exhibits were corked and

sealed and were returned to the office of the Superintendent of Police, CBI. In the cross examination, he did not deviate from what was said by

him in his examination-in-chief. On being asked, he reiterated that the bottle bearing the mark RHW had a solution which was colorless.

11. Let me also briefly touch upon the relevant part of the testimony of other crucial witnesses.

11.1. Purshotam Dass Dixit (PW-3) who was an employee of DDA, was working at the relevant point in time, as a mate in New Lahore Colony,

Shastri Nagar, Delhi, where evidently the trap team had reached to execute the trap laid out for the Appellant. Importantly, Purshotam Dass Dixit

(PW-3) in his testimony stated as follows:

I was on duty in New Lahore Shastri Nagar, Delhi where work of fencing was being executed. On that day, one person came to me and enquired

the whereabouts of S.C. Joshi, J.E. and S.C. Joshi had already told me that if anybody enquired about him then I should tell him that I will be

available in the post office of Shastri Nagar. When that person enquired about S.C. Joshi from me I told him that he is not available here at present

and he will be available at Shastri Nagar Post Office, and he went to post office Shastri Nagar and I left for taking medicine. XXXX by Sh. M.P.

Singh, Advocate for the accused It is correct that Sh. S.C. Joshi used to tell me daily that if anyone of his acquaintance comes and enquiries about

him he be sent to post office. It is correct that no one had ever complained or told me that the JE Sh. Joshi is harassing them or demanding any

money. It is correct that prior to 4 / 5 days of the day of trap JE S.C. Joshi had a quarrel with one Kulwant Singh over digging of trench and the

said Kulwant Singh had threatened that he will see him i.e., ""Main Tujhe Dekh Lugan Aur Nokri Karna Sikhyun Ga Tu Bhi Yad Rakhe Ga.

11.2. I am for the moment, not adverting to the testimony of Nankoo Ram (PW-4) and the shadow witness, Ved Pal Singh (PW-5). Since it has

been argued before me that both independent witnesses had turned hostile and their testimony cannot be relied upon.

11.3. Sh. S.K. Sood (PW-6), who was at the relevant time posted in the South-East Division No. 7 as the Executive Engineer, affirmed that the

Appellant was working under him at that point in time as a Junior Engineer. He testified that the Appellant was entrusted the job of getting

dimensional sketches authenticated from the land section and therefore, was assigned the work of getting the reclaimed land fenced after the

demolition was over. PW6 admitted that the contract for demolition was awarded by him and that it was the job of the Appellant, to get the work executed.

11.4. In the cross-examination, S.K. Sood (PW-6) broadly reiterated what he had said in the examination-in-chief vis-à-vis the Appellant. To a suggestion as to why the Appellant did not have a seating arrangement at the site where the demolition and fencing work was conducted, the witness (i.e., PW6) stated that since the Appellant was involved in execution of the work assigned to him as per the general practice, he would supervise the work for a few hours and attend the office of the Assistant Engineer, which was the Divisional office situate at Udai Park for further instructions.

11.5. The witness (PW6), however, did not recollect as to whether the Appellant was present at the time of demolition nor did he remember the exact date when the Appellant had taken over charge of fencing work at New Lahore Colony.

11.6. In respect of the house of the complainant Kulwant Singh (PW-1), S.K. Sood (PW-6) stated that the said house was not under his jurisdiction for the purposes of demolition.

11.7. Sh. S.P. Jhakanwal (PW-7) who was posted as a Vice-Chairman, at the relevant point in time, proved the sanction order (Ex.PW7/A).

11.8. Sh. R.K. Saini (PW-8), Dy. Superintendent of Police, CBI who was a formal witness, only deposed to the effect that he was responsible for examining the witnesses, collection of relevant records which included the report of the Chemical Examiner, and for obtaining sanction to prosecute the Appellant. He also deposed to the effect that he was instrumental in filing the charge-sheet against the Appellant.

12. This brings me to the testimony of Inspector Ramesh Kumar, TLO (PW-9), who was at the relevant point in time posted as the Inspector with Anti Corruption Branch (in short, "ACB") of CBI. The said witness detailed out in his testimony, the pre-trap proceedings and the events as they

transpired when the trap laid out for the Appellant was executed. A large part of his testimony forms the basis of the prosecution's case which I

have already adverted to in the earlier part of my judgment. The essential part of his testimony which relates to what transpired according to him on

reaching Shastri Nagar and thereafter when the trap was brought into play, for the sake of convenience, is extracted herein below:

On reaching Shastri Nagar main road, vehicles were parked and complainant and shadow witness were directed to proceed to the spot where the

accused was to meet the complainant. We all the other members of the trap party followed them incognito. On reaching Gali No. 2, New Lahore,

Shastri Nagar, we saw that the complainant had a talk with a person who was later on known to be an employee of DDA. Again the complainant

talked to him after 2/3 minutes and after that complainant and shadow witness along with the said person whose name was purushottam proceeded

towards Shastri Nagar Post Office. On reaching in front of post office, the mate Purushottam Lal left their company and the complainant sat on a

bench where the tickets etc. were being sold. After sometime, one person also went near the complainant and sat on the bench and later on it was

disclosed that he was the accused S.C. Joshi. At about 1.45 P.M. shadow witness came outside of the post office and gave pre-appointed signal

and on receipt of the signal, we all rushed towards the post office and on reaching there it was seen that the accused and complainant were

standing together.

Inspector R.V.S. Lomohar and Inspector S.K. Sinha caught hold of the accused against both respective writs. I disclosed my identify to the

accused and challenged him that he has demanded and accepted a bribe amount of Rs. 5,000/- from the complainant on which he kept mum. The

independent witness Ved Pal Singh told that the accused after accepting the bribe amount with his right hand had kept the same in his right side

pant pocket. Independent witness Nanku Ram directed to take search of the right side pant pocket of the accused for recovering of the bribe

amount and on doing so, he recovered the bribe amount. The numbers of the recovered GC notes were tallied with the Nos. noted in annexure

Ex.PW1/B by both the independent witnesses and they confirmed that the Nos. are the same.

12.1. Apart from what was stated with regard to the trap, the witness (PW9) also proved the post trap proceedings which included the factor of

the right hand fingers of the Appellant being dipped in the colorless solution of sodium carbonate; which turned pink on coming in contact with the

phenolphthalein powder smeared on to his hand. PW9 also proved the factor of the right side trouser pocket of the accused being washed in

another colorless solution of sodium carbonate, which also turned pink on coming in contact with the inner lining of the right side trouser pocket.

PW9 went on to prove that the both washes of the right hand fingers of the Appellant and the right side trouser pocket of the Appellant were

sealed and kept in separate bottles. The said washes were marked as RHW and RSPPW.

12.2. He proved the factor of the preparation of the site plan (Ex.PW4/A). The recoveries made as noted down in the Recovery Memo (Ex.

PW/E); the personal search memo of the Appellant (Ex.PW1/D), were also proved by PW9. PW9 also deposed to the effect that the said exhibits

bore his signatures.

12.3. He also testified to the effect that both the washes were sent to CFSL for chemical analyses.

12.4. He testified that the GC notes (Ex. P-2 to P-51) were the same GC notes which were recovered from the right side trouser pocket of the

Appellant by Nankoo Ram (PW-4) on his directions.

12.5. In his cross-examination, Inspector Ramesh Kumar, TLO (PW-9) refuted the suggestion that the complaint had been written at his say so.

The witness refuted the suggestion that the right hand wash (Ex.P-1) was a colorless solution.

12.6. During the course of examination of PW9, the court made an observation that ""the solution in bottle (Ex.P-1) is diluted milky white"".

12.7. The witness denied the suggestion that no money was recovered from the possession of the Appellant. PW9 accepted the fact that the

demand and acceptance of bribe by the Appellant from the complainant Kulwant Singh (PW-1) was not in his presence.

12.8. Inspector Ramesh Kumar, TLO (PW-9) identified the Appellant during the course of his deposition in court.

13. At this juncture, I would only refer to those parts of the testimony of Nankoo Ram (PW-4) and the shadow witness, Ved Pal Singh (PW-5)

which are relevant for the purposes of deposition as their testimony has been impugned on the ground that they turned hostile.

13.1. Nankoo Ram (PW-4) accepted the fact that the Handing Over Memo in respect of the pre-trap proceedings bore his signatures. Nankoo

Ram (PW-4) also accepted the fact that just outside the post office, the Appellant was met by Purshottam Dass Dixit (PW-3) who was working

as a mate with DDA and that after a short conversation with him, the complainant, Kulwant Singh (PW-1) proceeded further. He also accepted

the fact that he along with the shadow witness, Ved Pal Singh (PW-5) followed the complainant Kulwant Singh (PW-1) who proceeded towards

the Shastri Nagar Post Office.

13.2. As regards the Appellants meeting the complainant Kulwant Singh (PW-1), Nankoo Ram (PW-4) stated as follows:

I cannot say definitely that after about 5 minutes accused S.C. Joshi entered the post office and approached the complainant and after wishing the

complainant, S.C. Joshi also sat on the same bench near the complainant. (Con. With portion H to H of statement mark X where it is so

recorded). I do not remember this fact because the matter is 8/9 years old.

13.3. As regards whether the shadow witness, Ved Pal Singh (PW-5) had entered the Post Office and gave the signal, Nankoo Ram (PW-4)

stated as follows:

I cannot say definitely that shadow witness also entered into the post office. (confronted with portion J to J of mark X where it is so recorded). It is

correct that I along with other members of trap party took suitable positions around the post office. It is incorrect to suggest that shadow witness

after coming out of the post office gave pre appointed signal at about 1.45 p.m. (confronted with portion K to K of mark X where it is so

recorded). In fact, a CBI official gave the signal by waving his handkerchief to us.

13.4. To be noted while in the cross-examination by the prosecutor (on his turning hostile) the witness (PW4) had stated that he did not remember

as to whether the shadow witness, Ved Pal Singh (PW-5) had entered the post office. In the cross-examination by the counsel for the accused, he

asserted with vehemence that he and the shadow witness, Ved Pal Singh (PW-5) were outside the post office standing near a tea shop.

13.5. In so far as the shadow witness, Ved Pal Singh (PW-5) was concerned, he went to the extent of even denying that he acted as a shadow

witness, though he admitted his signatures on the Handing Over Memo (Ex.PW1/A) and the annexure (Ex.PW1/B) appended thereto. The

shadow witness, Ved Pal Singh (Ex.PW-5) accepted the fact that on 06.12.1991, he along with other members of the trap team left for Shastri

Nagar. He stated that he was told not to follow the complainant Kulwant Singh (PW-1) and that they were in fact divided into three (3) teams. He,

however, accepted the fact that the complainant, Kulwant Singh (PW-1) was asked to proceed towards a designated location in Gali no2, Shastri

Nagar, Delhi where, other employees of the DDA were engaged in the work. He accepted his signatures both on the Recovery Memo (Ex.

PW1/D), though he insisted that the signatures were appended by him on the say so of the officers of the CBI. The shadow witness, Ved Pal Singh

(PW-5) also accepted his signatures on P-52 and P-53.

14. An appraisal of the testimony of the various witnesses, to which I made out reference hereinabove, would show that the following clearly

emerges based on the evidence on record:

14.1. The Appellant was connected with the demolition work under the supervision of Sh. S.K. Sood (PW-6), who at the relevant time was

posted as an Executive Engineer, Division-7 of the DDA. The work entrusted to the team of S.K. Sood (PW-6) which included the Appellant

involved reclaiming land by fencing it after the demolition operation had been carried out. It has also emerged that the team of S.K. Sood (PW-6)

including the Appellant were in charge of fencing work near New Lahore Colony which was where the house of the complainant, Kulwant Singh

(PW-1) was located.

14.2. The house of the complainant, Kulwant Singh (PW-1) which was in his wife's name was also situate in New Lahore Colony, Shastri Nagar,

Delhi.

14.3. The complaint (Ex.PW-1/C) was lodged with the ACB of the CBI by the complainant, Kulwant Singh (PW-1) on 06.12.1991. In the

complaint, it was alleged that since the Appellant was involved in the demolition work he had threatened that his house would be demolished in

case a bribe of Rs. 10,000/- was not paid to him by the complainant, Kulwant Singh (PW-1). This part of the testimony of the complainant,

Kulwant Singh (PW-1) that he lodged the complaint on his own and that it was in his own hand writing, without being instigated by the officers of

CBI, did not get dislodged in the cross-examination of the complainant Kulwant Singh (PW-1).

14.4. The fact that a trap had been laid vis-à-vis the Appellant clearly emerges from the testimony of the complainant Kulwant Singh (PW-1)

and Inspector Ramesh Kumar, TLO (PW-9). As a matter of fact, even in the testimony of Nankoo Ram (PW-4) and the shadow witness, Ved

Pal Singh (PW-5), this fact comes through.

14.5. As to what transpired during the pre-trap proceedings is proved both by the complainant, Kulwant Singh (PW-1) as well as by Inspector

Ramesh Kumar, TLO (PW-9). The Handing Over Memo (Ex.PW1/A) and the annexure appended thereto (Ex.PW1/B) containing details of the

GC notes has also been proved both the complainant, Kulwant Singh (PW-1) and Inspector Ramesh Kumar, TLO (PW-9). As a matter of fact,

even Nankoo Ram (PW-4) and the shadow witness, Ved Pal Singh (PW-5) have accepted their signatures on the said exhibits.

14.6. The fact that thereafter the trap team including Nankoo Ram (PW-4) and the shadow witness, Ved Pal Singh (PW-5) proceeded to execute

the trap at Shastri Nagar also emerges from the testimony of these witnesses as well. It is at this point that the testimony of two independent

witnesses i.e. Nankoo Ram (PW-4) and the shadow witness, Ved Pal Singh (PW-5) takes a complete u-turn. They seemed to suggest that they

were not present in the post office where the transaction took place between the complainant Kulwant Singh (PW-1) and the Appellant.

14.7. What is, however, accepted by all the witnesses including Nankoo Ram (PW-4) and the shadow witness, Ved Pal Singh (PW-5) that the

trap team disembarked at Shastri Nagar, whereupon the complainant proceeded to a place where some workers of the DDA were collected and

engrossed in their respective work. The complainant was met by Purshotam Dass Dixit (PW-3) though the shadow witness, Ved Pal Singh (PW-

5) refuted this aspect as well. The complainant Kulwant Singh (PW-1) after having a short conversation with Purshotam Dass Dixit (PW-3)

preceded to the post office located in Shastri Nagar.

14.8. What clearly emerges from the testimony of Purshotam Dass Dixit (PW-3) is that the Appellant had informed him that if anyone came

looking for him, he was to be directed to the post office. This would, seem rather strange if the Appellant was not expecting a visitor, which in the

instant case was the complainant.

14.9. The complainant Kulwant Singh (PW-1) has made a reference to the events which took place in the post office. According to the

complainant Kulwant Singh (PW-1), the Appellant demanded the money, whereupon he tried to delay him by saying what the hurry was and he

should share a cup of tea with him. In the course of the conversation, as per the testimony of the complainant Kulwant Singh (PW-1), the treated

GC notes were handed over to the Appellant. The site plan which has been proved both by the complainant Kulwant Singh (PW-1) and Inspector

Ramesh Kumar, TLO (Ex. PW-9) would show that at the relevant point in time the shadow witness, Ved Pal Singh (Ex.PW-5) was in the post

office; though this fact has been denied both by Nankoo Ram (PW-4) as well as the shadow witness, Ved Pal Singh (PW-5).

15. Therefore, on the aspect as to what transpired between the Appellant and the complainant Kulwant Singh (PW-1), immediately after the

demand and acceptance of the bribe, we have the testimony of Inspector Ramesh Kumar, TLO (PW-9). There is a minor variation, however, as

to what the Appellant said at that stage, that is, when he was confronted with the situation that he had demanded and accepted the bribe from the

complainant Kulwant Singh (PW-1). While the complainant Kulwant Singh (PW-1) stated that the Appellant had said ""Hanji liye hai"", Inspector

Ramesh Kumar, TLO (PW-9) seemed to recollect that the Appellant had remained ""mum"". This, according to me, is an insignificant variation in

respect of the events as they transpired at that point of time.

15.1. What is significant is that both witnesses i.e., the complainant Kulwant Singh (PW-1) and Inspector Ramesh Kumar, TLO (PW-9) concur

that the trouser pocket of the Appellant was searched which resulted in the recovery of the treated GC notes. It is also emerged from the report of

Sh. N.K. Pershad, Chemical Examiner (PW-2) that Exhibit RSPPW tested positive for both phenolphthalein powder as well as sodium carbonate

solution. The complainant Kulwant Singh (PW-1) and Inspector Ramesh Kumar, TLO (PW-9) also established that when the inner lining of the

right side trouser pocket of the Appellant was dipped in the colorless solution of sodium carbonate, it had turned pink.

15.2. Keeping in mind, the aforesaid aspects of the evidence, it cannot be said that the prosecution had failed to establish a motive in respect of the

demand of bribe by the Appellant. The testimony of S.K. Sood (PW-6) clearly shows that the Appellant was in a position to at least convey the

impression to the complainant Kulwant Singh (PW-1) that he could harm his interest in as much as get his house demolished. The complainant,

Kulwant Singh (PW-1) being worried obviously approached the CBI office.

15.3. The laying of the trap and its execution has also been proved as observed by me hereinabove.

15.4. The fact that there was a demand and acceptance of the bribe has also been proved by the complainant, Kulwant Singh (PW-1). The fact

that the testimony of the complainant Kulwant Singh (PW-1) is in the nature of the testimony of an accomplice, which requires the court to examine

it closely for credibility and corroboration - would have me discarded it, if I find it otherwise credible. Having examined the testimony of the

complainant Kulwant Singh (PW-1), I find to be credible, natural and reliable in respect of the material aspects of the prosecution's case. What

lends further credence to his testimony is what followed immediately thereafter, that is, the recovery of the treated GC notes from the Appellant.

This part of the testimony stands corroborated by the testimony of Inspector Ramesh Kumar, TLO (PW-9). The CFSL report further supports the

fact that the recovery had been made from the right side trouser pocket of the Appellant. Therefore, in my view, the trial court correctly brought

into play the provisions of Section 20 of the P.C. Act to draw a presumption as regards the commission of the offence by the Appellant.

16. Before I part with the case, I would like to deal with the judgment in the case of Banarsi Das (supra) cited by the learned Counsel for the

Appellant. In Banarsi Das (supra) the facts were briefly as follows: The Appellant/accused was posted as a Patwari in a village. One Pritam Kaur

had an agricultural land in the same village. The daughter of Pritam Kaur, namely, Sat Pal Kaur informed the Appellant that in 1996 the khasra

girdawari of her mother's land were recorded in the name of one Jit Singh and others, as tenants, by the earlier patwari. The said Sat Pal Kaur had

taken up the matter with the said tenants who had accepted the wrongful inclusion of their names by the erstwhile Patwari. In this connection, Sat

Pal Kaur had also obtained no objection on the application moved by her mother for incorporating the necessary changes, in the next khasra

girdawari, in the ensuing season. It was the case of the prosecution that illegal gratification had been demanded by the Appellant for making

necessary changes in the revenue record. Evidently, the demand had been made in the presence of the taxi driver, who had been engaged by the

said Sat Pal Kaur while visiting the Appellant. A complaint was lodged by Sat Pal Kaur with the Sub-Divisional Executive Magistrate. Her

statement was recorded, and a trap was laid for the Appellant. Sat Pal Kaur produced the bribe amount of Rs 400 in denomination of Rs 100

each which were signed by the Sub-Divisional Executive Magistrate as well as the Deputy Superintendent of Police. It was the case of the

prosecution that the Appellant demanded the money and the same was accepted by him. In support of its case the prosecution had examined the

complainant Sat Pal Kaur, the taxi driver and the DSP as well as one another person. The complainant Sat Pal Kaur as well as the taxi driver, who

had accompanied her, turned hostile and were cross-examined. It is in this context that the court came to the conclusion that the benefit of doubt

had to be given to the Appellant/ accused. The court re-affirmed the principle that even if statutory presumption is drawn under the Prevention of

Corruption Act, 1947 or even u/s 20 of the P.C. Act that mere recovery of tainted notes divorced from the circumstances would not be sufficient

to convict the accused despite the presumption being available under the aforementioned provision which in any event is rebuttable (See

paragraph 26). As is evident the facts in the case of Banarsi Das (supra) are distinguishable. In the instant case the complainant Kulwant Singh

(PW1) has not wavered from his testimony. As discussed above, the corroborative material is available on record for coming to the conclusion that

there was both demand and acceptance of payment by the Appellant in the instant case.

17. Therefore, looking at the entirety of the evidence, I find no reason to interfere with impugned judgment or the sentences imposed by the trial

court. The appeal is thus dismissed. The bail bond and the security furnished is cancelled. The Appellant shall be taken into custody forthwith and

suffer the remaining part of the sentence, as directed by the trial court. The Appellant shall, however, get the benefit of the period of detention, if

any, already undergone against the sentence of imprisonment imposed by the trial court.

18. The appeal is disposed of accordingly.