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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

RESERVED ON –10.05.2023
% ***PRONOUNCED ON -06.09. 2023***

\+ CRL.A. 259/2007

JAI NARAYAN ..... Appellant

Through: Mr. Javed Ahmad and Mr.Sarfaraz Khan, Ms. Aakriti Aditya Advs.

versus

STATE ..... Respondent

Through: Mr. Raghuvinder Verma, APP for the State with SI Naresh Kumar PS Anti corruption Branch

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA,J:

1. The present appeal has been filed challenging the judgement dated 29.03.2007 and the order on sentence dated 30.03.2007 passed by the Ld. Spl. Judge in SC No. 12/2004 arising from FIR No. 38/2003 at PS Anti-Corruption Branch. Vide the impugned judgement dated 29.03.2007 the appellant has been convicted for the offences under Sections 7 and 13 (2) of Prevention of Corruption Act, 1988, and vide

the order on sentence dated 30.03.2007 he was sentenced to undergo RI for three and a half years along with fine of Rs.3,000/- under Section 7 of the PC Act, 1988, and in default of fine, he was directed to undergo SI for a period of three months. The appellant was further sentenced to undergo RI for a period of three and a half years along with fine of Rs.3,000/- under Section 13(2) of the PC Act, 1988, and in default of fine, he was further directed to undergo SI for three months. Both the sentences were directed to run concurrently and the benefit under section 428 CrPC was also extended to the appellant.

2. Aggrieved of this, the appellant has preferred the present appeal under Section 374(1) CrPC.

3. Briefly stated the facts are that on 05.08.2003 the complainant one Jai Narayan Saini made a complaint tothe Anti-Corruption Branch alleging therein that he had gone to the office of Delhi Jal Board regarding the problem of hefty water bills and met one meter reader also named Jai Narayan(accused) who is the appellant herein. It was alleged that Jai Narayan (accused) initially demanded a bribe of Rs. 500/- for issuing the duplicate water bills, however when the complainant expressed his inability to pay such a high demand amount, he asked the complainant to give him a bribe of Rs. 300/- on the next day i.e. 05.08.2003, for issuing the duplicate water bills in the name of his wife, in respect of house No. A-25, Sarai Pipal Thala, Delhi.

4. Pursuant to the above complainant, a raid was conducted by the Anti-Corruption Branch along with the Panch Witness namely Shri Mahesh Kumar and the complainant. Allegedly, the accused was trapped by the raiding team of the Anti-Corruption Branch on 05.08.2003 at about

11.30 AM at the cash counter of the Delhi Jal Board (Water-I) Office, Civil Line Zone, Jahangirpur, Delhi, while allegedly the accused had demanded and accepted the bribe money of Rs.300/- from the complainant for issuing a duplicate water bill in the name of his wife in respect of house No.A-25, Sarai Pipal Thala, Delhi.

5. After completion of the proceedings, the present FIR bearing No. 38/2003 was registered.The accused was arrested on 05.08.2023 itself. Thereafter, challan was filed before the concerned Court and the charges were framed under sections 7 r/w section 13 (1) (d) & 13 (2) of PC Act, 1988.The appellant pleaded not guilty and claimed trial.

6. Thereafter, during the course of the trial, the prosecution got examined 12 witnesses, of which, the star witnesses were the complainant himself (PW-3), Panch witness namely Mahesh Kumar (PW-5) and the Raid officer namely Inspector Lalit Mohan (PW-10). It was the case of the appellant that he has been falsely implicated in the said FIR and that there was no demand of gratification. However, the learned Special Judge relying on the evidence of the Raid officer (PW-10) and Panch witness (PW-5) held that it stood proved beyond any doubt that the accused had accepted bribe money of Rs. 300/- from the complainant (PW-3) in the presence of Panch witness (PW-5) and that the bribe money was recovered from the left pocket of his shirt. Ld. Special Judge held that since the recovery of the bribe money from the accused stood proved, therefore the accused had to rebut the statutory presumption under section 20 of PC Act. Ld. Special Judge held that since the stance of the accused in his statement under section 313 CrPC is merely of bald denial and since he did not put forth any defence, thus

the accused did not explain the recovery of the bribe money from his possession. Ld. Spl. Court held that there is an unchallenged evidence of the Raid officer (PW-10) about the accused becoming perplexed upon being apprehended. Ld. Special Judge held that it is not the case of the accused that the acceptance of the bribe money by him from the complainant was not conscious and voluntary, nor can it be so made out from the evidence on record. Ld. Special Courtbasis the evidence of the Raid officer and the Panch witness and the mere denial of the accused, concluded that the accused has failed to rebut the statuary presumption raised against him. Ld. Special Judge thus convicted the accused vide judgmentdated 29.03.2007 and sentenced him vide order on sentence dated 30.03.2007.

7. The judgement of conviction and order on sentence have been assailed by the appellant on the grounds that the appellant/accused had never made any demand of bribe from the complainant and that he has been falsely implicated by the Anti-Corruption Branch. It is the contention of the appellant that no such recovery was effected from his possession. It is also the contention of the appellant that the wife of the complainant (PW-1) in her testimony before the Ld. Special Judge deposed that her husband (complainant) had applied for conversion of their meter connection from commercial to domestic use. However, it has been pointed out by the appellant that hewas merely a meter reader, and it was not his job to have converted the meter connection from commercial to a domestic one.

8. It is also the contention of the appellant that PW-3 who is the complainant in this case did not support the case of the prosecution and

during the cross examination conducted by the prosecution no material came out against the accused. It has also been submitted that the complainant could not even identify the appellant in the Court and stated that he had seen the accused for the first time in the Court.

9. Ld. Counsel for the appellant submits that this is a case of mistaken identity as the complainant in his complaint alleged that one Jai Narayan, Junior Engineer (J.E.) had demanded the bribe, whereas the appellant was simply a meter reader.

10. Ld. Counsel for the appellant further submits that the complainant before the Ld. Special Judge had deposedin his examination in chief that he had come to the Anti-Corruption Branch one day before the alleged raid was conducted and the concerned officials had asked him to come on the next date. Whereas the Raiding officer deposed that the raid was conducted on the same day when the complainant met him.It has been submitted that the complainant also deposed before the Ld. Special Judge that the Panch witness namely Mahesh Kumar (PW-5) was not present on the spot during the alleged raidand had also not signed the statement at Point –B in his presence. The complainant further deposed that the accused/appellant who was present in the Court was not the same person who had taken and demanded Rs.300/- from him, to rectify the bill charge of the water connection. It has been submitted that the complainant also deposed in his evidence before the Court that his signatures were obtained on blank papers by the police officials of Anti-Corruption Branch and that the accused was not arrested in his presence.

11. It is the contention of the appellant that the evidence of Panch witness

namely Mahesh Kumar is also not trustworthy, as in reply to most of the questions put to him by the defense counsel, he replied as "*I do not remember"*.Further, there was no material on the record to show that the Panch witness Mahesh Kumar (PW 5) was in fact deputed as a Panch witness with Anti-Corruption Branch on 05.08.2003. It has further been pointed out by the learned counsel for the appellant that the PW-5 also deposed in his cross examination that he cannot identify the complainant if shown to him, thereby raising further suspicion with respect to the presence and participation of PW – 5 in the alleged raid.

12. Ld. Counsel for the appellant submits that thus the presence of the Panch Witness on the spot is very doubtful in view of the various contradictions in his testimony. It has been submitted that the learned Special Judge has fallen into a grave error by relying upon the deposition of the Raiding Officer. Ld. Counsel submits that the appellant/accused cannot be convicted on the basis of the sole evidence of the Raiding officer without being supported by any other witnesses.

13. It has been submitted that even as per the testimony of PW-6 from the Delhi Jal Board Department, it is clear that the accused was not in a position to rectify the inflated bill and was not in the capacity to convert the same from commercial use to domestic use. Ld. Counsel submits that thus, the prosecution case against the accused did notstand proved beyond reasonable doubt. Ld. Counsel submits that the learned Trial Court has filled in the lacunae by ignoring several material contradictions in the narrative of the prosecution andhas passed the judgment of conviction merely on the basis of surmises and conjectures. Ld. Counsel submits that in view of the above submissions

the impugned judgement of conviction and order on sentence is liable to be set aside.

14. The notice was issued, and the appeal was admitted vide order of this Court dated 25.04.2007.It is pertinent to mention here that the application for suspension of the sentence was dismissed by this Court vide order dated 18.09.2007. The appellant aggrieved of this approached the Hon'ble Supreme Court by way of Crl. Appeal No. 958/2008 arising out of SLP (Crl) No. 1390/2008 and the Hon'ble Supreme Court vide order dated 16.05.2008 suspended the sentence of the appellant and passed the following orders:

> "*ORDER*
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> *Leave granted.*
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> *Keeping in view the fact that there is a possibility that the petitioners have been wrongly prosecuted, we are of the opinion that it was a fit case where the sentence should have been suspended.*
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> *The appeal is allowed."*

15. Learned counsel for the appellant has submitted that the prosecution has failed to prove their case beyond reasonable doubt and the complainant did not even support the case of the prosecution. It has been submitted that there was no evidence of demand of gratification in the present case which is a *sine qua non*for establishing an offence under Section 7 of the PC Act, 1988. It has been submitted that the learned Trial Court has wrongly and illegally relied upon the recovery of the bribe amount from the possession of the appellant. Learned counsel submits that the learned Special judge erroneously held that the

testimony of the Raid officer is sufficient to prove the case of the prosecution.

16. It has been submitted that in view of the fact that the complainant did not support the case of the prosecution and the testimony of PW-5 was also full of contradictions, the judgement convicting the appellant was perverse and bad in law and is thus liable to be set aside.

17. Learned counsel for the petitioner has relied upon the judgement of the Hon'ble Supreme Court in ***State of Maharshtra v. Dhyaneshwar Laxman Rao Wankhede***, 2009 (10) SCALE wherein it was *inter alia* held as under:

> *"16. Indisputably, the demand of illegal gratification is a sine qua non for constitution of an offence under the provisions of the Act. For arriving at the conclusion as to whether all the ingredients of an offence, viz., demand, acceptance and recovery of the amount of illegal gratification have been satisfied or not, the court must take into consideration the facts and circumstances brought on the record in their entirety. For the said purpose, indisputably, the presumptive evidence, as is laid downin Section 20 of theAct, must also be taken into consideration but then in respect thereof, it is trite, the standard of burden of proof on the accused vis-a-vis the standard of burden of proof on the prosecution would differ. Before, however, the accused is called upon to explain as to how the amount in question was found in his possession, the foundational facts must be established by the prosecution. Even while invoking the provisions of Section 20 of the Act, the court is required to consider the explanation offered by the accused, if any, only on the touchstone of preponderance of probability and not on the touchstone of proof beyond all reasonable doubt."*

18. Learned counsel for the petitioner has further relied upon ***B. Jayaraj v. State of Andhra Pradesh,*** (2014) 13 SCC 55, wherein, the Hon'ble

Supreme Court *inter alia* held as under:

> *"7. In so far as the offence under Section 7 is concerned, it is a settled position in law that demand of illegal gratification is sine qua non to constitute the said offence and mere recovery of currency notes cannot constitute the offence under Section 7 unless it is proved beyond all reasonable doubt that the accused voluntarily accepted the money knowing it to be a bribe. The above position has been succinctly laid down in several judgments of this Court. By way of illustration reference may be made to the decision in C.M. Sharma Vs. State of A.P., (2010) 15 SCC 1 and C.M. Girish Babu Vs. C.B.I, (2009) 3 SCC 779."*

19. Reliance has also been placed on ***M.R. Purushotham v. State of Karnataka,*** (2015) 3 SCC 247, wherein, the Hon'ble Supreme Court *inter alia* held as under:

> *"7. In such type of cases the prosecution has to prove that there was a demand and there was acceptance of illegal gratification by the accused. As already seen the complainant PW1 Ramesh did not support the prosecution case insofar as demand by the accused is concerned. No other evidence was adduced by the prosecution to prove the demand made by the accused with the complainant. In this context the recent decision of a three Judge bench of this Court in B. Jayaraj vs. State of Andhra Pradesh reported in (2014) 13 SCC 55 is relevant and it is held as follows:(SCC p. 58, para8)*
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> > *"8. In the present case, the complainant did not support the prosecution case insofar as demand by the accused is concerned. The prosecution has not examined any other witness, present at the time when the money was allegedly handed over to the accused by the complainant, to prove that the same was pursuant to any demand made by the accused. When the complainant himself had disowned what he had stated in the initial complaint (Exbt.P-11) before LW-9, and there is no other evidence to prove that the accused had made any demand, the evidence of PW-1 and the contents of Exhibit P-11 cannot be relied upon to*

come to the conclusion that the above material furnishes proof of the demand allegedly made by the accused. We are, therefore, inclined to hold that the learned trial court as well as the High Court was not correct in holding the demand alleged to be made by the accused as proved. The only other material available is the recovery of the tainted currency notes from the possession of the accused. In factsuch possession is admitted by the accused himself. Mere possession and recovery of the currency notes from the accused without proof of demand will not bring home the offence under Section 7. The above also will be conclusive in so far as the offence under Section 13(1)(d)(i) and (ii) is concerned as in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to be established."

20. Ld. APP for the State has vehemently argued that the order of the learned Trial Court is based on cogent reasons and the material on record. It has been submitted that there is enough evidence to prove on record the ingredients of section 7 of PC Act. It has further been submitted that the appellant failed to rebut the presumption.

21. Before proceeding further, it would be advantageous to advert to the ingredients of provisions contained under section 7 and section 20 of the PC Act.

22. Section 7 of the PC Act reads as under*:*

*"**7. Public servant taking gratification other than legal remuneration in respect of an official act**.—Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or*

forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of Section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to seven years and shall also be liable to fine.

Explanations.—(a) "Expecting to be a public servant". If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

(b) "Gratification". The word "gratification" is not restricted to pecuniary gratifications or to gratifications estimable in money.

(c) "Legal remuneration". The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organisation, which he serves, to accept.

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

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

23. A bare perusal of the above section highlights the following necessary ingredients which are required to bring home the guilt under section 7. The ingredients are:

(i) the accused either must be a public servant or expecting to be a public servant;

(ii) the accused should accept or obtain or agrees to accept or attempts to obtain from any person;

(iii) for himself or for any other person;

(iv) any gratification other than legal remuneration;

(v) as a motive or reward for doing or forbearing to do any official act or to show any favour or disfavour.

24. Section 20 of the PC Act, reads as under:

> *"**20. Presumption where public servant accepts gratification other than legal remuneration**.—(1) Where, in any trial of an offence punishable under Section 7 or Section 11 or clause (a) or clause (b) of sub-section (1) of Section 13 it is proved that an accused person has accepted or obtained or has agreed to accept or attempted to obtain for himself, or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in Section 7 or, as the case may be, without consideration or for a consideration which he knows to be inadequate.*
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> *(2) Where in any trial of an offence punishable under Section 12 or under clause (b) of Section 14, it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in Section 7, or as the case may be, without consideration or for a consideration which he knows to be*

inadequate.

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

25. Thus, the court under the above section can draw a presumption that the illegal gratification is a motive or reward for carrying out any official act in terms of section 7. This presumption can also be rebutted by the accused. However,the said presumption canonly be drawn once the factum of the demand for gratification and its acceptance is proved during the trial.

26. Recently, a Constitution Bench of the Hon'ble Supreme Court in ***Neeraj Dutta v. State (Government of NCT Of Delhi),*** (2023) 4 SCC 731, after analyzing theentire law on Section 7 and 13 of The Prevention of Corruption Act, 1988, *inter alia* held as under:

"88. What emerges from the aforesaid discussion is summarised 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.

88.2 (b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.

88.3 (c) Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by

circumstantial evidence in the absence of direct oral and documentary evidence.

88.4 (d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:

> *(i) if there is an offer to pay by the bribe giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.*
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> *(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 Section 13 (1)(d)(i) and (ii) of the Act.*
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> *(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 inturn there is a payment made which is received by the public servant, would be an offence of obtainment under Section 13 (1)(d) and (i) and (ii) of the Act.*

88. 5 (e) The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and

documentary evidence and not in the absence thereof. On the basis of the material on record, the Court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands.

88. 6 (f) In the event the complainant turns 'hostile', or has died or is unavailable to let in his evidence during trial, demand of illegal gratification can be proved by letting in the evidence of any other witness who can again let in evidence, either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant.

88.7 (g) In so far as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law. Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Section 13 (1) (d)(i) and (ii) of the Act.

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

89. In view of the aforesaid discussion and conclusions, we find that there is no conflict in the three judge Bench decisions of this Court in B. Jayaraj and P. Satyanarayana Murthy with the three judge Bench decision in M. Narasinga Rao, with regard to the nature and quality of proof necessary to sustain a conviction for offences under Sections 7 or 13(1)(d)(i) and (ii) of the Act, when the direct evidence of the complainant or "primary evidence" of the complainant is unavailable owing to his death or any other reason. The position of law when a complainant or prosecution witness turns "hostile" is also discussed and the observations made above would accordingly

apply in light of Section 154 of the Evidence Act. In view of the aforesaid discussion, we holdthat there is no conflict between the judgments in the aforesaid three cases.

90. Accordingly, the question referred for consideration of this Constitution Bench is answered as under:

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."

27. Similarly, in ***Soundarajan v. State Rep, by the Inspector of Police Vigilance Anticorruption Dindigul***, Crl. Appeal No. 1592/2022,the Hon'ble Supreme Court has *inter alia* held as under

"9. We have considered the submissions. It is well settled that for establishing the commission of an offence punishable under Section 7 of the PC Act, proof of demand of gratification and acceptance of the gratification is a sine qua non. Moreover, the Constitution Bench in the case of Neeraj Dutta has reiterated that the presumption under Section 20 of the PC Act can be invoked only on proof of facts in issue, namely, the demand of gratification by the accused and the acceptance thereof."

28. Moreover, the Hon'ble Supreme Court in ***K.Shanthamma v. The State of Telangana***, Criminal Appeal No. 261/2022, has *inter alia* held as under:

"7. ……. The proof of demand of bribe by a public servant and its acceptance by him is sine qua non for establishing the offence under Section 7 of the PC Act. In the case of P. Satyanarayana Murthy v. District Inspector of Police, State of Andhra Pradesh and another,(2015) 10 SCC 152, this Court has summarised the well-settled law on the subject in paragraph 23 which reads 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 chargetherefore, 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."*

29. The law is thus settled that in order to attribute an offence under Section 7 of The Prevention of Corruption Act, 1988, the demand of gratification has to be proved by the prosecution beyond all reasonable doubt. It is also no longer *res integra* that there has to be a demand of gratification and not merely a simple demand of money.The presumption under Section 20 of the PC Act can be invoked onlyif the factum of demand of gratification and acceptance thereof, isproved. It is correct that even in the absence of the testimony of the complainant the offence under Section 7 of PC Act can be proved but for that there must be other reliable cogent and trustworthy evidence on record.

30. It is a settled proposition that the graver the offence the more onus there is on the prosecution to prove its case beyond reasonable doubt. Though, the concept of'*beyond reasonable doubt'* cannot be stretched beyond a point, but at the same time, in cases of corruption, which can tarnish the reputation of a person, it is vital that the offence must be proved beyond all reasonable doubt. The evidence in such cases must be of sterling quality and unimpeachable in nature. On the basis of weak evidence or mere presumptions and conjectures a person cannot

be convicted for the offence under Section 7 of Prevention of Corruption Act, 1988. I consider that the learned Trial Court has failed to appreciate the evidence correctlyin the absence of any cogent and trustworthy evidence with respect to the demand of gratification which is a sine qua non for attracting an offence under section 7 of PC Act.

31. In view of the above, the impugned judgement of conviction is set aside. The appeal is allowed. The conviction of the appellant for the offences punishable under sections 7 and 13 (2) of the PC Act are set aside and the appellant is acquitted of the charges framed against him.

DINESH KUMAR SHARMA, J

SEPTEMBER 6, 2023
Pallavi