

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Appeal (Sb) No. 1372/2019

- 1. Prithvilal Meena S/O Shri Badri Prasad Meena, R/O Medi P.S. Vajirpura District Sawai Madhopur Presently Residing at Plot No 29 Bhairav Nagar P.S. Pratap Nagar Jaipur Presently House of Babulal Meena Shivaji Nagar Nainva Presently Assistant Engineer Jaipur Discom Nainva District Bundi Raj. (Presently Lodged In Central Jail At Kota)
- 2. Hemraj @ Foru S/O Shri Chhotulal, R/O Near Hospital Nainva District Bundi Raj. (Presently Lodged In Central Jail At Kota)

----Appellants

Versus

State of Rajasthan, through PP

----Respondent

For Appellant(s)	: Mr. Suresh Kumar Sahni Mr. Ram Mohan Sharma
For Respondent(s)	: Mr. Manvendra Singh Shekhawat, PP

HON'BLE MR. JUSTICE PRAMIL KUMAR MATHUR

Judgment

Date of Conclusion of Arguments	21.01.2026
Date on which the judgment was reserved	21.01.2026
Whether the full judgment or only the operative part is pronounced	Full Judgment
Date of pronouncement	09.03.2026

REPORTABLE

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1. The present appeal has been filed jointly by both the appellants challenging the common judgment dated 06.07.2019 passed by the learned Special Judge, Prevention of Corruption Act, 1988, Kota, in Sessions Case No. 10/2016, whereby the appellant No. 1, Prithvilal Meena was convicted under Section 120-B of IPC and Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as "the Act of 1988"), and appellant No. 2, Hemraj @ Foru was convicted under Section 120-B of IPC and under Section 8 of "the Act of 1988" and both were sentenced as under:

Name of the accused	Conviction	Sentence
Prithvilal Meena	Section 7 of the Act of 1988	03 years rigorous imprisonment along with Rs. 20,000/- fine. In default of payment of fine, accused to undergo 02 months simple imprisonment.
	Section 13(1)(d) read with Section 13(2) of the Act of 1988	05 years rigorous imprisonment along with Rs. 30,000/- fine. In default of payment of fine, accused to undergo 03 months simple imprisonment.
	Section 120B IPC	6 months simple imprisonment
Hemraj @ Foru	Section 8 of the Act of 1988	04 years rigorous imprisonment along with Rs. 30,000/- fine. In default of payment of fine, accused to undergo 03 months simple imprisonment.
	Section 120B IPC	06 months simple imprisonment

All the sentences to run concurrently.

FACTUAL BACKGROUND

2. The case of the prosecution as culled out from records is that on 01.02.2016, the complainant Kailash Meena and Ramphool Meena submitted a written complaint before the Anti-Corruption Bureau, Bundi, alleging demand of illegal gratification by the appellant No. 1, Prithvilal Meena, who was working as Assistant

Engineer, Rajasthan State Electricity Board. It was alleged that on 29.01.2016, the appellant No. 1, Prithvilal Meena along with his staff inspected the electricity meters installed at the complainant's premises and thereafter verbally imposed a VCR penalty of Rs. 80,000/-. Subsequently, the appellant No. 1 Prithvilal Meena allegedly demanded illegal gratification for settlement of the matter.

3. According to the prosecution, on 01.02.2016, the appellant No. 1 Prithvilal Meena directed the complainants to contact his driver and associates, who demanded Rs. 20,000/-, out of which Rs. 14,500/- was paid and remaining Rs. 5500/- was agreed to be paid. The demand was verified by the ACB and thereafter, on 02.02.2016, a trap was organized. Two independent witnesses were associated with the trap proceedings. The bribe amount of Rs. 5,500/- was treated with phenolphthalein powder and handed over to the complainant- Kailash with necessary instructions. At about 11:40 AM, both the complainants met the appellant No. 1 Prithvilal Meena in his office. As per the prosecution, upon communication and approval of the appellant No. 1 Prithvilal Meena, the bribe amount was passed through Ramhet and ultimately accepted by appellant No. 2 Hemraj @ Foru, who kept the tainted money in the pocket of his trouser. Upon receiving the pre-arranged signal, the trap party immediately entered the office and conducted a search. The phenolphthalein test of appellant No. 2 Hemraj was found positive and a sum of Rs. 5,500/- was recovered from his possession. Both the appellants Prithvilal

Meena and Hemraj @ Foru were present together in the same room when the search party arrived.

4. During search a red diary with some documents, belonging to the appellant No. 1 Prithvilal Meena was recovered and seized, containing entries relating to meter checking of complainant's premises along with VCR numbers and photograph references. The hand-written slip bearing names of the complainants were also seized.

5. The appellants during investigation refused to give their voice samples in writing.

6. After completion of the investigation and upon obtaining the requisite sanction for prosecution, a charge-sheet was filed against the appellants Prithvilal Meena, Hemraj @ Foru and co-accused Ramhet Meena for the offences punishable under Section 120-B IPC and Sections 7, 8 and 13(1)(d) read with Section 13(2) of "the Act of 1988".

7. During trial to substantiate the charges framed against the appellants, the prosecution examined the following witnesses:

<i>Witness</i>	<i>Name</i>	<i>Deposition</i>
<i>PW-1</i>	<i>Ms. Hemandra Kumari (Constable at ACB Chowki, Bundi)</i>	<i>Witness of keeping 11 currency notes of Rs.500/- with the complainant- Kailash , having phenolphthalein powder;</i>
<i>PW-2</i>	<i>Gopal Krishan (AEN at Bundi Discom)</i>	<i>Deposed about providing records (Ex. P-2) of the electricity department to ACB.</i>
<i>PW-3</i>	<i>Babulal Meena (Landlord of the appellant-</i>	<i>Witness about meeting of complainants with appellant Prithvilal Meena at</i>

	<i>Prithvilal Meena)</i>	<i>rental premises, but turned hostile.</i>
<i>PW-4</i>	<i>Ramprasad s/o Jagdish (Resident of the same village as complainant)</i>	<i>Witness of meter checking proceedings but turned hostile.</i>
<i>PW-5</i>	<i>Ramprakash (Resident of the same village as complainant)</i>	<i>Witness of meter checking proceedings but turned hostile.</i>
<i>PW-6</i>	<i>Ramprasad S/o Ramchandra (Resident of the same village as complainant)</i>	<i>Witness of meter checking proceedings but turned hostile.</i>
<i>PW-7</i>	<i>Ramanand (HC ACB Bundi)</i>	<i>The person who deposited three sealed bottles of washing to FSL Jaipur on 09.02.2016 with letter Ex. P-7 and thereafter obtained receipt Ex. P-8.</i>
<i>PW-8</i>	<i>Ramphool (Complainant)</i>	<i>Star witness of all proceedings including trap also, but turned hostile.</i>
<i>PW-9</i>	<i>Deepak Kumar Rathore (LDC-II, CMHO Bundi)</i>	<i>Shadow witness of trap proceedings and recovery of money.</i>
<i>PW-10</i>	<i>Yadvendra Joshi (UDC BCNI Bundi)</i>	<i>Shadow witness of trap proceedings and recovery of money, but turned hostile.</i>
<i>PW-11</i>	<i>Sunil Mehta (Sanctioning Authority)</i>	<i>Granted prosecution sanction to the appellant no. 1</i>
<i>PW-12</i>	<i>Narendra Kumar (ASP Jhalwar Chowki-I.O.)</i>	<i>About recording of statement of witnesses, Shri Tarunkant Somani, Hemendra, Shri Ramphool Meena, Shri Kailash Meena, Shri Yadvendra Joshi, Shri Deepak Kumar Rathore, Shri Neeraj Kumar, Shri Bhupendra Singh, Shri Jeetendra Singh, Shri Ramanand, Shri Ramprasad, Shri Ramprakash, Shri Ramprakash s/o Ramchandra, Shri</i>

		<i>Motilal, Shri Babulal and Shri Gopal Mishra. Presented chargesheet against the accused under Section 7, 8, 13(1)(d) and 13(2) of Act of 1988 and under Section 120B of IPC.</i>
<i>PW-13</i>	<i>Kailash Meena (Complainant)</i>	<i>Star witness of whole proceedings and trap also.</i>
<i>PW-14</i>	<i>Tarunkant Somani (ASP ACB Chowki, Bundi)</i>	<i>Conducted trap proceedings. Admitted the fact that complaint was filed by Ramphool and Kailash on 01.02.2016 and he called both of them on next day with Rs.5,500/- and showed the phenolphthalein test, thereafter, asked complainant-Kailash to give the same to the accused.</i>
<i>PW-15</i>	<i>Jitendra Singh (Constable ACB Chowki, Bundi)</i>	<i>Witness of the verification and trap proceedings test.</i>
<i>PW-16</i>	<i>Bhupendra Singh (Constable ACB Chowki, Bundi)</i>	<i>Witness of the verification and trap proceedings test.</i>
<i>PW-17</i>	<i>Neeraj Kumar (S.I., ACB Chowki, Bundi)</i>	<i>Witness of trap proceedings and recovery of Rs. 5,500/- from Hemraj.</i>

and produced documentary evidence as Ex. P/1 to Ex. P/43, besides Articles 1 to 29.

8. In defence, the appellants have examined the following witnesses:

<i>DW 1</i>	<i>Hariram Meena</i>	<i>Contractor of Electricity Department in 2016</i>
<i>DW-2</i>	<i>Pushpendra Singh Naruka</i>	<i>Technical Assistant in the Electricity Department in 2016</i>

DW-3	Balram	Witness who went to deposit electricity bill at Nainwa office on 02.02.2016
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and produced Ex. D/1 to D/7 documents.

9. After considering the evidence produced by both sides, the learned trial Court held the appellants guilty of the offences aforesaid.

10. Heard learned counsel for the parties and perused the material available on record.

SUBMISSIONS ON BEHALF OF APPELLANTS

11. Assailing the judgment and order passed by the trial Court, learned counsel for the appellants submits that the learned trial Court has convicted the accused–appellants merely on the basis of conjectures and surmises, which is legally impermissible. He further contends that the sanctioning authority has not applied its mind properly while granting sanction for prosecution. It is argued that both the complainants did not support the case of the prosecution and were declared hostile; despite this, the trial court has held the appellants guilty and convicted them.

12. It is further submitted that the essential ingredients of demand and acceptance, which are sine qua non for constituting the offence, have not been proved. The findings about voice recording is unsafe. He submits that the learned trial Court has failed to appreciate the evidence in its proper perspective and has proceeded beyond the settled principles of law, thereby convicting the appellants on mere presumptions. According to the learned counsel, the prosecution case lacks foundational evidence and

does not stand on its own legs, whereas settled law mandates that conviction cannot be sustained in the absence of cogent and reliable proof. Lastly, it is submitted that conviction on moral grounds cannot be substituted for legal conviction and the learned trial Court has exceeded its jurisdiction and erred in law while recording the conviction; therefore, the impugned judgment deserves to be set aside.

13. In support of his contentions, learned counsels for the appellants have relied upon the following citations:

(1) Sarwan Singh Vs. State of Punjab, AIR 1957 SC 637.

(2) S.K.Saini & Anr. Vs. C.B.I., 2015 SCC Online Del 11472

(3) Kumar Sanjay Vs. CBI, 2025 SCC Online Bom 5114

(4) Madan Lal Vs. State of Rajasthan, (2025) 4 SCC 624(2)

(5) Rattaram & Anr. Vs. State of Rajasthan, S.B. Cr. Appeal No. 1018/2018 decided on 22.05.2025

(6) Vijay Kumar Singhal Vs. State of Raj. & Anr., S.B. Cr. Misc. Pet. No. 5351/2023 decided on 07.10.2024

(7) Ashok Kumar Yadav Vs. State of Raj., S.B. Cr. Appeal No. 179/2018 decided on 18.05.2022;

SUBMISSIONS ON BEHALF OF PUBLIC PROSECUTOR

14. Per contra, learned Public Prosecutor submits that although complainant PW-8 Ramphool has turned hostile and PW-13 Kailash have not supported the prosecution story in cross-examination but the prosecution case stands duly corroborated by circumstantial as

well as electronic evidence, including digital voice recordings and their transcripts. It is further submitted that the tainted amount was recovered from appellant no.2 Hemraj in the presence of the appellant no.1-Prithvilal Meena from a room. The digitally recorded conversation clearly discloses the involvement of the appellants in the commission of the offence. Hence, according to the prosecution, the demand and acceptance of illegal gratification, as well as pendency of the work, stands duly proved. It is also contended that the sanction accorded for prosecution is valid and in accordance with law. He again submits that the complainant PW-13 Kailash shadow witness, PW-9 Deepak Kumar Rathore, Investigation Officer PW-12 Narendra, leader of trap team PW-14 Tarunkant, PW-15 Jitendra, PW-16 Bhupendra and PW-17 Neeraj Kumar consistently deposed and supported the case of the prosecution in entirety qua demand and acceptance of bribe amount and recovery of the same. Therefore, the presumption under Section 20 of "the Act of 1988" must be raised in favour of the prosecution. He further submitted that once it is proved that money was recovered from the possession of the appellants, the burden of rebutting the presumption contemplated under Section 20 of "the Act of 1988" shifts upon the appellants, but they failed to do the same. Therefore, the learned trial Court has committed no illegality or irregularity in recording the conviction. In support of these submissions, reliance has been placed on the judgment of the Hon'ble Supreme Court in **Neeraj Dutta v. State of NCT of Delhi** reported in **AIR 2023 SC 330**.

15. I have considered the submissions made by both counsels and scanned the matter carefully.

COURT'S OBSERVATION

16. At the outset, it would be apposite to point out the fundamental components of the charged offences under "the Act of 1988".

16.1. The essential ingredients of Section 7 of "the Act of 1988" are:-

- i) that the person accepting the gratification should be a public servant;
- ii) that he should accept the gratification for himself and the gratification should be 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 function, favour or disfavour to any person.

16.2. As per provision of Section 8 of "the Act of 1988", there are three ingredients for establishing an offence under Section 8 of "the Act of 1988" which include:

- (a) *firstly*, acceptance or obtaining of gratification.
- (b) *secondly*, the accused must have accepted or obtained, or agreed to accept or attempted to obtain, any gratification and gratification as a motive or reward. Such gratification must be as a motive or reward for inducing, by corrupt or illegal means, or by exercise of personal influence, a public servant to do or forbear to do any official act, or show favour or disfavour in the exercise of

official functions, or render or attempt to render any service or disservice; and

(c) *thirdly*, intention to influence a public servant. The gratification must be linked to the intention of influencing a public servant, even if the accused himself is not a public servant and even if the public servant is not actually influenced.

16.3. Similarly the necessary requirements for proving the offence under Section 13(1)(d) of the "Act of 1988" are:-

- i. that he should have been public servant;
- ii. that he should have used corrupt or illegal means or otherwise abused his position as such public servant and;
- iii. that he should have obtained the valuable thing or pecuniary advantage for himself or for any other person.

17. Concededly the appellant No. 1, Prithvilal Meena is a public servant within the ambit of Section 2(c) of "the Act of 1988" and at the time of the said incident was working as the Assistant Engineer, Jaipur Vidyut Vitaran Nigam Limited ("JVVNL"), Nainwa, District Bundi which is evident from his appointment and posting order Ex.P-26 and Ex.P-27, respectively while the appellant No. 2, Hemraj alias Foru was a private person who was present in the office at the time of the said incident.

18. This Court is aware that law is well settled in **C.M. Girish Babu v. CBI, (2009) 3 SCC 779** and in **B. Jayraj v. State of Andhra Pradesh, (2014) 13 SCC 55** that while considering the

case under "the Act of 1988", it has to be proved beyond reasonable doubt that the accused voluntarily accepted money knowing it to be a bribe, absence of proof of demand for illegal gratification and mere possession of recovery of currency notes is not sufficient to constitute such offence and the presumption under Section 20 of "the Act of 1988" can be drawn only after demand for acceptance of illegal gratification is proved.

19. It is also well established law that proof of demand of illegal gratification is sine qua non for constituting an offence under "the Act of 1988". The Hon'ble Apex Court in *Neeraj Dutta* (supra) has authoritatively held that demand can be proved either by circumstantial or electronic evidence and not necessarily by direct testimony of the complainant and that conviction can be sustained even if the complainant turns hostile, provided the demand is otherwise established.

20. Now coming to the evidence in the present case, to prove demand and acceptance, complainant PW-13 Kailash narrated the prosecution story in his examination-in-chief. Though he narrated adversely in cross-examination but he has admitted his signature on Supurdagi Memo of currency notes Ex. P-1, Written report Ex. P-9, Memo Supurdagi digital tape recorder Ex. P-10, Verification memo of transcript of recorded conversation Ex. P-11, recovery memo of bribe amount Ex. P-12, Seizure Memo Record Ex. P-13, site plan Ex. P-14, Memo transcription of recorded conversation at the time of bribe transaction Ex. P-15 and memo dubbing conversation Ex. P-17, prepared during investigation, which substantiate the prosecution case.

21. In the similar style, shadow witness PW-9 Deepak Kumar has narrated positively about trap proceedings and execution of documents as well as admitted his signature on Supurdagi Memo of currency notes (Ex. P-1), written report Ex. P-9, Memo Supurdagi digital tape recorder Ex. P-10, verification memo of transcript of recorded conversation Ex.P-11, recovery memo of bribe amount Ex. P12, seizure memo record Ex. P-13, site plan Ex. P-14, memo transcription of recorded conversation at the time of bribe transaction Ex. P-15, memo dubbing conversation Ex. P-17 and on arrest memos from Ex.P18 to 20. Moreover, though shadow witness, PW-10 Yadvendra Joshi did not fully support the prosecution case, but he has admitted his signatures on Supurdgi Memo of currency notes (Ex. P-1), written report Ex. P-9, memo supurdgi digital tape recorder Ex. P-10, verification memo of transcript of recorded conversation Ex.P-11, recovery memo of bribe amount Ex. P12, seizure memo record Ex.P-13, site plan Ex.P-14, memo transcription of recorded conversation at the time of bribe transaction Ex. P-15, memo dubbing conversation Ex. P-17, and on arrest memos from Ex.P18 to 20.

22. The leader of trap team PW-14 Tarun Kant has proved the entire procedure adopted during trap proceedings and preparation of the transcripts. Nothing material has been shown in his cross-examination to discredit the recorded conversations.

23. This Court in catena of judgments held that mere fact that even complainant in a trap case turns hostile would not adversely affect the case of prosecution and the conviction can be based even on the evidence of trap laying officer if found reliable and

trustworthy. Learned counsel for the appellants has failed to unveil any material fact by which it can be deduced that the evidence of trap laying officer PW14-Tarun Kant is not reliable and trustworthy and he has conducted the case having previous enmity or malafides.

24. Though witnesses PW-3 Babulal Meena, PW-4 Ramprasad, PW-5 Ramprakash and PW-6 Ramprasad S/o Ramchandra have turned hostile, but there are bright aspect of prosecution witnesses also. PW-1 Ms. Hemendra Kumari who is a woman constable at ACB, Bundi says about keeping currency of Rs.5,500/- messed with the phenolphthalein in pocket of complainant Kailash for the purpose of trap proceedings.

25. PW-2 Gopal Krishan, who is an employee of the RSEB has deposed about providing record of electricity department to the ACB. PW-7 Ramanand is the person who deposited the sealed bottles of washing to FSL with letter Ex.P7 and thereafter obtained the receipt Ex.P8.

26. PW-15 Jitendra Singh, Constable of ACB is also witness of the trap proceedings and he has admitted his signatures on Ex.P10 memo supurdagi digital tape recorder, memo of transcription of bribe transaction Ex.P15, Ex.P17 memo dubbing conversation and Ex.P20 arrest memo of appellant Prithvilal.

27. PW-16 Bhupendra Singh at the relevant time was working as a constable of ACB and he has witnessed the trap proceedings and admitted signature on Ex. P10 memo supurdagi digital tape

recorder, Ex.P11 verification memo, Ex.P18 and Ex.P19 arrest memo of Ramhet and Hemraj.

28. Apart from oral evidence, the prosecution has relied upon electronic evidence, voice recording capturing the conversations relating to demand and receipt of illegal gratification among complainant PW-8 Ramphool, PW-13 Kailash, appellant No. 1 Prithvilal Meena and appellant No.2 Hemraj. The recording has been duly proved in accordance with law and its authenticity was not successfully impeached during trial. The contents of the recording, when read as a whole, clearly indicate demand of gratification by appellant no. 1, Prithvilal Meena and consent and direction for receipt through a middleman. Therefore, in view of the law laid down in **Neeraj Dutta (supra)**, the electronic evidence is sufficient to establish the demand.

29. The mere fact that the complainants turned hostile does not *ipso facto* demolish the prosecution case, particularly when documentary and electronic evidence stand proved. The trap proceedings have been duly established and demand stands corroborated through independent and electronic evidence.

30. The voice recording is admissible electronic evidence. The conditions for admissibility are as follows:

(1) The electronic record must be accompanied by a valid certificate under Section 65-B(4) of the Indian Evidence Act, 1872 mentioning the device used and the manner of recording.

(2) The device from which the recording was produced must have been in lawful control of the person producing it;

(3) The recording must be made in original state and unaltered;

(4) The electronic record must be original or a duly certified copy, and the voice must be properly identified.

31. The certificate issued under Section 65B(4) of the Indian Evidence Act, 1872 is exhibited by the PW-14 Tarunkant Somani as Ex P-38 containing all ingredients as mentioned above, which makes the said certificate Ex P-38 admissible in evidence.

To be more precise, if the voice recording is properly proved, not tampered with, and corroborated by trap proceedings, then the demand is thereby legally established and the testimony of a hostile complainant does not demolish the prosecution case if other reliable evidence survives.

32. On the point of the relevancy and admissibility of the said electronic evidence in form of voice recording, this Court takes into consideration the judgment rendered by Hon'ble Apex Court in the case of **Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal and Ors.** reported in **AIR 2020 SC 4908** where it has been observed that the certificate required under Section 65B(4) of the Indian Evidence Act, 1872 is a condition precedent to the admissibility of evidence by way of electronic record, however it was simultaneously clarified that certificate under section 65B of the Indian Evidence Act, 1872 is not necessary when the original document (primary evidence) itself is produced.

33. In the present case, appellant No. 1 Prithvilal Meena did not dispute the voice recording during trial, and no suggestion challenging its authenticity or correctness was put forward in

cross-examination. Hence, the voice recording cannot be treated as inadmissible.

34. The transcription of the voice recording Ex. P-11 and Ex. P-15 dated 01.02.2016 and 02.02.2016 respectively demonstrate the demands and acceptance, the relevant portions are reproduced as under: "

दिनांक: 01.02.2016

"

परिवादी कैलाश:- वो पच्चीस हजार रुपये मांग रहे हैं। भई थोड़े बहुत कम कर दो तो। मैं कह रहा था भाई साहब ही कम कर सकते हैं।

परिवादी रामफूल:- पच्चीस ही मांग रहे है। हमारे तो ट्यूब बैल में पानी भी नहीं है। आपके सामने की बात है।

परिवादी कैलाश:- हमारे ज्यादा जमीन भी नहीं है। मेरे तो पौधो पौधों में ही पानी पिलाता हूं।

आरोपी पी.एल.मीना:- अरे वो तो सही है, पर यार ऐसा थोड़े ही होता है, डायरेक्ट चलाओ तुम उससे

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आरोपी पी.एल.मीना:- अब तुम क्या है, तुम कितने जमा कराओगे ये बताओ?

परिवादी रामफूल:- भई आप कहो जैसे ही कर लेंगे हम तो

आरोपी पी.एल.मीना:- नहीं नहीं बताओ बताओ।

परिवादी रामफूल:- कितने देंगे?

परिवादी कैलाश:- भई, ऐसा है हमारे पास पैसे तो दस हजार रुपये है और बाकी के आप कहोगे तब दे देंगे आपको।

परिवादी रामफूल:- जब ही दे देंगे।

परिवादी कैलाश:- ऐसे तो सुबह ही या शाम

परिवादी रामफूल:- हम भी नहीं तो है ना.....

आरोपी पी.एल.मीना:- बाद में लेकर आ रहे हों।

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आरोपी पी.एल. मीना:- फिर तुम ऐसा करना सुबह वहीं आ जाना ठीक है ना

परिवादी कैलाश:- ऐसा है बाबू साहब, भई ऐसा है हमारे तो डर है भई एक तो.....

परिवादी कैलाश:- वी सी आर भर ले, जो इस हिसाब से हम लेट नहीं हो।

परिवादी रामफूल:- गरीब आदमी है।

परिवादी कैलाश:- अब इनको तो ले लो ये दस, फिर दस बाद में दे देंगे।

आरोपी पी.एल. मीना:- अच्छा-अच्छा

परिवादी रामफूल:- पांच मेरे पास भी है। फिर बचे पांच सुबह दे देंगे।

आरोपी पी.एल. मीना:- सुबह ही दे जाना।

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परिवादी कैलाश:- जो फिर किसको देंगे। सुबह तो आप बात ही नहीं करते हो और मिलने का सेटिंग ही नहीं बैठ पाता है।

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परिवादी रामफूल:— क्या साहब ।

आरोपी पी. एल. मीना:— और कोई जान पहचान का है क्या तुम्हारा?

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परिवादी रामफूल:— हमारा तो आपका ड्राइवर है ।

.....

आरोपी पी.एल. मीना:— चल तुम दोनों भी बीस हजार रुपये दे जाओ

परिवादी रामफूल:— इस समय तो पन्द्रह ही है

परिवादी कैलाश:— इस समय तो पन्द्रह ही है बाबू साहब

परिवादी रामफूल:— पांच तो ये

परिवादी कैलाश:— पांच तो इसके पास है, और दस मेरे पास हुए है ।

आरोपी पी.एल. मीना:— फिर सुबह देकर जाने पड़ेंगे पांच हजार रुपये

परिवादी रामफूल:— आपके ड्राइवर को दे जायेंगे या आप ले लेना ।

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आरोपी पी.एल. मीना:— हां ऐसे मत चलाना कभी ।

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आरोपी पी.एल. मीना:— ऐसा है तेरे को इसकी पता है एक लाख रुपये की वी सी आर है । जमा नहीं करवा पाओगे कभी, कोई दूसरी बाहर की फलाईंग आ गई न तो यह ध्यान रखना ।

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आरोपी पी.एल. मीना:— इधर आ जाओ अन्दर आ जाओ ।

.....

परिवादी कैलाश:— देख ले तेरे हिसाब से, मैं तो कुछ भी नहीं बताऊ, तु तो जो तेरे पास है दे दे ।

परिवादी रामफूल :- लो.....अस्पष्ट आवाज ।

आरोपी पी.एल. मीना:— बाकी सुबह आ जाना तुम

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परिवादी रामफूल:— हां, भाई साहब उनको दे देंगे क्या नाम है उनका?

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परिवादी कैलाश:— हां हां बबलू

परिवादी रामफूल:— बबलू को दे देंगे ।

परिवादी कैलाश:— जो बबलू को दे देंगे हम तो बस ।

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आरोपी पी.एल. मीना:— 10—11 बजे तक आ जाना बाकी

परिवादी कैलाश:— हां हां 10—11 बजे तक आ जायेंगे ।

आरोपी पी.एल. मीना:— ये चीज किसी से कह दी न तुमने तो फिर.....,

.....

परिवादी कैलाश:— दो पांच हजार तो कम कर दो हमारे खातीर आप ।

आरोपी पी.एल. मीना:— ठीक है, अब बाकी साढे पांच हजार रुपये बबलु को दे देना ।"

दिनांक 02.02.2016

".....

आरोपी पी. एल. मीना:— क्या कर रहा है, उसको दे दो साढे पांच

परिवादी कैलाश:- हां ठीक है।

आरोपी पी. एल. मीना:- इधर देख तु साथ जा, रामहेत

.....

आरोपी रामहेत:- साढे पांच

.....

परिवादी:- हां हां साढे पांच, आपके लिए कहा है

कैलाश:- उन्होंने साहब ने तो, साहब ने तो आपके लिये कहा है।

.....

परिवादी कैलाश:- साहब ने आपके लिए कहा है हम से तो आप ही ले लो हमारे से तो। आपके लिए ही कहा है साहब ने हम से।

आरोपी रामहेत:- अरे कोई बात नहीं है तो। मैं काम कर रहा हूँ तु इसको दे दे।

.....

आरोपी राहमेत:- तु तो इसको दे दो।

.....

आरोपी रामहेत:- इसको दे दे तो फिर। दे दे इसको। ले ले रे।

.....

हेमराज:- लाओ। कितने है ?

परिवादी कैलाश:- साढे पांच हजार रुपये है। साढी पांच हजार है। साढे चोदह हजार तो रात को दे दिये थे उन ए०ई०एन० साहब को।

हेमराज:- ठीक है। कौन से गाँव की है तुम्हारी।

परिवादी कैलाश:- फटूकडा की। आप कटवा देना बाबू साब हमारा नाम।

हेमराज:- कटवा देंगे, कटवा देंगे।

.....

परिवादी कैलाश:- हां वही तो बात है, साढे चोदह तो रात को दे दिये, और साढे पांच की अभी कह रहा है।

हेमराज:- कितने की भरी थी जो।

परिवादी कैलाश:- भरी तो नहीं है। ज्यादा की भरता पर अस्सी हजार (80,000) की बात थी भरने की।

हेमराज:- अच्छा अच्छा

परिवादी कैलाश:- जो हमने थोडे थोडे दो जनों ने मिलकर हमारे दस-दस देकर फ़ि हो जाते हम तो।

हेमराज:- सही बात है।"

The above conversations clearly disclose demand and consent for illegal gratification and points out to the fact the appellant No. 1 Prithvilal Meena had indeed demanded bribe from the complainants accompanied by a threat of imposition of VCR penalty and on his behalf appellant No. 2 Hemraj @ Foru accepted the same.

35. In the instant case, not only the tape recorder containing the demand of bribe, verification memo of transcript of recorded conversation, memo transcription of recorded conversation at the time of bribe transaction and dubbed communication have been exhibited as Ex.P-10, Ex.P-11, Ex.P15 and Ex.P-17 respectively, but the certificate under Section 65B has also been exhibited as Ex.P-38, which makes it a major link for establishing the case of prosecution on the basis of circumstantial evidence. Furthermore, with regard to the law laid down in the case of **Neeraj Dutta (supra)**, with respect to the electronic evidence, it is seen that a bare perusal of the transcription of the voice recording establishes the demand made by the appellant No. 1 Prithvilal Meena.

36. The evidentiary value of the voice recording is substantially strengthen when:

1. The trap is laid immediately after the recorded conversation;
2. The middleman is apprehended in possession of the tainted money;
3. The amount recovered corresponds exactly to the amount as discussed in the voice recording;
4. Both accused are found present together at the relevant time and place;
5. The aforesaid circumstances collectively establish a complete and unbroken chain of incriminating evidence.

In the present case, the aforesaid facts stand duly proved by the prosecution through cogent, reliable and trustworthy evidence. Once these foundational facts of demand and acceptance are established, the presumption under Section 20 of the "Act of 1988" becomes operative, thereby shifting the burden upon the accused to rebut the statutory presumption by furnishing a cogent and plausible explanation which in the present case, they have failed to discharge.

37. The evidence of complainant PW-13 Kailash, PW-9 Deepak Kumar and PW-10 Yadvendra Joshi proves the digital evidence of recorded script leading to fact that the complainant Kailash has approached the appellant No. 1 Prithvilal Meena and the communications between them were recorded and the said scripts were reproduced as Ex.P11 and Ex.P15 which reveal that complainant Kailash PW-13 was requesting to settle the case and the same was agreed to by the appellant no. 1. The said communication script shows that it was the accused appellant no. 1, who demanded the said money from the complainant and accepted the same. PW-14 Tarun Kant who gave positive statements towards above documents has proved the certificate issued under Section 65-B of the Evidence Act, 1872 as Ex.P38 thereby rendering the electronic evidence admissible and the appellants have failed to rebut the same. To elaborate further, it is seen that the appellants had refrained from giving their voice sample for testing the said voice recording despite lawful notice, therefore, under Section 114(g) of the Indian Evidence Act, 1872 an adverse inference may be drawn for withholding the best

evidence. Otherwise also it may likely create an additional link in the chain of circumstances as held in the case of **Neeraj Dutta (supra)**. The relevant of the said judgement is reproduced as under:

"55. It is trite law that in cases dependent on circumstantial evidence, the inference of guilt can be made if all the incriminating facts and circumstances are incompatible with the innocence of the accused or any other reasonable hypotheses than that of his guilt, and provide a cogent and complete chain of events which leave no reasonable doubt in the judicial mind. **When an incriminating circumstance is put to the accused and the said accused either offers no explanation or offers an explanation which is found to be untrue, then the same becomes an additional link in the chain of circumstances to make it complete.** If the combined effect of all the proven facts taken together is conclusive in establishing the guilt of the accused, a conviction would be justified even though any one or more of those facts by itself is not decisive. (Sharad Birdhichand Sarda vs. State of Maharashtra (1984) 4 SCC 116 ("Sharad Birdhichand Sarda") as reiterated in Prakash vs. State of Rajasthan (2013) 4 SCC 668 ("Prakash"))."

38. The defence has stressed upon the fact that the findings about voice recording is unsafe as shadow witness did not overhear the entire conversation. This argument ignores the practical realities of trap proceedings. It is neither legally mandated nor practically feasible that a person must overhear every word; what is required is proof beyond reasonable doubt not proof through any particular mode. The Court cannot ignore the practical realities of trap operations as the trap proceedings are not conducted in artificial laboratory conditions. In real life situations:-

1. The accused often insists on a private conversation;
2. The meeting may take place inside a chamber or in a restricted area;
3. Close proximity of a third person may arouse suspicion and frustrate the trap proceedings.

39. The presence of the shadow witness at the time of conversation is not always practically possible, as the accused may get alert and the trap may be failed. In many trap cases, shadow witness cannot always stand next to the complainant during the entire conversation because the accused may become suspicious and close physical proximity may defeat the very purpose of the trap.

40. The Hon'ble Supreme Court in **Special Leave to Appeal (CRL.) No.3247 of 2025 (Devinder Kumar Bansal V. The State of Punjab) decided on 03.03.2025** has propounded that acceptance of bribe through an agent or middleman is deemed to be acceptance by the public servant himself; thus, personal recovery from the public servant is not indispensable. Therefore, considering the aforementioned judgments as well as looking into the evidence presented by the prosecution, both the ingredients, i.e. the demand and acceptance of the bribe have been established by the prosecution.

41. The recovery of the red diary of the appellant No. 1 Prithvilal Meena containing entries relating to meter checking of the complainants along with VCR numbers and photograph references lends strong corroboration to the prosecution case. The seizure of

a handwritten slip bearing complainant's name further supports prior interaction and official dealings. The conduct of appellant No. 1, Prithvilal Meena in attempting to conceal documents immediately upon entry of the trap party constitutes incriminating circumstances which shows the motive of illegal gratification for pursuing or causing of a public duty improperly.

42. In the present case, it is pertinent to note that though appellant No. 2 Hemraj is not a public servant, but has conspired in the offence of taking bribe from the complainant- PW-13 Kailash Meena pursuant to the directions of appellant no. 1, Prithvilal Meena. It is thus apposite here to refer Section 120A of IPC which defines for Criminal Conspiracy,

"120A. Definition of criminal conspiracy.-- When two or more persons agree to do, **or cause to be done,**

(1) an illegal act, or

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation. It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object. "

43. It is not imperative for the accused to have expressly agreed to commit the offence; What is material is that appellants caused the act of accepting the bribe to be carried out. In the present case, appellant No. 2, Hemraj accepted the bribe pursuant to the directions of appellant No. 1, Prithvilal Meena, which clearly

satisfies the ingredients of criminal conspiracy as contemplated under Section 120A of the IPC, the punishment for which is provided under Section 120B of IPC. Consequently, the said conduct renders them liable to be convicted for the offence of criminal conspiracy.

44. Moreover, it has been observed by the Hon'ble Supreme Court in the case of ***State v. Nalini and Ors.*** reported in **1999 CriLJ 3124** that it is not necessary that the agreement amongst the conspirators can be inferred by an express agreement to do or cause to be done an illegal act, rather the said agreement may be proved by necessary implication and that, most of the conspiracies are to be proved by circumstantial evidence as the existence of the conspiracy and its objects are usually deducted from the circumstances of the case and the conduct of the accused involved in the conspiracy.

45. Applying the said principles to the present case, it is seen from the transcription (Ex.P-15) that after getting instructions from appellant No. 1, Prithivilal Meena, the complainant- Kailash Meena had given the bribe amount to the appellant No. 2, Hemraj and he had accepted the same. The recovery of the bribe amount, marked as Ex. P-12, from the trouser of appellant No. 2, Hemraj, stands duly proved through the testimony of P.W.-9, Deepak Rathore, LDC-II, CMHO Bundi, P.W.-10, Yadvendra Joshi, UDC BCNI, Bundi and PW-14 Tarunkant Sumani. Their depositions further corroborate the prosecution case inasmuch as, upon treating the trouser of appellant No. 2 with sodium carbonate, a

pink coloration became visible which was also deposed by PW-9 Deepak Kumar Rathore, PW-14 Tarunkant Somani, PW-15 Jitendra Singh, PW-16 Bhupendra Singh and PW-17 Neeraj Kumar, thereby conclusively establishing that appellant No. 2, Hemraj, had accepted the bribe amount. Accordingly, the chain of circumstantial evidence unequivocally establishes the guilt of appellant No. 2, Hemraj in the commission of the offence of criminal conspiracy along with appellant no.1, Prithvilal Meena, as the former acted upon the directions of the latter, thereby rendering both liable to be punished under Section 120B of the IPC.

46. The law is crystal clear that acceptance through an agent or middleman amounts to acceptance by the public servant himself, if the prosecution establishes the following facts:

1. The middleman acted on behalf of the principal accused;
2. Both accused were acting in concert;
3. The money was meant for an official favour; and
4. Recovery of the tainted money from the middleman is duly proved.

In such circumstances, recovery from the middleman is sufficient to attribute constructive acceptance to the public servant.

47. The evidence on record clearly establishes that appellant No.2- Hemraj @ Foru acted as a middleman, facilitating the receipt illegal gratification on behalf of appellant No.1-Prithvilal Meena. His role was not casual or incidental but integral to the

transaction and it proves as an intermediary facilitating the transaction of illegal gratification.

48. The tainted money of Rs.5500/- was recovered from the conscious possession of the appellant No. 2 Hemraj immediately pursuant to the demand. The phenolphthalein test of his hands and pocket yielded positive results which is corroborated by Ex. P-23 (FSL Report), the recovery was effected in close proximity of time and the appellant No. 1 Prithvilal Meena was also present in the same room at the relevant time and failed to offer any plausible explanation for the incriminating circumstances. The acceptance by appellant No. 2, Hemraj @ Foru was not for any personal purpose. He has knowingly received tainted money. His conduct is not of a passive carrier but of conscious facilitator. The evidence shows clear nexus between appellant No. 1 Prithvilal Meena and appellant No.2 Hemraj Foru including joint presence, prior interaction and routing of money as per directions. The chain of events clearly establishes that the appellant No. 2 Hemraj @ Foru acted as a conduit for the appellant No. 1 Prithvilal Meena.

49. A private person who accepts or obtains illegal gratification as a conduit for a public servant is squarely covered under Section 8 of the "Act of 1988". The concerted action of both the appellants establishes criminal conspiracy under Section 120-B of IPC.

The tainted money was recovered from appellant No.2-Hemraj @ Foru who acted as conduit. The evidence establishes:

(a) Prior meeting and conversations

(b) Direction by appellant No.1-Prithvilal Meena

(c) Immediate acceptance by middlemen, appellant No.2-Hemraj and the said bribe money was recovered from the conscious possession of appellant No.2-Hemraj, in presence of both the appellants at the spot, for which no plausible explanation was provided.

50. His silence and conduct provide additional corroboration to the prosecution case.

51. In the instant case, the appellant No. 2 Hemraj @ Foru accepted the gratification on the direction and on behalf of appellant No. 1 Prithvilal Meena with the motive to obtain illegal gratification amounting to Rs. 5,500/-. In view of the above, Section 8 of "the Act of 1988" stands duly proved against accused-appellant No. 2 Hemraj @ Foru.

52. The learned counsels for the appellants have failed to show that the sanctioning authority did not apply its mind while granting sanction. PW-11 Sunil Mehta, the sanctioning authority, has specifically deposed that he perused the entire investigation record before according sanction. His cross-examination further clarifies that all relevant documents were considered. Thus, the sanction order reflects due application of mind and cannot be said to be invalid.

53. The defence evidence adduced by the accused through DW-1 Hari Ram Meena, who is a contractor in JVVNL, is general in nature. He has admitted the detention of appellant No. 2 Hemraj,

and questioning from the appellant no. 1, Prithvilal Meena about bribe demand. His testimony does not probabilise the defence plea and appears to be an afterthought. DW-2 Pushpendra Singh Naruka was examined to establish that he had conducted meter checking at the residence of the complainant; however, his cross-examination also shows that he has no knowledge of the trap proceedings. He has categorically stated that he was not present in the office at the time of the trap proceedings. His testimony does not advance the defence case. DW-3 Balram has merely stated that Gopal Singh handed over the electricity bill and the amount to appellant no.2-Hemraj @ Foru for depositing the same in the office. In his cross-examination, he admitted that he has no knowledge why accused No. 2 Hemraj was arrested.

54. Significantly, none of the defence witnesses, neither DW-1 Hariram Meena, DW-2 Pushpendra Singh Naruka and DW-3 Balram have been able to dislodge the cogent and consistent testimony of the prosecution witnesses regarding the demand and acceptance of illegal gratification, which stands further corroborated by the recovery of tainted currency notes and the positive phenolphthalein test. Thus, the defence evidence is insufficient to rebut the statutory presumption under Section 20 of the "Act of 1988", and fails to create any reasonable doubt in the prosecution case.

55. Learned counsel for the appellants has placed reliance upon certain judgments laying down that mere recovery of tainted money, divorced from proof of demand, is insufficient to sustain a conviction under the "Act of 1988". There can be no quarrel with

the said proposition; however, the said authorities are clearly distinguishable on facts.

56. In the matter of **Madan Lal (supra)**, the contention of both accused was that the money was thrust upon them and in the scuffle ensuing some currency notes were scattered on the floor which the police team directed the accused to pick up. Hence, no demand or acceptance emerged from the evidence led.

This Court finds that in **Ratta Ram's (supra)** case the demand and the voice recording were not proved.

With regard to **Vijay Kumar Singal (supra)**, both the demand and the pendency of work were not proved. Similarly, in the cases of **S.K. Saini (supra)**, **Kumar Sanjay (supra)**, and **Ashok Kumar Yadav (supra)**, no certificate under Section 65-B of the Indian Evidence Act, 1872 was produced, and voice recording was not as per norms. In **Shrawan Singh (supra)**, the Hon'ble Apex Court observed that the approver's evidence has to pass the "double test."

57. In the matter at hand, the demand has not been established merely from the recovery; rather it stands independently proved through admissible electronic evidence, duly certified under Section 65-B of the Indian Evidence Act, 1872, coupled with corroborative circumstances, including recovery pursuant to the recorded conversations. The ratio of the cited judgments, therefore, does not advance the case of the appellants.

58. Upon careful scrutiny of the arguments advanced and the precedents relied upon, this Court is of the view that the

contentions raised by the learned counsel for the appellants are wholly misconceived and devoid of merit. The judgments cited are clearly distinguishable on facts and do not lay down any principle that advances the case of the appellants in the present factual matrix. Consequently, the arguments canvassed by the learned counsel for the appellants that:-

- (i) complainant has turned hostile
- (ii) demand and acceptance not proved
- (iii) findings about voice recording is unsafe
- (iv) conviction on moral grounds cannot be substituted for legal conviction.

lack legal substance and deserves outright rejection.

CONCLUSION:

59. Therefore, in the instant case, even though the complainant PW-8 Ramphool Meena has turned hostile and PW-13 Kailash Meena has resiled in his cross-examination, the prosecution case stands fairly established on the basis of cogent and reliable circumstantial and electronic evidence and the same are sufficient to sustain conviction in the light of the law laid down by the Hon'ble Supreme Court in the case of **Neeraj Dutta (supra)**. Moreover, the chain of circumstantial evidence including the electronic evidence, namely the memo of supurdagi digital tape recorder Ex.P10, verification memo of transcript of recorded conversation Ex.P11, memo transcription of recorded conversation at the time of bribe transaction Ex.P15 and the dubbed communication (Ex.P17) along with the certificate (Ex.P38) under

Section 65-B of the Indian Evidence Act, 1872 and the failure of the appellants to rebut the same by declining to furnish their voice sample provides an additional and vital link in the chain of circumstances.

60. Further, the recovery of bribe amount from the middle man, appellant No. 2 Hemraj, who accepted the same, at the instance and on behalf of the appellant No. 1 Prithvilal Meena, while both were present in the same room at the time of arrival of the trap party assumes great evidentiary significance.

61. The said circumstances are duly corroborated by the incriminating statements of PW-11 Sunil Mehta and PW-14 Tarunkant Somani; the signatures of PW-9 Deepak Kumar Rathore and PW-10 Yadvendra Joshi on memo of Supurdagi currency notes Ex.P1, memo showing recovery of bribe money Ex.P12, seizure memo record Ex.P13, site plan Ex.P14, verification memo of transcript of recorded conversation Ex.P11, memo transcription of recorded conversation at the time of bribe transaction Ex.P15, and arrest memos Ex.P18 to P20 which collectively establish each circumstances beyond reasonable doubt.

62. All the above mentioned circumstances tick all the boxes of the Panchsheel test to establish circumstantial evidence as propounded in ***Sharad Birdhichand Sarda vs. State of Maharashtra*** reported in (1984) 4 SCC 116.

63. The chain of evidence is complete and consistent only with the theorem of guilt of the appellants and excludes every possible hypothesis of innocence.

64. Accordingly, the conviction recorded by the learned trial court warrants affirmation.

65. Consequently, the appeal is dismissed. The judgment of conviction and order of the sentence of both the appellants as recorded by the learned trial Court in Sessions Case 10/2016 on 06.07.2019 is affirmed. The appellants shall surrender forthwith to serve the remaining sentence.

(PRAMIL KUMAR MATHUR),J