IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J.) No. 885 of 2004

[Against judgment of conviction and order of sentence dated 28.05.2004 passed by learned Special Judge, CBI, Ranchi in R.C. Case No.12(A) of 1995]

Kali Shankar Dhobi, son of Sri Dhoorma Dhobi, resident of Railway Colony, Hatia, P.O. and P.S.-Hatia, Town & Dist. Ranchi

……Appellant

Versus

The State of Jharkhand through CBI …. Respondent

For the Appellant : Mr. Sameer Saurabh, Advocate
Ms. Divya, Advocate
Ms. Isha Kaushik, Advocate
For the State-CBI : Mr. Prashant Pallav, A.S.G.I.
Mr. Aryan Anurag, A.C. to A.S.G.I.

PRESENT

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

CAV On 12/06/2026 **Pronounced On 10/09/2026**

1. Heard Mr. Sameer Saurabh, learned counsel for the appellant and learned counsel for the C.B.I.

2. Instant criminal appeal is directed against the judgment and order of conviction and sentence dated 28.05.2004 passed by learned Special Judge, CBI, Ranchi in R.C. Case No.12(A) of 1995, whereby and whereunder the appellant has been held guilty for the offences under sections 7 and 13(2) read with Section 13(i)(d) of Prevention of Corruption Act, 1988 and sentenced to undergo R.I. of 1 year along with fine amount of Rs.4,000/- for the offence under section 7 and further R.I. of 1 ½ years along with fine of Rs.6,000/- for the offence

under section 13(2) read with section 13(i)(d) of P.C. Act with default stipulation. All the sentences were directed to run concurrently.

Factual Matrix:-

3. Factual matrix giving rise to this appeal is that the complainant, Nirmal Kumar Bengani lodged a complaint on 27.04.1995 before S.P., CBI, Ranchi (Ext.9) stating *inter alia* that the complainant approached to Kali Shankar Dhobi (the then parcel clerk) of Hatia Railway Station to book his motorcycle bearing registration No.BEN/2087 for Samstipur, Bihar through Maurya Express. It is further alleged that the said clerk urged the complainant to pay Rs.203/- as booking charges and to fill up the form. Apart from the booking charges, the appellant also demanded Rs.100/- for the said purposes. The complainant asked from the said booking clerk as to why he has demanded excessive charges beyond the actual cost of booking, then he replied that unless Rs.100/- as additional charge for booking is not paid, he would not book the motorcycle. Since, the complainant was not inclined to give illegal gratification to the said parcel clerk, he reported the matter to S.P. CBI, Ranchi. The allegations leveled against the appellant was verified by P.K. Panigrahi, Inspector CBI, Ranchi and finding the allegation to be true and genuine, formal FIR was drawn against the accused and this case was registered as R.C. Case No.12(A) of 1995(R). A trap team was constituted and observing all the formalities, the trap was led against the accused on 27.04.1995 at Hatia Railway Station at about 3:25 pm. It is

further alleged that the appellant was caught red handed while demanding and accepting a sum of Rs.100/- as bribe. The tainted money was recovered from the possession of the accused of which the numbers tallied with the numbers noted in pre-trap memorandum. The accused was arrested after chemical test of the hands of the accused and the memorandum-cum-seizure list was prepared regarding seized money of Rs.203/- and the tainted currency note of Rs.100/- denomination and the accused was remanded to jail custody.

4. After completion of investigation, the charge-sheet was submitted against the accused obtaining the required sanction for prosecution for the aforesaid offences.

5. The accused denied from the charges leveled against him and claimed to be tried.

6. In course of trial, altogether 11 witnesses have been examined by the prosecution, namely:-

P.W.1-Shewajee Prasad

P.W.2-Bhogendra Jha

P.W.3-Binod Binha

P.W.4-Sishir Kujur

P.W.5-Rajendra Prasad

P.W.6-Anil Chandraseal

P.W.7-Dev Raj Panta

P.W.8-B. Das (Bimlendra Das)

P.W.9-Nirmal Kumar Bengani (Informant)

P.W.10-Narayan Jha

P.W.11-Anand Kishore Verma

7. Apart from oral testimony of the witnesses, following documentary evidence as well as material exhibits has been adduced by the prosecution.

Exhibited documents:-

Ext.1 to 1/2-Luggage tickets;

Ext.2-Forwarding note;

Ext.3-Signature of P.W.4 Shishir Kujur on material Ext.I;

Ext.3/1-Signature of P.W.4-Shishir Kujur on material Ext.II;

Ext.3/2 to 3/6-Signature of Shishir Kujur on five pages of memorandum;

Ext.3/7-Signature of P.W.4 Shishir Kujur on material Ext.III;

Ext.3/8- Signature of P.W.4 Shishir Kujur on material Ext.IV;

Ext.3/9- Signature of P.W.4 Shishir Kujur on material Ext.V;

Ext.3/10- Signature of P.W.4 Shishir Kujur on material Ext.VII;

Ext.4-Memorandum of recovery and seizure;

Ext.3/11to 3/19- Signature of P.W.4 Shishir Kujur on a page of Ext.4;

Ext.3/20- Signature with note of receipt attached on Ext.4;

Ext.3/21-Signature of P.W.5 Rajendra Prasad (in short R. Prasad) on material Ext.I;

Ext.3/22- Signature of P.W.5 on material Ext.II;

Ext.3/23- Signature of P.W.5 on material Ext.IIII;

Ext.3/24-to 3/28-Signature of P.W.5 R. Pd. on pre-trap memorandum of five sheets;

Ext.3/29-Signature of P.W.5 R. Pd. on material Ext.IV;

Ext.3/30-Signature of P.W.5 R. Pd. On material Ext.V;

Ext.3/31- Signature of P.W.5 R. Pd. on material Ext.VII;

Ext.3/32 to 3/40- Signature of P.W.5 R. Pd. on after trap memorandum of nine sheets;

Ext.5-Sanction order;

Ext.6-Examination report of C.F.S.L;

Ext.7-Forwarding letter of C.F.S.L./EE/1995 (G/1)-463 Chem 4716 of C.F.S.L;

Ext.8-Signature of P.W.8 with emblem and date on material Ext.I

Ext.8/1-Signature of P.W.8 with emblem and date on Ext.IV;

Ext.9-Complaint;

Ext.3/41-Signature of Nirmal Kumar Bengani on bottle;

Ext.3/42-Signature of Nirmal Kumar Bengani on envelope;

Ext.3/43-Signature of Nirmal Kumar Bengani on envelope;

Ext.3/44 to 3/48- Signature of Nirmal Kumar Bengani on pre-trap memorandum;

Ext.3/49- Signature of Nirmal Kumar Bengani on bottle;

Ext.3/50- Signature of Nirmal Kumar Bengani on envelope;

Ext.3/51- Signature of Nirmal Kumar Bengani on envelope;

Ext.3/52 to 3/60- Signature of Nirmal Kumar Bengani on memo of recovery & seizure;

Ext.10-Form;

Ext.3/61- Signature of Sri N. Jha on bottle (Ext.I);

Ext.3/62- Signature of Sri N. Jha on envelope (Ext.II);

Ext.3/63- Signature of Sri N. Jha on envelope (Ext.III);

Ext.11-Pre-trap memorandum;

Ext.3/64to 3/63- Signature of Sri N. Jha on five pages of pre-trap memorandum;

Ext.3/69- Signature of Sri N. Jha on bottle (Ext.IV);

Ext.3/70- Signature of Sri N. Jha on envelope (Ext.VII);

Ext.3/71- Signature of Sri N. Jha on envelope(Ext.V);

Ext.12-Memo of recovery;

Ext.3/72 to 3/80-Signature of witness Sri. N Jha on nine pages of memo of recovery;

Ext.12-Endorsement with signature on complaint petition;

Ext.13-Verification report;

Ext.12/1-Endoresment on verification report;

Ext.14-Formal FIR;

Ext.12/2-Endorsement regarding forwarding on FIR;

Ext.15-Forwarding notes in two sheets;

Material Exhibits:-

Mat. Ext.I.-Bottle containing pink solution before trap;

Mat. Ext.II-Envelope containing piece of paper treated with phenolphthalein powder;

Mat. Ext.III-Envelope containing residual powder before trap;

Mat. Ext.IV-Bottle containing right hand washed sodium carbonated solution ofthe accused after the trap;

Mat. Ext.V- Envelope containing after trap G.C. note of 100(hundred) in denominator;

Mat. Ext.VI- G.C. note of Rs.100/- money which is trap money;

Mat. Ext.VII-Envelope containing G.C. notes of Rs.203/- being the booking charge of the motorcycle;

Mat. Ext.VIII to Ext.VIII/3-G.C. note of two notes of Rs.100/-, one of Rs.2 and one of Rs.1, which is the booking amount of the motorcycle.

8. On the other hand, no oral or documentary evidence has been adduced by the defence. However, plea taken by the accused in his statement

under section 313 of Cr.P.C as well as the materials elicited in cross-examination of the witnesses and suggestions advanced by the defence, the case of defence is denial from the allegations and plea of innocence and false implication. Further plea of the defence is that the accused put his signature on R.R. on direction of CBI Officers. There is specific denial from the demand, acceptance and recovery of the so-called tainted bribe amount.

9. Learned trial court after scrutinizing overall evidence oral as well documentary available on record arrived at definite findings about the guilt of the appellant for the offences under sections 7, 13(2) read with Section 13(i)(d) of Prevention of Corruption Act and sentenced him as stated above, which has been assailed in this appeal.

Submission on behalf of Appellant:-

10. Learned counsel for the appellant has challenged the impugned judgment and order mainly on following grounds/points:

(i)The very fundamental foundational facts as regards demand of illegal gratification, its acceptance and recovery from the appellant has not been proved by the prosecution through cogent and reliable evidence.

(ii)P.W.4, Shishir Kujur and P.W.5-Rajendra Prasad, shadow witnesses are not independent witnesses rather the members of trap team, whose evidence suffers from material contradictions rendering their evidence absolutely unreliable.

(iii)It is further submitted that as per prosecution, at the time of demand and acceptance of illegal gratification by the appellant, P.W.4-Shishir Kujur and P.W.5-Rajendra Prasad were accompanying the complainant (P.W.9) and they saw and heard the transaction and conversation, but the comparative testimony of P.W.4, P.W.5 and P.W.9 in the light of testimony of Investigating Officer (P.W.-11), it becomes explicit that the witnesses of the trap, P.W.4and P.W.5 have not stated during investigation about any demand of bribe by the appellant from the complainant. Similarly, mode of payment (acceptance) of booking amount as well as Rs.100/- as illegal gratification is also not consistently proved by the above witnesses of the facts.

(iv)It is also surprising that the allegations mentioned in the complaint were not verified by the officer conducting any preliminary inquiry. Admittedly, the complaint was handed over to P.K. Panigraihi, Inspector CBI. It is admitted by the complainant (P.W.9) at para 28 of his evidence that after registration of complaint and before layinga trap, no verification was done by CBI at Hatia Railway Station. The said P.K. Panigrahi, who has allegedly verified the complaint, has not been examined by the prosecution.

Therefore, the very essential requirement of law has not been complied with in this case.

(v)Admittedly, the complainant was not the owner of the alleged motorcycle to be booked and transported at his cost to Samstipur.

(vi)Learned counsel for the appellant objecting the pre-trap memorandum has further argued that the prosecution has recorded the number and denomination of Rs.203/-(Two hundred and three) said to be given as booking charge of motorcycle, (2 currency notes of Rs.100/- denomination, one currency of Rs.2/- and one currency of Rs.1/- denomination), Rs.100 i.e. bribe money (one currency note of Rs.100/-) and Rs.112/- i.e. amount of journey ticket (one currency note of Rs.100/-, one currency note of Rs.10/- and one currency note of Rs.2) but the seizure memo shows that the prosecution has seized Rs.203/-(booking charge of motorcycle) and Rs.100/- (bribe money).

(vii)There is no whisper in the seizure list for seizure of Rs.112/- as the journey ticket. The said journey ticket is alleged to have been cancelled as stated by P.W.9 at para 12 of deposition, then also CBI is supposed to seize the said cancel journey ticket along with currency note of Rs.112/-. The said missing link of Rs.112/- and the cancel journey ticket creates serious doubt on the prosecution case as without journey ticket, the motorcycle cannot be booked. The prosecution just to fill the above lacuna has examined P.W.6, Booking Clerk but he has also not proved the canceled ticket. The said facts break the chain of circumstance, which prosecution tried to prove.

(viii)It is further pointed out that the entire prosecution case is relating to booking of motorcycle for transportation of the same from Hatia to Samstipur, but the complainant in his evidence has specifically stated that he cannot remember as to where he parked the motorcycle at Hatia Railway Station for getting its booking for transportation, which clearly shows that the motorcycle was not brought at the railway station, Hatia for the purpose of booking. Therefore, the same could not be booked and the instant case was lodged without booking of the motorcycle for transportation.

(ix)P.W.9 in his deposition at para 27 has stated that when he went to purchase the journey ticket, then independent witnesses, P.W.4 and P.W.5 were not present there. As against it, P.W.5, Rajendra Prasad has stated in his evidence that the complainant (P.W.9) and P.W.4-Sishir Kujur brought journey ticket after purchasing from the railway counter.

(x)It is further submitted that as per prosecution case, tainted currency note of Rs.100/- was brought by the complainant and the same was treated with phenolphthalein powder at CBI office and handed over to him by CBI officials itself but P.W.10-Narayan Jha, a trap team leader has stated that he had given note of Rs.100/- after treating the same with phenolphthalein powder at Hatia Railway Station, which clearly indicates that pre-trap memorandum was not prepared and no demonstration was given at CBI office.

(xi)It is further submitted that post-trap memorandum also suffers from serious doubt regarding its preparation at the spot or at the CBI office as per statement of the witnesses.

(xii)There are also material contradictions in the deposition of P.W.4, P.W.5 and P.W.9 as to how the alleged motorcycle proposed for booking was brought at Hatia Railway Station. The complainant himself has admitted that the alleged motorcycle having registration No.BEN 2087 has not been transferred in his name rather it was registered in the name of one Bhogendra Jha. It is also admitted that the said registered owner of the motorcycle has not handed over any document of the concerned motorcycle to the complainant. Although, P.W.2-Bhogendra Jha admits that he has transferred the motorcycle in the name of the complainant in the year 1996 or in the beginning year of 1997. Therefore, <u>it is crystal clear that at the time of alleged booking of motorcycle, the complainant was not its registered owner</u>.

(xiii)It is further submitted that in this regard, the evidence of P.W.3, namely, Binod Binha, Commercial Inspector under whose jurisdiction Hatia railway station was, becomes more relevant, as he has described, in his evidence the procedure for booking of motorcycle or scooty and specifically stated that for booking of a motorcycle or scooty, parcel clerk hands over the forwarding note to the concerned person, who after filling the same hands over to the parcel clerk, after that parcel clerk mention the charge rate of parcel and the concern person prepares a sender's name place on which the name and address of sender as well as receiver and destination station are also mentioned and the said paper is to be fixed on the motorcycle after making oil tank empty and dried from petroleum. Thereafter, parcel clerk cut the luggage ticket and police verification is also conducted about the concern vehicle as to whether the same is of stolen property or not. When it is found that there is no patrol in the motorcycle, <u>name plate has been affixed and all the documents of the vehicle are genuine and proper, then only luggage ticket bill is prepared and handed over to the owner</u>

of the vehicle. After that, parcel clerk has no concern with the party. This witness has also admitted that he had received no complaint against the accused, Kali Shankar Dhobi.

(xiv)It is further submitted that apparently in the instant case, the booking procedure has not been followed as described by P.W.3, Commercial Inspector. Even, the motorcycle was not before the appellant. Therefore, he was not ready to book the motorcycle at the instance of complainant and CBI forced to prepare the booking receipt by putting pressure upon the complainant, which is also corroborated from the fact that no journey ticket was seized as well as the amount of journey ticket Rs.112 has also not been seized.

In the above premises, it is contended that the learned trial court has committed serious error of law by appreciating the evidence of witnesses in the right perspective and arrived at wrong conclusion about the guilt of the appellant. The appellant is absolutely innocent and deserves acquittal from the charges leveled against him, setting aside the impugned judgment of conviction and sentence. Accordingly, this appeal may be allowed.

In the alternative, it is submitted that the occurrence is of the year, 1995. Appellant was granted bail by C.B.I. Officer during investigation. Therefore, after submission of charge-sheet, the appellant was granted bail on the first date of appearance by the Special Judge. The appellant was all along on bail even post-conviction. More than three decades has been passed from initiation of prosecution. The appellant has sustained the prolong ordeal of trial. The sentence awarded to the appellant is disproportionate to his guilt. The appellant has also deposited the fine amount of Rs.6,000/- (Six Thousand). Therefore, taking a lenient view considering the age of appellant i.e. 75 years and suffering from several ailments, sentence may be reduced to the minimum sentence prescribed for the offences charged against the appellant. It is further submitted that as per provision of Sections 7 and 13(1)(d) of Prevention of Corruption Act prior to Amendment in 2018, the minimum sentence prescribed for the offence under section 7 was 6 months, which may extend to 5 years along with fine, and for the offence under section 13(1)(d), the minimum sentence prescribed under section 13(2) was 1 year, which may extend to 7 years along with fine.

<u>Submission on behalf of CBI:-</u>

11. On the other hand, learned counsel for CBI refuting the aforesaid points of arguments raised on behalf of the appellant has argued that:-

(i)The prosecution has conclusively established the demand of illegal gratification by the appellant through consistent, cogent and trustworthy oral and documentary evidence. The status of the appellant as a public servant is admitted fact.

(ii)The evidence of the complainant is substantially corroborated by the independent witnesses, P.W.4, Shishir

Kujur and P.W.5-Rajendra Prasad. The testimony of P.W.1-Shivaji Prasad and P.W.3 Binod Binha also establishes direct nexus between the official act and the illegal demand made by the appellant for discharging his lawful duties.

(iii)P.W.1 has identified the luggage tickets (Ext.1/1 and ½) in the handwriting of the appellant. P.W.3, Commercial Inspector has also categorically stated that luggage tickets are prepared and issued only after the concern railway official is satisfied regarding compliance with all procedural requirements including the verification of documents of the ownership of the vehicle and ensuring that the patrol tank is empty.

(iv)These witnesses collectively demonstrate that the booking process had already advanced to its stage where the appellant was satisfied with the procedural formalities, thereby negating any suggestion that the booking was withheld on account of non-compliance by the complainant.

(v)The defence has sought to contend that the complainant has falsely implicated the appellant because he was annoyed by the later's insistence on compliance with railway regulation. This contention is wholly untenable in the light of evidence on record. Once the appellant has prepared and issued the luggage tickets (Ext.1/1 & 1/2), it necessarily follows that he was satisfied with the ownership documents and other procedural requirement.

(vi)Significantly, the appellant has failed to furnish any explanation as to why such tickets were prepared, if the complainant had allegedly not complied with the prescribed rules. The unexplained issuance of luggage tickets, therefore, has demolished the defence version and fortifies the prosecution case.

(vii)It is further submitted that the demand of illegal gratification need not be established through the testimony of the complainant alone rather all attending circumstances may be taken into consideration.

(viii)In the instant case, the prosecution has proved the demand of illegal gratification, its acceptance and recovery through cogent and reliable evidence both oral as well as documentary.

(ix)The minor discrepancies appearing in the evidence of witnesses cannot be considered as material contradiction demolishing the evidence of ocular witnesses. The oral testimony of witnesses also finds corroboration from the documentary evidence as well as material exhibits and CFSL report fortifying the recovery of the tainted money from the possession of the appellant. The prosecution case is further strengthened by the conduct of the appellant immediately following the recovery.

(x)P.W.5 Rajendra Prasad has clearly deposed that when the tainted currency was recovered and the appellant was confronted by CBI officials, his face turned pale, which is relevant under section 8 of the Evidence Act.

(xi)It is further submitted that once the prosecution proves the twin foundational facts, namely, the receipt of tainted currency and the physical contact of the accused with the said currency, the statutory mandate embodied in Section 20 of Prevention of Corruption Act comes into operation. The provision requires the court to presume that the gratification was accepted as a motive or reward for performing or to cause performance of an official act unless contrary is proved by the accused. In the present case, the prosecution has successfully established both these foundational facts through direct, corroborative, and scientific evidence. The appellant has failed to furnish any plausible and lawful explanation for the possession and handling the tainted currency. As such, the presumption remains un-rebutted.

(xii) Learned trial court has very meticulously and wisely taken into consideration the overall materials available on record while recording the findings of guilt of the appellant for the charge under sections 7, 13(2) read with section 13(1)(d) of Prevention of Corruption Act. The evidence available on record conclusively demonstrates that the appellant was a public servant at the relevant time, he demanded illegal gratification from the complainant in connection with discharging his official act, he also accepted the said gratification and he also obtained pecuniary advantage for himself by using his official position. Therefore, the cumulative effect of oral as well as documentary and scientific evidence leaves no room for any reasonable doubt regarding commission of offences charged against the appellant. Learned trial court has committed no error of law while passing the impugned judgment of conviction and sentence calling for any interference in this appeal, which is devoid of merits and fit to be dismissed.

Analysis, Reasons and Decision:-

12. I have gone through the record of the case along with the impugned judgment and order in the light of the contentions raised on behalf of both side.

13. The only point for determination in this appeal is that "**as to whether the impugned judgment and order of conviction and sentence of the appellant passed by learned trial court suffers from any error of law calling for any interference in this appeal?**"

14. Before adjudicating the above point, it is necessary to take brief resume of oral as well as documentary evidence adduced by the prosecution to substantiate the charges leveled against the appellant.

15. It appears that altogether 11 witnesses have been examined by the prosecution.

The most important witness of this case is the informant, **Nirmal Kumar Bengani,** who has been examined as **P.W.9**. According to his evidence, he is doing a business of readymade garments and on 26.04.1995, he approached to Kali Shankar, a booking clerk at Hatia Railway Station to transport his motorcycle bearing registration No.BEN/2087 from Hatia to Samstipur. Upon which, Kali Shankar demanded Rs.100/- as bribe. He was not inclined to give bribe. As such, on 27.04.1995, this witness went to the office of CBI, Ranchi and met with Superintendent of Police, CBI and also submitted a written complaint under his handwriting and signature marked as Ext.9. S.P., CBI called CBI Inspector, Panigrahi and asked him to take action on the complaint. <u>The said Panigrahi also inquired to him and again called him at 1:00 pm on the same day</u>. He again met with Inspector, CBI and from there they went to the office of Dy. S.P., CBI Ranchi, Sri Narain and introduced other officers of CBI and two independent witnesses from CCL, Sri Shishir Kujur(P.W.4) and Rajendra Prasad(P.W.5) and the purpose of gathering was explained. The complaint was given to Sri Shishir Kujur(P.W.4) and Shri Rajendra Prasad (P.W.5) and after reading it, they asked some questions from the complainant and were satisfied. He further states that a special powder was applied on a plain paper and Shishir Kujur asked him to touch the same with his right hand finger. Then a solution of sodium carbonate was prepared in plain water and the fingers of Shishir Kujur were washed in it, due to which the color of solution turned pink. The said solution was kept in a bottle and sealed on which a label written with "D" for identification was pasted and he has signed on it. He has proved the bottle marked as Mat. Ext.1 as Ext.3/41. He gave a note of Rs.100/- to the officers, of which, the number and denomination was noted and the same special type of powder was applied on the note. He also gave the fare of journey ticket of Rs.112/- consisting of one hundred rupee note, one ten rupee note and one two rupee note and the numbers and denominations of these notes were also noted. He again gave the fare of booking charges of motorcycle of Rs.203/- which included two notes of one hundred rupee and one note of two rupees and one note of one rupee and their numbers and denominations were also noted and he kept the same in his left pocket of his pant. He kept the note of hundred rupees applied with powder in his right pocket of his pant and Rs.112 was kept in the upper pocket of his shirt. <u>Dy. S.P., CBI, Sri Narain instructed him to give the money when the accused demands.</u> He was further instructed that after acceptance of bribe money by the accused, he should give a signal by raising his hand through the hair. He further states that <u>the independent</u>

witness, Shishir Kujur was asked to stay with him and he was asked to introduce Shishir Kujur as his friend, if asked by the accused. The remaining part of powder was sealed in an envelope on which he and other officials put their signatures marked as Material Ext.III as Ext.3/43. No one was allowed to keep anything except the above mentioned notes with him. Then a memorandum was prepared containing all the above mentioned things which was read out and explained to him in Hindi and he put his signature on all the pages of the memorandum. Signature on pre-trap memorandum marked Ext.3/44 to 3/48.

He further states that he along with P.W.4-Shishir Kujur proceeded to Hatia Railway Station on the said motorcycle and other members of the trap on other two vehicles. Sri Narain again gave necessary instruction to all the members and he along with Shishir Kujur went to booking clerk, Kali Shankar and talked about transportation of motorcycle from Hatia to Samstipur. Kali Shankar replied that he would book the motorcycle but he will take Rs.100/- extra as bribe to which this witness became ready to pay. Kali Shankar asked him to take journey ticket from the ticket counter and after taking the ticket, he gave to Kali Shankar. Thereafter, the said Kali Shankar gave him a form which he returned to Kali Shankar after filling up the form. Kali Shankar prepared a receipt of Rs.203/- for booking charge of the motorcycle of which he paid Rs.203/- after taking out the money from the left pocket of the pant in respect of which Kali Shankar gave him a receipt. Kali Shankar again demanded Rs.100/- as bribe of which he took out a note of Rs.100/- from the right pocket of the pant and gave to the accused and the same note has been kept inside the drawer of the table. Thereafter, he signaled all the members of the trap by raising his hand through the hair, and all the members of trap team arrived and introduced themselves to the accused and challenged, upon which the face of accused turned pale. He further states that a solution of sodium carbonate was made in plain water and the fingers of the right hand of the accused was put inside the solution, which turned into pink colour and the said solution was sealed in a bottle and label was fixed on it for identification and all the concerned members put their signatures on the same including him. This witness identifies the bottle and the signature which is marked as Mat. Ext.IV marked Ext.3/49. Kali Shankar was asked to take out the said money from the drawer of the table and the number and denomination of the said note was matched with pre-trap memorandum and the said note was kept in an envelope on which all the trap members put their signatures. He identifies the said envelope and signature marked as Mat. Ext.V marked Ext.3/50. He states that the note kept in envelope Mat. Ext.V and comparing the same with the number and denomination mentioned in the pre-trap memorandum shows that the note is the same, which was recovered from the possession of the accused marked Ext.VI. The booking charge of motorcycle i.e. Rs.203/- (Two hundred three rupees) was demanded from the accused which he took out from the drawer of the table and the independent witnesses matched the said notes with the pre-trap memorandum and found the same. The said notes were kept in an envelope and sealed on which all the trap members put their signatures including him. He proves the envelope Mat. Ext.VII marked Ext.3/51. He matches the money kept in envelope Mat. Ext.VII with pre-trap memorandum and identifies that it is the same Rs.203/- as Mat. Ext.VIII to VIII/3. He was asked to return the ticket which he returned the said ticket and the money was returned to him after deducting Rs.10/-. The accused, Kali Shankar was arrested and the superior officer was informed. A memorandum of these actions was prepared, which was read and explained to everyone. Upon finding the same true, all the members of the trap team and this witness put their signatures on the memorandum. He has signed over nine pages of memorandum of recovery and seizure, which he identifies, marked Exts.3/52 to 3/60. The copy of the memo of recovery and seizure was given to the accused for acknowledgment and signature. He identifies the Ext.3/20 and the handwriting and signature of the accused over the same. This witness identifies the accused behind the dock. He has purchased the said motorcycle bearing Reg. No.BEN/2087 from Yogendra Jha(P.W.2), resident of Harmu, Argora for Rs.18,000/- (Rs. Eighteen Thouusand) and he has already paid Rs.10,000/- (Ten Thousand) to Yogendra

Jha(P.W.2). The motorcycle was not transferred in the name of this witness. This witness identifies the form which was filled up by him marked Ext.10.

In his cross-examination, he admits that at the time of occurrence, the said motorcycle was in the name of Yogendra Jha and no document of transfer has been provided to him. He further admits that he has submitted a written complaint to CBI Office in between 10:30 to 11:00 am and after receiving the complaint, Officer, Panigrahi discussed the matter with him, but at that time, no other was present in the office. CBI, Inspector, Panigrahi has neither demanded any document related to the motorcycle nor he has produced. He was again called on the same day at about 1:00 pm, thereafter; he went to CBI Office where two independent witnesses and others were already present. He further admits that on 26.04.1995, before submitting the complaint before the CBI Office, he had gone to Hatia Railway Station and on 27.04.1995, he submitted the written complaint before the CBI. Before the occurrence, he used to book and send the luggage through road transport, not by Rail. On 26.04.1995, he met with the accused, Kali Shankar in the booking office at Hatia Railway Station. He further admits that when he went to booking office, no one else was in the booking office except the accused. He talked to the accused, Kali Shankar about the transportation of motorcycle by train, upon which the accused told him that a receipt of Rs.203/- as booking charge of motorcycle shall be issued and extra Rs.100/-will have to pay. A talk regarding packaging of the motorcycle for the purposes of saving the mirrors has also taken place. The talk has taken place in the evening at about 3:30 to 4:00 pm on 26.04.1995, but he failed to remember regarding discussion for the police verification of the motorcycle. He admits that on the same day, he went to CBI Office but he has not lodged any complaint. On 27.04.1995, the contents of the complaint was read over and explained by the independent witnesses to him and he was also inquired. No one has demanded the registration certificate of the motorcycle nor he has given the documents to them. He further admits that he along with Shishir Kujur proceeded for Hatia Railway Station on the motorcycle at about 3 to 3:30 pm and other officials also followed. He was instructed to introduce the Shshir Kujur as a friend, if asked by the accused and upon demand of the money, he will give. He further admits that he along with Shishir Kujur entered into the office and other officials including Dy.S.P. were a few steps behind and on request of the accused, he went to get the travelling ticket from the ticket counter. He was inside the office since he got the ticket. After filling the form, he gave it to the accused and a receipt of Rs.203/- was issued, which was paid by him by taking the said money out from the left pocket of his pant and the money was put inside the drawer of the table by the accused. On demand of the accused, he again paid Rs.100/- to the accused, which was also kept inside the drawer. Thereafter, he signaled the officer and in the meantime, Dy.S.P and other officials entered into the office and apprehended the accused. He has denied the suggestion of defence that due to denial of the accused from packaging and fixing the plate on the motorcycle, he falsely lodged this case.

P.W.1 Shewajee Prasad was posted as a Head Parcel Clerk at Hatia Railway Station on 26/27.04.1995 and he was on duty since morning at 5:00 am to 1:00 pm. He identified the accused, Kali Charan behind the dock. He states that a form was filled up to book the motorcycle, and the oil tank of the motorcycle was dried. Two wheelers can be transported either by parcel Way Bill or with luggage and four copies of parcel Way Bill is prepared and all the four copies are given to office, passenger, guard and accounts office each. Three copies are prepared for Luggage Forming, one for record, one for passenger and one for guard. He identifies the handwriting and signature of the accused Kali Shankar over three copies of the form dated 26.04.1995 marked Ext.1 to 1/2. He also proves the handwriting of the accused, Kali Shankar on the backside of the forwarding note filled up by the complainant marked Ext.2.

There is nothing in his cross-examination to rebut the aforesaid testimony.

P.W.2-Bhogendra Jha is the original owner of the motorcycle bearing Reg. No.BEL-2087. According to his evidence, he purchased this motorcycle from registered dealer, Receivers Company, Ranchi on the name of his minor son, namely, Rakesh Kumar Jha in the year 1987. He states that he sold the said motorcycle to Nirmal Kumar Bengali (complainant) on 20.03.1995 for Rs.18,000/- and out of total consideration amount, the complainant paid Rs.10,000/- to him and the remaining amount was agreed to be paid later. A document was prepared to this effect, allowing the complainant to use the motorcycle as its owner.

In his cross-examination, he admits that the ownership of the motorcycle was transferred in late 1996 or early 1997. Since then, his son has been in possession of the motorcycle as its owner. He further admits that he has handed over the motorcycle to the complainant after taking Rs.10,000/- and the transfer of ownership of the motorcycle was pending for Rs.8,000/-. He has not given any written permission to the complainant to take the motorcycle out of Ranchi.

P.W.3-Binod Binha was posted as Commercial Inspector at Railway, Ranchi in the year, 1995 and Tati Silve, Hatia, Lohardaga, Ranchi and Namkum were under his jurisdiction. He knows the accused, Kali Shankar Dhobi, who was posted as parcel clerk at Hatia Railway Station in the year, 1995, which was also under his jurisdiction. Two commercial staffs were appointed for parcel booking at Hatia Railway Station, one works from 5:00 am to 1:00 pm and another from 1:00 pm to 9:00 pm. He further states that the parcel clerk gives a forwarding note to the concerned person for booking the motorcycle or scooter. Thereafter, the parcel clerk charges a fee for the luggage or parcel. A nameplate containing the names and addresses of the sender and receiver, as well as the destination station, is prepared and fixed on the motorcycle or scooter. The patrol tank of the motorcycle was dried. The concerned motorcycle or scooter is verified by the police whether the vehicle is stolen or not. Passenger ticket is required in luggage booking, however, passenger ticket is not required in Parcel Way Bill. Luggage ticket is prepared in three copies, one of which is kept for record, one is given to party and the last goes to guard. Parcel Way Bill is made in four copies, one of which is kept for record, the second is given to the party, the third goes to accounts department and the fourth is given to concerned guard. Thereafter, a logistics register is prepared, and a receipt is signed by the train guard to confirm the motorcycle or scooter is loaded.

P.W.4-Shishir Kujur (shadow witness) was posted as Senior Clerk in the Vigilance Department of CCL, Ranchi. On 26.04.1995, he went to CBI office, Ranchi at about 1:45 on the order of his controlling officer, Mr. J.K. Mary. He met with Mr. N. Jha., D.S.P., CBI, Ranchi along with P.K. Panigrahi, V.N. Singh, D.D.V. Singh and other CBI officers. Mr. Rajendra Prasad, Security Guard of CCL also arrived there. Mr. N. Jha, DSP, CBI introduced the complainant to all and explained the purpose of gathering. The written complaint was read over and explained to him and one Rajendra Prasad (P.W.5), then he came to know that one Kali Shankar Dhobi, Parcel Clerk has demanded Rs.100/-(One Hundred) as bribe from the complainant for the purpose of transportation of the motorcycle. Mr. N. Jha, DSP, CBI gave a practical demonstration of trapping process and Mr. D.N. Singh, Inspector, CBI took out a piece of paper on which phenolphthalein powder was applied and he was asked to touch the paper with right finger and his finger was dipped inside a sodium carbonate solution prepared in a clean water, which turned pink. The pink solution was placed in a bottle and sealed and a label was fixed on it and Rajendra Prasad and he himself put their signatures on it marked Ext.I. The paper was also kept in an envelope on which Rajendra Prasad and others have also put their signatures marked as Ext.II. He has also put his signature on the said envelope marked as Ext.3/1. He further states that on instruction of Mr. N. Jha, DSP, CBI, the complainant took out a note of Rs.100/- and gave to DSP, CBI. The number of the note was noted and phenolphthalein powder was applied on the said note and the complainant was instructed that he will give the note to the accused only on demand of bribe. The complainant was also asked to give the money of booking charge of the motorcycle of Rs.203/- (Rs. Two Hundred Three) and their number and denomination were also noted. Rs.112/- (Rs. One Hundred Twelve) for journey ticket was also asked and their number was also noted. He further states that the complainant put Rs.112/- in his upper pocket of his shirt and Rs.203/- in the left pocket of his full-pants. Thereafter, everyone was searched and no one was allowed to have any belongings with them except a pen and identity card. The complainant was also not allowed to have anything except the money. He and Rajendra Prasad were instructed to remain present with the complainant to observe the incident and listen the conversation between the accused and the complainant. The complainant was instructed to give the signal by raising his hands through the hair after acceptance of bribe money by the accused. This entire process was typed on a sheet of paper, which was read over to all and everyone signed on it. He put his signature on the Pre-Trap Memorandum marked as Ext.3/2 to 3/6. The remaining phenolphthalein powder was also put in an envelope and sealed, which was also signed by everyone marked Ext.III and he has also proved the same marked Ext.3/7.

He further states that after demonstration of the process of the trap, he along with other trap members reached at Hatia Railway Station and Mr. N. Jha, D.S.P., CBI, Ranchi instructed him and Rajendra Prasad to keep stay alongside the complainant. He went to parcel booking office along with the complainant where except the accused Kali Shankar, no one was present in the office. The complainant told the accused that he wanted to transport his motorcycle bearing Reg. No.BEN-2087 for Samstipur today itself, upon which, the accused demanded Rs.100/- as bribe to which the complainant became ready to give the bribe. Thereafter, the accused asked the complainant to take the journey ticket from the ticket counter. The accused gave a form to the complainant to fill up all the details and demanded Rs.203 (Rs. Two Hundred Three) for booking charge, which was paid by the complainant. Thereafter, the accused demanded Rs.100 as bribe upon which the complainant gave and the accused put the said money in his drawer of the table. The complainant gave a signal by raising his hand through the hair, then Mr. N. Jha, DSP, CBI and others entered into the office and challenged the accused that he has taken 100 rupees as bribe from the complainant, the accused became nervous and cannot speak anything. Mr. N. Jha, DSP, CBI caught hold of the right hand of the accused and dipped his fingers in the solution of sodium carbonate, which turned pink and the same was kept in a bottle marked Mat. Ext.IV. A label was fixed on the said bottle upon which everyone signed including himself marked as Ext.3/8. The accused was asked to take out the bribe money, and then he took out the same from the upper left drawer of his table and gave to Mr. N. Jha, DSP, CBI. Mr. N. Jha, DSP asked Rajendra Prasad to match the number of note with the Pre-Trap Memorandum and found the number was same. The note was put inside the envelope and sealed marked Ext.V. This envelope bears his signature marked as Ext.3/4. He identifies the note of one hundred rupees opened before the advocate of the accused. The number of the notes of Rs.203/-, which were given to the accused as booking charge, have also been matched with the Pre-Trap Memorandum and the found the same and all the trap members put their signatures on the envelope marked as Ext.VIII. This envelope bears his signature marked as Ext.3/10. The enveloped was also opened before the court and he identifies the notes, which were used as booking charge marked as Mat. Ext.VIII, VIII/1, VIII/2 and VIII/3. Mr. N. Jha, DSP, CBI asked the complainant to cancel the journey ticket, then the complainant cancelled his journey ticket and received Rs.102/- after deduction of Rs.10/-. The forwarding note book of luggage and luggage ticket of the motorcycle were seized and seizure list was prepared and all the trap members put their signatures marked Ext.8. This witness also put his signature on the pages of seizure list marked Ext.3/11 to 3/19. A copy of memorandum Ext. 4 was also given to the accused which he received it and signed the memorandum marked Ext.3/20.

In his cross-examination reiterates that this witness and Rajendra Prasad remained present with the complainant and other members stood here and there near the office. He further admits that leaving the motorcycle at the door of the booking office, he along with Rajendra Prasad and the complainant went inside the office, but found that except, the accused, Kali Shankar, no other employee was present in the office. He and the complainant went to the table of the accused and Rajendra Prasad was standing at the door of office. The accused asked the complainant to get the journey ticket, thereafter, he along with Rajendra Prasad and the complainant went to get the journey ticket and after showing the journey ticket to the accused, he prepared booking paper of the motorcycle by taking Rs.203/-(Rs. Two Hundred Three). Before the booking of motorcycle, the accused asked for owner book of the motorcycle, which was shown to him. He further admits that no destination board was affixed on the motorcycle and the patrol tank was also not dried at that time. The accused did not say that the motorcycle will not be brought to the parcel office until the destination board is affixed and the patrol tank is dried. He has denied the suggestion of the defence that the accused told the complainant that until the petrol tank would not be drained and the board was affixed to the motorcycle, the motorcycle would not be sent for parcel. He has further denied the defence suggestion that the complainant asked for a porter to make a board and affix it on the motorcycle for which he would pay. He has further denied the suggestion of the defence that the complainant offered the accused a hundred rupee note, which the accused refused to accept and told him to arrange for a porter himself. He has further denied the suggestion of the defence that the accused did not demand any bribe, nor accepted the bribe amount of one hundred rupee. He has also denied the defence suggestion that the accused was arrested due to a misunderstanding and the two bottles Mat. Ext.I and IV contains no pink solution rather a white powder. He has denied the suggestion that no bribe money was recovered from possession of the accused.

P.W.5-Rajendra Prasad (shadow witness) was posted as Fire Guard in CCL, Office, Dharbhanga on 27.04.1995. The Controlling Officer called him in the CBI office, where he went and Mr. N. Jha, DSP, Ranchi introduced him to Shishir Kujur, Nirmal Kumar Bengani (complainant) and others. The written complaint was given to Shishir Kujur which was read over, then he knew that one booking clerk, Kali Shankar Dhobi demanded 100 rupees from the complainant as bribe. He states that phenolphthalein powder was applied on a paper and Shishir Kujur was asked to touch the same. Thereafter, a solution of sodium carbonate was prepared in which the hand of Shishir Kujur was dipped and the solution turned pink and the said solution was kept in a bottle and sealed. A piece of paper was affixed on the bottle marked Mat. Ext.I and the bottle bears his signature marked Ext.3/21. The remaining powder of phenolphthalein powder was kept in an envelope and sealed, which was also signed by all members and his signatures on envelope marked Ext.3/22. On demand of one hundred rupees note, the complainant gave one hundred rupees note on which phenolphthalein powder was applied and returned to the complainant with instruction that upon demand of the money, he would give the accused. The remaining phenolphthalein powder was kept in an envelope and sealed marked as Ext.III and his signature on the envelope marked Ext.3/23. A memorandum of the entire process was prepared on which he along with others put their signatures marked as Ext.3/24, 3/25, 3/26, 3/27 and 3/22.

He and other trap members left the office for Hatia Railway Station at about 2:45 pm and reached at 3:00 pm. The complainant introduced the accused to all the members from a distance. Thereafter, the complainant and Shishir Kujur went to the accused and he was standing at the door of the office. The accused demanded the booking charge of Rs.203/-, which was kept in the upper drawer of the table, then the accused demanded hundred rupees as bribe to which the complainant gave the accused in his right hand and the same was also kept in the same drawer. The complainant gave a signal, subsequently all the trap members including Mr. N. Jha, DSP, CBI entered into the office and challenged that the accused has taken one hundred rupees as bribe money, which was confessed by him. The right hand of the accused was dipped in the solution of sodium carbonate, which turned pink and the same was kept in a bottle and sealed. A label was affixed on the said bottle marked Mat. Ext.IV and his signature on the bottle marked as Ext.3/29. Upon demand of Mr. N. Jha, DSP, CBI, the accused gave one hundred rupees note taking out from the drawer and the number was matched with the Pre-Trap Memorandum, which was found the same. The money was put inside the envelope and marked Mat. Ext.V and his signature on the envelope marked as Ext.3/30. The booking charge of Rs.203/- was also taken from the accused and kept in an envelope marked as Mat. Ext.VII and the envelope bears his signature as Ext.3/31. The journey ticket was cancelled. A nine pages memorandum of entire process was prepared and all the members put their signature on it marked Ext.3/32 to 3/40. The accused was arrested and brought to CBI, Office. He identifies the accused behind the dock.

P.W.6-Anil Chandraseal was posted as Booking Clerk at Hatia Railway Station on 27.04.1995 and his duty was at the counter No.3. His duty was from 2:00 pm to 10:00 pm. He states that on that day, he sold a journey ticket from Hatia to Samstipur for Rs.112/-, which was entered in DTC (Daily Train Sub-action Cash Register) register No.6. Later, the ticket was refunded and after deducting Rs.10/-, the remaining amount was returned. He states that Nirmal Kumar, who had got the ticket refunded. He states that his signature was taken in the refund register.

P.W.7-Dev Raj Panta was posted as Senior Divisional Commercial Manager at Adra Division, Purlia on 15.06.1995. He states that being senior Divisional Commercial Manager, he was competent to dismiss an employee of the rank of parcel clerk. He accorded sanction for the prosecution of the accused, Kali Shankar Dhobi, parcel clerk, S.E. Hatia Railway Station, Ranchi after perusing all the relevant papers and evidences collected against the accused. He has put his signature on the sanction order and gave the official seal marked Ext.5.

P.W. 8-B. Das (Bimlednra Das) was posted as Junior Scientific officer at Central Forensic Science Laboratory, Calcutta during 1994 to 1995. On 04.05.1995, two sealed bottles were received in CSFL, Calcutta from the Superintendent of Police, SPE/CBI/Ranchi through Memo No.1995/3/12(A)/95(R) dated 01.09.1995 in connection with RC Case No.12(A)/95(R) dated 27.04.1995 P.S. SPE/CBI, Ranchi under section 7 of P.C. Act. The parcel consisted of two glass bottles covered with clothes and sealed and marked as “D” MR and “R” MR, which were subsequently marked these as 794A and 794B respectively. The article marked 794A contained about 110 ml of pink colored liquid with segment and another article marked 794B contained about 120 ml light pink colored liquid with white segment. The chemical examination of the articles was conducted by him and phenolphthalein powder and sodium carbonate were detected in liquid of articles marked 794A and 794B. He has proved the chemical examination report and put his signature on the same along with date and official seal. The report was marked as Ext.6. He states that the report was forwarded with the forwarding letter dated 26.09.1995 under the signature of A.K. Gaj, Astt. Director and he also signed the report on behalf of the Director CFSL, Calcutta marked as Ext.7.

There is nothing in his cross-examination to rebut the aforesaid testimony.

P.W.10-Mr. Narayan Jha was posted as DSP, CBI, ACB, Ranchi Branch during April, 1995. According to his evidence, on 27.04.1995, the complainant lodged a written complaint and signed the complaint to SP/CBI/Ranchi alleging that a demand of Rs.100/- as illegal gratification was made by parcel clerk, Hatia Railway Station for booking the motorcycle of the complainant for Samstipur in Maurya Express. The complainant has alleged in his written complaint that on 26.04.1995, he approached Kali Shankar for booking the motorcycle wherein the accused demanded bribe amount for the purpose of transportation of motorcycle over and above the booking charge of Rs.203/-(Rs. Two Hundred Three). After receiving the written complaint, the then SP/CBI/Ranchi directed Mr. P.K. Panigrahi, then Inspector, CBI, Ranchi to interrogate the complainant to find out the veracity of the allegation. He states that Mr. Panigrahi had interrogated the complainant and found the allegation true. Thereafter, Mr. Panigrahi submitted a written report to the SP/CBI/Ranchi and on the order of SP/CBI, this case was registered. With a view to catch the accused, Kali Shankar red handed while accepting the illegal gratification of Rs.100/-, a trap team comprising of himself and Mr. D.B. Singh, DSP and P.K. Panigarahi, B.N. Singh, SI, S.K. Jha and Dilip Kumar Singh along with both constables were constituted. The services of two independent witnesses, namely, Shishir Kujur, Sr. Clerk, Vigilance Department and Rajendra Prasad, Fire Guard, both of CCL, Ranchi were inducted in the team. All the members including the independent witnesses and the complainant assembled in CBI office on 27.04.195 at about 1:00 pm and after preliminary introduction to each other, the purpose of assemblage was explained. The written complaint was read over to all including the witnesses, who questioned the complainant and satisfied themselves about the genuineness of the complaint. He states that for practical demonstration, phenolphthalein powder was applied on a plain paper and on being asked, Shishir Kujur touched the same with right hand fingers. A solution of sodium carbonate was prepared in plain water and on being asked, Shishir Kujur put his right hand fingers in the said solution, which turned pink. The solution was preserved in a clean glass bottle, which was duly sealed and signed by all the members including him. The bottle was marked as "D" for demonstration. This bottle was also marked as Mat. Ext.I and the said bottle bears his signature marked Ext.3/61. The treated piece of paper was also put inside the envelope, which was duly sealed and signed by all and the envelope marked Mat. Ext.II and his signature on the envelope marked Ext.3/62. He explained in the practical demonstration that if the said note treated with phenolphthalein powder is accepted by the accused, his hand will be dipped in the solution of sodium carbonate, the solution turned pink. On being asked, the complainant produced Rs.100/- in the form of GC note of Rs.100/- denomination, which he had brought with him to be paid to the accused as bribe. The GC note was treated with phenolphthalein powder and its number was noted in the pre-trap memorandum. The residual of phenolphthalein powder was kept in an envelope, which was duly sealed and signed by all including him. The envelope marked as Mat. Ext.III and his signature on envelope marked Ext.3/63. Thereafter, the complainant also produced Rs.203/- being the booking charges of his motorcycle and number and denominations of those notes were also recorded in the Pre-trap Memorandum. The complainant was instructed to pay the bribe amount of Rs.100/- to accused only on demand and not otherwise. He further states that Shishir Kujur was instructed to remain present with the complainant as his friend while negotiating with the accused regarding bribe matters and Shishir Kujur was further instructed to try to overhear the conversation between the complainant and the accused and to keep watch the transaction of bribe money, if any. The complainant was also instructed to talk with the accused in audible manner. A memorandum covering the aforesaid pre-trap proceeding was prepared and signed by all after going through the same and the same was explained to all in Hindi. The memorandum of five pages was signed by all including this witness and marked as Ext.1. His five signatures on each of the page of the memorandum marked Ext.3/64 to 3/68.

All the trap members left the CBI office at about 2:50 pm and reached at Hatia Railway Station by different vehicles at about 3:15 pm. The complainant was instructed to give signal after acceptance of the bribe amount. At about 3:25 pm, the complainant along with Shishir Kujur entered into the booking office and approached the accused, Kali Shankar for booking of the motorcycle, upon which the accused demanded 100 rupees extra as bribe over and above the booking charge. He further states that after getting confirmation from the complainant about the payment of bribe, the accused asked the complainant to purchase the journey ticket from booking counter. The complainant accordingly went and purchased the journey ticket by paying Rs.112/- and came back to the accused along with his motorcycle along with Shishir Kujur. Thereafter, the accused gave a blank forwarding note to the complainant to fill and the same was filled up and handed over to the accused and the accused issued luggage ticket for which the complainant paid Rs.203/-. The said amount was kept by the accused in upper drawer of his office table and then the accused demanded the bribe amount extending his right hand towards the complainant. The complainant took out the bribe amount of Rs.100/- from right side of his pocket and paid the same to the accused, who received the same in his right hand and kept it in the same drawer. The conversation between the accused and the complainant was overheard by Shishir Kujur and also saw the transaction of bribe money. The transaction of bribe money was also seen by other witness, Rajendra Prasad, Mr. D.B. Singh, P.K. Panigrahi and other trap members. After getting signal, he along with other trap members rushed to the accused and challenged the accused for having demanded and accepted Rs.100/- as illegal gratification from the complainant. On being challenged, the face of accused turned pale and he became nervous. For a while, he could not explain anything and admitted the acceptance of bribe amount. On being asked, a solution of sodium carbonate was prepared in plain water and the right hand fingers were put inside the solution as a result of which, the solution turned pink. The pink solution was preserved in a clean glass bottle, which was duly sealed and signed by all concerned including him. The bottle was already marked as Mat. Ext.IV and the bottle bears his signature marked as Ext.3/69. On being asked, the accused produced Rs.100 in the form of one GC Note of Rs.100 denomination which he had accepted as bribe from the complainant and Rs.203/- which was realized towards the motorcycle booking charges. The number and denomination of GC notes were compared by the witnesses jointly with the Pre-trap Memorandum and the same tallied in toto. The amount of Rs.100/- and Rs.203/- was kept in two separate envelopes which were duly sealed and signed by all concerned including him. The envelope was marked Mat. Ext.V. He proves the tally of numbers and denomination of the notes with the Pre-trap Memorandum. The GC notes were already marked Mat. Ext.VI and the enveloped in which the amount of Rs.203/- was kept and sealed marked as Mat. Ext.VII. His signature on the envelope marked Ext.3/70. On comparison of the number and denomination of the notes amounting Rs.203/- as mentioned in preliminary memorandum comprising of two GC notes of Rs.100 denomination each, one is of Rs.2/- denomination and the last one is of Rs.1/-. The numbers of GC notes tallies with those recorded in preliminary memorandum. The GC notes have already been marked Mat. Ext.VIII to VIII/3. The envelope in which those GC notes were kept marked as Ext.3/71. The accused was taken into custody. The complainant asked to cancel his journey ticket which he did and got the refunded money. On being asked, the accused also cancelled the luggage booking ticket issued for booking of motorcycle of the complainant. The forwarding note duly filled up by the complainant and luggage booking ticket, etc., were also seized. A memorandum of entire proceedings was prepared and signed by all concerned and the same was explained to them in Hindi. The memorandum in nine pages written by Mr. Panigrahi under his dictation, whose handwriting, he identifies. Memorandum is marked Ext.12. All the pages of memorandum have been signed by all concerned including him. His signature on each of the page of the memorandum marked Ext.3/72 to 3/80. A copy of memorandum was also given to the accused after obtaining his acknowledgment, which is marked as Ext.3/20.

In his cross-examination, this witness admits that he had not personally made any verification on receipt of the complainant in CBI Office. Subsequently also no verification in respect of complaint of Sri Bengani was made by him. He further admits that he had no knowledge that for transportation of the vehicle through railways, prior permission of GRP either as a consignee or consignor is required. He further admits that the complainant had not shown any clearance certificate given by GRP for transportation of his motorcycle. He did not remember whether the complainant had shown him the owner book of the vehicle. The motorcycle was parked in front of the gate of parcel office. He further admits that the bribe amount of Rs.100/- was demanded after issuing of booking receipt and the same was given to the accused by the complainant. He further admits that the personal search was not conducted in presence of any railway officer but in presence of independent witnesses. He does not remember whether the complainant is the registered owner of the motorcycle or not. He further admits that the complainant had not used any packing material as such the same was not seized. He has denied the suggestion of defence that no money was recovered from the possession of the accused and the accused has falsely been implicated in this case. He has further denied the suggestion of defence that all the Exhibits and Material Exhibits were not prepared as per rule and all the Exhibits were prepared to falsely implicate the accused. He does not remember whether the complainant is the registered owner of the motorcycle or not.

P.W.11-S.I. Anand Kishore Verma is the Investigating Officer of this case. According to his evidence, he was posted as an Inspector at CBI/ACB, Ranchi in the month of April, 1995. He has formally proved the verification report of the complainant conducted by Inspector, G.K. Panigrahi, CBI as Ext.13. He has also proved the endorsement of the then S.P. Sri N.C. Dhondhiyal CBI on verification report for registration of the case as Ext.12/1 and Formal FIR as Ext.14. This witness received the charge of investigation on 28.04.1995. In course of investigation, he perused the pre-trap memorandum dated 27.04.1995, memorandum of recovery, seizure dated 27.04.1995 and also recorded the statement of witnesses. He also made brief history along with material exhibits and sent the same to Director, CSFL, Calcutta for examination. The carbon copy of the said application is proved as Ext.15 with forwarding endorsement in the handwriting of S.P. Sri N.C. Dhondhiyal. He has received the report from CSFL, Calcutta and obtained sanction for prosecution of the accused, seized the relevant papers and finding sufficient evidence,he submitted charge-sheet against accused, Kali Shankar Dhobi.

In his cross-examination, he admits that he is the second Investigating Officer of this case. He has not asked for registration certificate of motorcycle from the complainant nor any authorization letter for transportation of two wheeler vehicle. He further admits that prior to transportation of any vehicle through train, fuel clearance is necessary but he has not obtained any seizure of fuel while clearing the petrol tank of the motorcycle. In a question about receiving of cancelled passenger ticket, he has answered that return certificate was given because at that time, there was no provision for cancellation of railway ticket.

This witness has fairly admitted that the witness Shishir Kujur(P.W.4) has not stated before him about demand of Rs.100/- as bribe rather he has used the word "Extra Charge" and he again admitted to give Rs.100/- as extra for booking of the vehicle.

The Witness, Rajendra Prasad has also not stated in his statement that while raising his right hand, the accused, Kali Shankar asked Rs.100/- as bribe from Mr. Bengani. He has denied the suggestion of defence that before tressing railway receipt, none of witnesses has stated about demand of bribe and its acceptance by the accused and he has submitted charge-sheet against the accused without any evidence merely under pressure of superior officers.

16. Before embarking upon scrutinizing the evidence as discussed above, it is pertinent hereto extract the relevant provisions of law and the legal principles propounded by the Hon'ble Apex Court:

The relevant provisions of Prevention of Corruption Act (prior to 2018 Amendment)

> "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."

"13. Criminal misconduct by a public servant.-

(1) A public servant is said to commit the offence of criminal misconduct,-

(a)………………….

(b)………………….

(c)………………….

(d) if he,-

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest;

(e)…………………."

Section 20. Presumption where public servant accepts any undue advantage

"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.

(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."

17. In the case of ***V.Sejappa vs State By Police Insp. Lokayukta (2016) 12 SCC 150,*** it was reiterated by the Hon'ble Apex Court that "the demand of illegal gratification is *sine qua non* for constituting an offence under the 1988 Act. Mere recovery of tainted money is not sufficient to convict the accused, when the substantive evidence in the case is not reliable, unless there is evidence to prove payment of bribe or to show that the money was taken voluntarily as bribe. Mere receipt of amount by the accused is not sufficient to fasten the guilt, in the absence of any evidence with regard to demand and acceptance of the amount as illegal gratification, but the burden rests on the accused to displace the statutory presumption raised under Section 20 of the 1988 Act, by bringing on record evidence, either direct or circumstantial, to establish with reasonable probability, that the money was accepted by him, other than as a motive or reward as referred to in Section 7 of the 1988 Act. 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. However, before 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. The complainant is an interested and partisan witness

concerned with the success of the trap and his evidence must be tested in the same way as that of any other interested witness and in a proper case the court may look for independent corroboration before convicting the accused person.

It was further observed that initial burden of proving that the accused accepted or obtained the amount other than legal remuneration is upon the prosecution. It is only when this initial burden regarding demand and acceptance of illegal gratification is successfully discharged by the prosecution, then the burden of proving the defence shifts upon the accused and a presumption would arise under Section 20 of the Prevention of Corruption Act."

18. In the case of ***Rajesh Gupta Vs. State through Central Bureau of Investigation (2022) 20 SCC 793***, the Hon'ble Apex Court has held as under:-

> "The law is well settled that the sole testimony of the complainant, which is interested witness, cannot be relied upon without having corroboration with the independent witness.
>
> The demand of illegal gratification the demand of illegal gratification is a *sine qua non* to prove the guilt. Mere recovery of currency notes cannot constitute an offence under Section 7 of PC Act, unless it is proved beyond reasonable doubt that accused voluntarily accepted the money, knowing it to be a bribe. The proof of acceptance of illegal gratification can follow only if there is proof of demand.

Mere recovery of the currency notes and positive result of the phenolphthalein test is not enough in the peculiar circumstances of the case to establish guilt of the appellant. The charge must be proved beyond reasonable doubt. In absence of proving the recovery from the person or the drawer of the table or acceptance of the currency notes by accused with relevant material on record in furtherance to the proved demand, the guilt cannot be proved."

19. In the case of ***Neeraj Dutta vs. State (Govt. of N.C.T. of Delhi) (2023) SCC OnLine SC 731,*** the principle of law was summarized as under:-

The relevant to the offence under sections 7 and 13(i)(d) of Prevention of Corruption Act:

(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.

(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.

(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.

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

(i) if there is an offer to pay by the bribe giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.

(ii) On the other hand, if the public servant makes a demand and the bribe giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Section 13 (1)(d)(i) and (ii) of the Act.

(iii) In both cases of (i) and (ii) above, the offer by the bribe giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Section 13 (1)(d), (i) and (ii) respectively of the Act.

Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Section 13 (1)(d) and (i) and (ii) of the Act.

(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.

(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.

(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.

(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."

20.Now, I have to proceed with evaluation of evidence in relation to the charges leveled against the accused/appellant keeping in mind the aforesaid principle of law propounded by the Hon'ble Apex Court. It is admitted fact that the appellant is a public servant and was posted as a Booking Clerk at Railway Station, Hatia at the relevant time of occurrence. This fact also finds corroboration from the evidence of Shewajee Prasad (P.W.1), Parcel Clerk at Hatia Railway Station and P.W.3, Binod Binha, Commercial Inspector posted at Ranchi.

21. The specific allegation against the appellant is that he demanded Rs.100/- as extra charge other than legal charges leviable for transportation of vehicle *via* rail. The complainant (P.W.9) negotiated with the appellant for booking of his motorcycle for transportation from Hatia to Samstipur. Since, the complainant was not inclined to give bribe, hence, he lodged the complaint before CBI. It appears from the evidence as discussed above that pre-trap formality was conducted by the CBI Officials for laying trap against the appellant. The shadow witnesses, namely, Shishir Kujur (P.W.4) and Rajendra Prasad (P.W.5), both of CCL employees were also arranged. The pre-tap formalities were conducted in presence of witnesses and memorandum was prepared. As per instruction issued to the witnesses, the informant along with P.W.4, Shishir Kujur entered into the office of the appellant and another witness, Rajendra Prasad (P.W.5) was standing near the door of the office for overhearing the conversation between the complainant and the accused/appellant. The conversation, which took place between the appellant and the complainant, is extracted as under:

"मोटरसाइकिल आज अपने साथ समस्तीपुर ले जाना है। काली शंकर ने कहा कि मोटरसाइकिल बुक कर दूंगा पर साथ में जाने के लिए १०० रुपये एक्स्ट्रा रिश्वत के तौर पर लगेंगे जो देने को मैं तैयार हो गया। काली शंकर ने मुझे अपना टिकट काउंटर से लेकर आने को कहा तो मैं काउंटर से टिकेट लेकर आया तथा काली शंकर को दिया। काली शंकर ने एक फॉर्म मुझे दिया जिसे भरकर मैंने उन्हें दे दिय। काली शंकर ने मोटरसाइकिल बुकिंग की २०३ रुपये के रसीद बनाये तथा काली शंकरने मुझे दिया। इसके बाद काली शंकर ने रिश्वत के रूप में १०० रूपये की मांग की, जो मैंने अपने पैंट के दाहिने पॉकिट से निकलकर दिया, जिसे काली शंकर ने अपने दाहिने हाथ से लेकर अपने टेबल के ड्रावर में रखा। फिर मैंने बाल फेरकर संकेत दिया जिसपर सभी लोग अंदर आ गए और Dy.S.P. साहब ने काली शंकर को अपने परिचय देते हुये चैलेंज किया जिसपर काली शंकर के चेहरा के रंग उतर गया।"

22. At this juncture the exact words of conversation as stated by the complainant is to be seen in the light of shadow witness, Shishir Kujur(P.W.4). He also admits that he has not gone to Railway Station on the motorcycle of the complainant rather a meeting point was identified at parking place of Hatia Railway Station, where he reached but at that time, the complainant was already present there. He along with the complainant, Nirmal Kumar Bengani and one Rajendra Prasad (P.W.5) went to parcel booking office where accused, Kali Shankar was sitting. Rajendra Prasad (P.W.5) stayed near the door of booking office and Shishir Kujur along with the complainant went inside the office. At first, Kali Shankar said to the complainant to purchase a journey ticket then, they went to purchase the journey

ticket and came back to parcel booking office. Further evidence of this witness in his own words as stated herein:

> "मै, राजेंद्र प्रसाद और निर्मल कुमार बेंगाणी काली शंकर धोबी के पास गए और निर्मल कुमार बेंगाणी ने काली शंकर से कहा कि वो आज ही अपना मोटरसाइकिल जिसका रजिस्ट्रेशन नंबर बेन -8027 को समस्तीपुर ले जाना चाहते है इसलिए बुकिंग कर दीजिये! जिसपर काली शंकर ने बेंगाणी से कहा वो १०० रूपये देने को तैयार है तब ही वो मोटरसाइकिल बुकिंग को तैयार है! काली शंकर जर्नी टिकट लाने को कहा जिसपर बेंगाणी जर्नी टिकट लेकर आया फिर जर्नी टिकट के साथ निर्मल कुमार, मै और राजेंद्र प्रसाद काली शंकर के ऑफिस में मोटरसाइकिल बुकिंग करने के लिए गए जहा पर उन्हें एक फॉर्म दिया गया! निर्मल कुमार बेंगाणी उस फॉर्म को भरकर दिया तब काली शंकर ने मोटरसाइकिल बुक करने का २०३ रुपये माँगा जिसपर निर्मल कुमार ने दिया, जिसे काली शंकर ने अपने टेबल के बाये तरफ के ऊपर ड्रावर में रखा और २०३ रूपये का लगेज टिकट बना कर दिया और एक कार्बोन प्रति निर्मल कुमार को दिया इसके बाद काली शंकर अपने दाहिने हाथ बढाकर बोला घूस का 100 रुपए दो, इसपर निर्मल कुमार ने अपने फूल पैंट दाहिने जेब से phenolphthaleinpowder लगा 100 रुपये निकालकर काली शंकर के दाहिने हाथ में दिया जिसे काली शंकर ने अपने उसी टेबल के बाये तरफ के ऊपरी ड्रावर में रखा! इसके बाद निर्मल कुमार ने अपने सर पर हाथ फेरकर सिगनल दिया, तब सीबीआई टीम के N. Jha तथा अन्य पदाधिकारी वहा आ गए और काली शंकर को चैलेंज किये और घूस के 100 रुपये उससे लिया, इस पर काली शंकर नर्वस हो गया और कुछ नहीं बोल पाया!"

23. Other witnesses of the facts, namely, Shewajee Prasad (P.W.1), Binod Binha (P.W.3), Anil Chandraseal (P.W.6), Dev Raj Panta (P.W.7) and Narayan Jha (P.W.10) have also corroborated the above facts deposed by Nirmal Kumar Bengani (P.W.9), Shishir Kujur (P.W.4) and Rajendra Prasad (P.W.5)

24. It further appears that just after arrival of the trap team receiving the signal raised by the complainant, the further proceedings were conducted and the memorandum of trap proceeding was prepared and copy of seizure list was also given to the appellant. The CFSL report also corroborates the result of trap proceedings. Therefore, foundational facts regarding the demand of illegal gratification and its acceptance and recovery from the accused/appellant has been proved beyond doubt by the prosecution to draw a presumption under section 20 of the Act against the appellant. In rebuttal of above presumption, the appellant has offered no satisfactory explanation or adduced any evidence. Learned counsel for the appellant in the course of argument has pointed out certain discrepancies appearing in the evidence of witnesses and comparative chart of P.W.9, P.W.4 and P.W.5 has been prepared in this regard and it is emphasized that none of the witnesses have stated before the Investigating Officer (P.W.11) that the accused was demanding any bribe rather he used the word 100 rupees extra.

25. In the facts and circumstances of the case, wherein it is admitted position that booking charge of vehicle was only Rs.203/- then for what purpose, this extra 100 rupees was demanded by the appellant, which has not been explained by him. Therefore, any money, which is other than a legal charges demanded by any public servant for doing his lawful duty shall amount to demand of bribe or illegal gratification furnishing motive or reward for doing such official work. The appellant

cannot escape from his liability merely because he has used the word 'Extra' not the word "Bribe' directly.

26. The next argument about no verification of the allegations contained in the complaint by the CBI Officials is concerned, it is quite obvious from the evidence available on record that the complainant was thoroughly interrogated twice towards the allegations and being satisfied, CBI Inspector, P.K. Panigrahi recommended for registration of FIR. Mere non-examination of Inspector, P.K. Panigrahi does not affect the core of prosecution case, which has been proved during trial by cogent and reliable evidence. Therefore, prior inquiry and its result becomes immaterial.

27. Another argument raised by learned counsel for the appellant that the complainant was not the owner of the motorcycle, so he could not book the same for transportation to another place is concerned, the evidence of P.W.2 Yogendra Jha ultimately goes to show that the motorcycle was registered in his name, which has been transferred for a consideration amount of Rs.18,000/- to the complainant of this case and he has already handed over the possession of the motorcycle to the complainant. The very purpose for police verification before transporting the vehicle lies ascertainment as to the same is stolen property or not. In the instant case, registration book was produced by the complainant before the accused/appellant and no such objections were raised by him that the motorcycle could not be transported without

transfer of ownership by the Competent Authority in the name of the complainant.

28. Learned counsel for the appellant has also pointed out some other insignificant points that the journey ticket purchased by the complainant was returned but at the time of preparation of pre-trap memorandum of Rs.112/- specified for that purpose has not been seized and proved in this case. The formalities of booking of vehicle for transportation were not strictly observed before receiving the tainted money as extra charge. The vehicle was booked for transportation, therefore, demand of bribe becomes irrelevant. All these arguments are not bearing with the material ingredients of the offences charged against the appellant.

29. It appears that the learned trial court has considered all aspects of the case including the points of arguments raised on behalf of the appellant while hearing this appeal. Above pleas are answered in negative by learned trial court with sound reasons in view of the evidence available on record.

30. I have also given anxious consideration to the overall facts and circumstances of the case, the evidence available on record and find no legal substance in the points of arguments raised on behalf of the appellant and no merits in this appeal.

31. In view of the above discussion and reasons, the impugned judgment of conviction of the appellant requires no interference, which is hereby upheld and confirmed.

32. So far the quantum of sentence awarded to the appellant by learned trial court is concerned, it appears that the learned trial court, without considering the facts and circumstances of the case, nature of offence proved against the appellant, and the genesis and manner of occurrence, has awarded sentence, which appears to be disproportionate to the guilt of the appellant. At this juncture, it is also to be taken into consideration that the occurrence has taken place in the year, 1995, and the case was decided by learned trial court in the year, 2004 i.e. after lapse of 9 years and this appeal is also pending for more than two decades. The appellant has now attained the age of 75+ and suffering age related illness. It was the first offence of the appellant and he has also been dismissed from his service. Therefore, minimum sentence prescribed for the offences charged against the appellant would meet the ends of justice in this particular case. Accordingly, sentence of imprisonment awarded by learned trial court to the appellant for the offence under section 7 of P.C. Act, R.I. of 1 year is reduced to S.I. of 6 months and for the offence under section 13(1)(d), R.I. of 1 ½ years is reduced to S.I. of 1 year. There will no interference in the fine amount, which has already been deposited by the appellant. Both the sentences are directed to run concurrently.

33. In view of the above discussion and reasons, this appeal is **dismissed on merits with modification in sentence** as stated above.

34. The appellant is on bail, thus his bail bond is cancelled and the appellant is directed to surrender before the concerned trial court within two months from the date of the judgment to suffer the sentence awarded to him, failing which, learned trial court shall take all coercive steps for taking him into custody and sending the appellant to jail for sustaining the sentence awarded to him as stated above.

35. Pending I.A(s), if any, is also disposed of accordingly.

36. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

High Court of Jharkhand, Ranchi

Dated:- 10/ 09 /2026

***Pappu*/-N.A.F.R.**

Uploaded on 11 /09 /2026