

KABC010311762017



**IN THE COURT OF THE XXIII ADDL.CITY CIVIL
& SESSIONS JUDGE AND SPECIAL JUDGE (P.C.
Act) BENGALURU (C.C.H.No.24)**

Dated: This the 30th day of July, 2026

:PRESENT:

VIJETH .V, B.A.L., LL.B.,
XXIII Additional City Civil and Sessions Judge
cum Special Judge (P.C. Act),
Bengaluru Urban District, Bengaluru City.

Spl. CC. No.643/2017

Complainant

The State of Karnataka,
represented by the Police
Inspector, Anti Corruption
Bureau, City Division,
Bengaluru.

(By the Public Prosecutor)

- V e r s u s -

Accused

1

Sunkanna
S/o.Ramalingappa

Aged about 45 years
Lokayuktha
Bengaluru

R/a.Sanjeevini Nagara,
2nd Cross, Mudalpalya,
Bengaluru-40.

(A-1 by Sri.P.N.H., Advocate)

2 Sudhakar
S/o.Rangareddy
Aged about 38 years
PC 1086
APMC P.S., Bellary
R/a.Swamijinagara
2nd Cross, Taluru Road
Bellary.

(Case against A-2 quashed by
the Hon'ble High Court of
Karnataka in W.P.
No.10436/2021 dated
22.07.2021)

Date of Commission 27.03.2017
of offence

Date of report of 27.03.2017
Occurrence

Date of Commencement of evidence	26.07.2021
Date of closing of evidence	16.03.2026
Date of arrest of accused	07.04.2017
Name of the complainant	Kalleshappa Poojar
Offences complained off	under Sections 7, 13(1) (D) R/w. Section 13(2) of the Prevention of Corruption Act, 1988
Opinion of the Judge	Acquitted for the above said offences

JUDGMENT

The Police Inspector, the then Anti Corruption Bureau, (in short the 'ACB') Bengaluru has filed the charge sheet against the accused No.1 & 2 for the offences punishable under Sections 7, 13(1)

(D) R/w. Section 13(2) of the Prevention of Corruption Act, 1988 (in short the “PC Act”).

2. The brief facts of the prosecution case is as under;

That a case has been registered against CW-1 Kalleshappa Poojar in Bellary Lokayuktha P.S., vide Cr. No.2/2011 and thereafter the said case was ended with acquittal on the file of District Judge, Bellary on 14.07.2015. During the departmental enquiry by the Superintendent of Police, Bellary District, the complainant in the present case Sri Kalleshappa Poojar was found guilty and it was ordered that two years salary should not be paid to him. On the said order, the present complainant Kalleshappa Poojar has

preferred appeal before IGP, DGP and Government. The Home Secretary, Government of Karnataka has sought for clarification regarding pendency of any appeal against the judgment passed by the learned District Judge, Bellary and also sought for production of 'Not Fit for Appeal Certificate' to the complainant in the present case. CW-9 Basavaraju has introduced CW-1 to the accused No.1 Sunkanna over phone & requested to assist the present complainant Kalleshappa Poojar in obtaining not fit for appeal certificate. When the complainant approached accused No.1 Sunkanna in Lokayuktha Office, Bengaluru who was working as Judgment Writer in Lokayuktha Bengaluru and requested the accused No.1 for not fit for appeal certificate, the

accused demanded Rs.34,000/- illegal gratification to issue 'Not Fit for Appeal Certificate' in favour of the complainant and received an advance amount of Rs.1,000/-. Thereafter, the accused No.1 with the assistance of CW-8 R.Nagaraja, Advocate obtained not fit for appeal certificate through RTI and to hand over the said certificate the accused demanded to pay the remaining illegal gratification. But as the complainant Kalleshwappa Poojar stated that he can give only Rs.10,000/- as illegal gratification, the accused No.1 informed the complainant to pay the illegal gratification amount to his known person accused No.2 who was working as Police Constable at APMC Yard Police Station, Bellary. The complainant who is not willing to pay the

illegal gratification has approached the Lokayuktha Police and registered a case against accused persons which was registered as Cr. No.11/2017 for the offences punishable under Section 7, 13(1) (D) R/w. Section 13(2) of PC Act. Subsequently, the accused No.2 as per the instructions of accused No.1 and on his behalf forced to pay Rs.25,000/- and the accused No.2 trapped while receiving the illegal gratification amount of Rs.25,000/-. The accused No.1 & 2 were arrested and produced before the Court and subsequently they were enlarged on bail. After completion of investigation, the ACB, Bengaluru has filed charge sheet against accused No.1 & 2 for the above said offences.

3. After taking cognizance of the offence the presence of the accused No.1 & 2 came to be secured and they were enlarged on bail. The charges were framed against the accused No.1 & 2 and they pleaded not guilty of the offence and claimed trial. The case against accused No.2 is quashed by the Hon'ble High Court of Karnataka in W.P. No.10436/2021 dated 22.07.2021.

4. In order to bring home the guilt of the accused No.1, the prosecution has examined PW.1 to PW.10 witnesses and produced Ex.P1 to Ex.P53 documents and also got marked MO.1 to MO.7. Ex.D.1 to Ex.D.4 marked through confrontation by the defense side. After conclusion of the prosecution side evidence,

statement of accused No.1 as required under Section 313 of Cr.P.C., is recorded, read over and explained to the accused in the language known to him where in the accused No.1 denied the incriminating evidence appeared against him and he has filed his written statement along with documents, but he did not chosen to read any oral evidence from his side.

5. Heard the arguments. After analytical appreciation of the oral and documentary evidence placed on record by the prosecution and defence of the accused No.1, from the facts and circumstances of the case the points that would arise for the determination of this court are :

1. Whether the prosecution beyond reasonable doubts prove the fact that the in order to obtain not fit for appeal certificate the complainant approached accused No.1 who was working as Judgment Writer in Lokayuktha Institution in December 2016 and the accused No.1 agreed to provide not fit for appeal certificate and demanded illegal gratification of Rs.34,000/- and received token advance of Rs.1,000/- and thereafter the accuse No.1 frequently demanded complainant to pay balance illegal gratification & thereafter the accused No.1 instructed the complainant balance illegal gratification of Rs.34,000/- to accused No.2 who was then working as police constable at APMC Yard P.S., Bellary and on 06.04.2017 at about 5.26 p.m., 75 ft., away from APMC Yard P.S, Bellary on the instruction of accused No.1, the accused No.2 received illegal gratification of Rs.25,000/- towards part

payment from CW-1 on behalf of accused No.1 and thereby the accused No.1 has committed the offence punishable under Section 7 of Prevention of Corruption Act, 1988?.

2. Whether the prosecution further proves beyond all reasonable doubt that on the above said date, time and place the accused No.1 while holding office as a judgment writer abused his position as such public servant by corrupt and illegal means and on his instruction the accused No.2 obtained pecuniary advance of Rs.25,000/- from the complainant without any public interest and by the criminal misconduct the accused No.1 has committed the offence punishable under Section 13(1)(d) of Prevention of Corruption Act, 1988 punishable under Section 13(2) of P.C. Act 1988.?

3. What order?

6. My answered to the above points are as under:

Point No.1	:	In the Negative
Point No.2	:	In the Negative
Point No.3	:	As per the final order for the following

REASONS

7. **Point No.1 and 2**:- In order to avoid repetition of facts, point No.1 & 2 have taken for common discussion.

It is the case of the prosecution that a case has been registered against CW-1 Kalleshappa Poojar in Bellary Lokayuktha P.S., vide Cr. No.2/2011 and thereafter the said case was

ended with acquittal on the file of District Judge, Bellary on 14.07.2015. During the departmental enquiry by the Superintendent of Police, Bellary District, the complainant in the present case Sri Kalleshappa Poojar was found guilty and it was ordered that two years salary should not be paid to him. On the said order, the present complainant Kalleshappa Poojar has preferred appeal before IGP, DGP and Government. The Home Secretary, Government of Karnataka has sought for clarification regarding pendency of any appeal against the judgment passed by the learned District Judge, Bellary and also sought for production of 'Not Fit for Appeal Certificate' to the complainant in the present case. CW-9 Basavaraju has introduced CW-1 to the accused

No.1 Sunkanna over phone & requested to assist the present complainant Kalleshappa Poojar in obtaining not fit for appeal certificate. When the complainant approached accused No.1 Sunkanna in Lokayuktha Office, Bengaluru who was working as Judgment Writer in Lokayuktha Bengaluru and requested the accused No.1 for not fit for appeal certificate, the accused demanded Rs.34,000/- illegal gratification to issue 'Not Fit for Appeal Certificate' in favour of the complainant and received an advance amount of Rs.1,000/-. Thereafter, the accused No.1 with the assistance of CW-8 R.Nagaraja, Advocate obtained not fit for appeal certificate through RTI and to hand over the said certificate the accused demanded to pay the remaining illegal

gratification. But as the complainant Kalleshappa Poojar stated that he can give only Rs.10,000/- as illegal gratification, the accused No.1 informed the complainant to pay the illegal gratification amount to his known person accused No.2 who was working as Police Constable at APMC Yard Police Station, Bellary. The complainant who is not willing to pay the illegal gratification has approached the Lokayuktha Police and registered a case against accused persons which was registered as Cr. No.11/2017 for the offences punishable under Section 7, 13(1) (D) R/w. Section 13(2) of PC Act. Subsequently, the accused No.2 as per the instructions of accused No.1 and on his behalf forced to pay Rs.25,000/-

and the accused No.2 trapped while receiving the illegal gratification amount of Rs.25,000/-.

8. On the other hand the learned advocate for the accused contended that the prosecution has made false allegations against the accused and also produced and relied on the following decisions;

1. (2015) 10 SCC 152 between P.Sathyanarayan Murthy V/s. District Inspector of Police State of Andhara Pradesh and another.
2. 2023 SCC Online SC 280 between Neeraj Dutta V/s. State by NCT of Delhi
3. (1979) 4 SCC 526 between Pannalal Damodar Rathi V/s. State of Maharashtra
4. (1975) 4 SCC 761 between Trilok Chand Jain V/s. State of Delhi

9. In order to substantiate the contention of the prosecution, it has examined CW-1 Kalleshappa Poojar as PW-2 who deposed before the court that he is working was working as Police Constable in Gandhinagar P.S., Bellary from 2003 to 2011. When he was working as process server in Gandhinagar P.S., it is alleged that in C.C. No.242/2010 in order to execute the warrant the complainant Kalleshappa Poojar demanded illegal gratification, as such one Mallikarjuna Gowda has lodged complaint against Kalleshappa Poojar before Karnataka Lokayuktha Police which was registered a Cr. No.2/2011 of Lokayuktha Police, Bellary & a charge sheet has been filed which is registered as Spl. C.C. No.16.2012. In the said case the court

has acquitted the Kalleshappa Poojar on 14.07.2015. In departmental enquiry, the Superintendent of Police, Bellary/concerned authority has stayed two years salary and he has been suspended for six months. The complainant Kallehsappa Poojar had preferred appeal before Police Commissioner in which the concerned authority has sought for explanation whether any appeal was preferred against judgment in Spl. C.C. No.16/2012 or not. When, the complainant enquired about the same in Bellary Lokayuktha Police Station, they have informed that they are yet to receive the said document. In the said connection when complainant enquired with one ASI, Basavaraju to give information about the persons who are acquainted with him working in

Bengaluru Lokayuktha Office. The said Basavaraju informed that the accused No.1 Sunkanna is the resident of Bellary and also given his phone number and informed to meet the accused No.1 Sunkanna. The complainant went to Lokayuktha Office, Bengaluru in the month of December 2016 & met the accused No.1. When he went to Lokayuktha Office, Bengaluru he came to know that accused is working as Judgment Writer in the said office. The complainant requested accused No.1 for 'not fit for appeal certificate' with respect to C.C. No.16/2012 which was to be issued by Lokayuktha Office Bengaluru, for which the accused informed that it costs Rs.34,000/- and informed to arrange the amount. As such the

complainant returned to Bellary. The accused No.1 repeatedly called the complainant and demanded to pay Rs.34,000/- for issuing 'Not fit for appeal Certificate'. In February 2017, the accused No.1 by obtaining not fit for appeal certificate through RTI handed over the same to complainant at Bellary & received token advance of Rs.1,000/- and informed to pay the remaining amount later on. When the accused No.1 repeatedly forced the complainant to pay the remaining amount, the complainant informed that he will arrange the amount by obtaining loan from KGID. As the complainant was not willing to get the work done by paying illegal gratification, he has sent a letter to Registrar, Karnataka Lokayuktha of 14.03.2017 for necessary action

and he has also handed over the audio clips with respect to conversation of complainant and accused No.1. That on 27.03.2017 one Dy.S.P. Shivashankara Reddy, ACB Office, Bengaluru called him over phone and got confirmed about the complaint lodged by him and instructed to appear before him. On 04.04.2017 the complainant Kalleshappa Poojar visited Dy.S.P. Shivashankara Reddy, where the statement of the complainant was recorded. On the same day the Dy.S.P., called one Girish and Basavaraj Kanabur who were the Government Servants to ACB Office to stand as panchas. The Investigating Officer also introduced the complainant to the panchas and informed panchas about the details of complaint. On 27.03.2017 when he has given

complaint as per Ex.P.3 along with Compact Disk the police have drawn panchanama with respect to seizer of said Compact Disk and also informed that the conversation is transcribed. The complainant had Rs.10,000/- having denomination of Rs.2,000/- which was produced before the I.O. The I.O., has handed over the amount of Rs.10,000/- to the pancha Basavaraja Kanabur and informed him to count the same & thereafter the numbers of currency notes were reduced into writing in a paper. The I.O., has smeared the phenopthaline powder on the said notes and again handed over the same to Basavaraj Kanabur to confirm whether the serial numbers of the currency notes are correct or not. Thereafter, as per the instruction of I.O., pancha

Girish after confirming that there is no articles in the pant pocket of complainant informed to keep the same in the pant pocket of the complainant and instructed the complainant to pay the same to accused No.1 only after demand by the accused No.1. The I.O. also instructed accused No.1 to observe how the accused No.1 will take the amount and where he will keep the amount. The I.O. also informed pancha witness – Girish to observe the events and to inform the I.O. Thereafter, the Investigating Officer had instructed to prepare sodium carbonate solution in a bowl and some portion of said solution was separated for sample and filled in a vacant bottle and named it as 'U' & seized the same. Both hands of panch witness Basavaraj Kanabur was

washed in remaining portion of solution, the solution turned to pink colour which was also seized by the police in another bottle. The police have also taken photographs.

Further, in order to confirm where the amount should be given, instructed the complainant to call accused No.1, but the accused No.1 has not received the calls to both his phone numbers. The accused earlier informed the complainant to hand over the amount to the accused in Bengaluru or to hand over the same to his friend accused No.2 by name Sudhakar. As the accused No.1 has not lifted the call, the complainant called accused No.2 and informed that the accused No.1 is not lifting the call and requested him to spoke with accused no.1.

Thereafter, the investigating officer instructed the complainant to know whether the accused No.2 Sudhakar is in Bellary or not. The Investigating Officer taken back the amount of Rs.10,000/- from panch witness Basavaraj and kept in Almirah and the I.O. instructed to maintain secrecy and a pre trap panchanama was drawn in the office as per Ex.P.4 between 11.05 to 12.45 p.m., to which the panchas and the I.O., put their signatures.

The complainant had spoken with accused No.2 on 04.04.2017 wherein the accused No.2 informed that the amount has to be handed over to him at Bellary only. The complainant has given the information to the I.O. Further, on 06.04.2017 when the complainant was in Bellary,

the I.O. called him at 8.05 a.m., & informed that they are coming to Bellary. On 06.04.2017 at 8.35 a.m., the I.O. with his team informed that they have reached near Government Hospital, Bellary and informed the complainant to come there. The complainant reached the spot at 9.00 a.m., The I.O. Instructed the complainant to call accused No.2 Sudhakar with respect to the place where the amount should be handed over & at what time. The complainant called accused No.2 Sudhakar at 8.36 a.m., and informed that he has arranged Rs.10,000/- and requested to inform the same to accused No.1. The accused No.2 stated that he will call the complainant after informing the accused No.2. But the accused No.2 has not called him till 12.30 p.m., When the

complainant again called the accused No.2 at 12.30 p.m., the accused No.2 informed that the accused No.1 refused to take Rs.10,000/- & directed to receive Rs.25,000/-. On the same day the complainant arranged Rs.15,000/- having denomination of Rs.2,000X7 and Rs.500/-X2 & the Sl. Numbers were again reduced into a paper and smeared with phenopthaline powder. The panch witness Basavaraj Kanabur had kept the amount of Rs.25,000/- in the right pant pocket of complainant and the investigating officer again given the instruction. The I.O. has given a USB Pen drive to the complainant and instructed to record the conversation & also informed about the method of using the USB Pen Drive. Further on the same day at 1.42 p.m., the complainant

called Sudhakar over Phone and informed that he has arranged amount of Rs.25,000/- and the accused No.2 Sudhakar informed that he is going to the house and he will return to the APMC Yard P.S., at 4.00 p., As such the complainant along with raid team went near APMC Yard. But the accused No.2 has not called the complainant up to 4.45 p.m., When the complainant & Panch witness Girish went inside the APMC Yard P.S., the accused No.2 Sudhakar was present. The complainant called the said Sudhakar outside the police station and informed that he has brought Rs.25,000/-. The accused No.2 called accused No.1 Sunkanna over phone and informed the same and the accused No.1 informed to ask when the remaining amount of Rs.9,000/- will be paid

& he has disconnected the phone. When the complainant requested the accused No.2 that he wants to spoke with accused No.1, the accused No.1 asked when he will going to pay the remaining amount for which the complainant stated that he will arrange the same in some days. The accused No.1 informed the complainant to pay the amount to the accused No.2. The accused No.2 informed the accused No.1 regarding payment of Rs.25,000/- & the accused No.2 kept the amount of Rs.25,000/- in his shirt pocket after counting the same. Thereafter, the complainant signaled the raid team by keeping his both hands in pant pockets. When the I.O. & his team came near the police station the accused No.2 ran inside the police

station, the accused No.2 went near the table of SHO, the I.O caught hold the hands of accused No.2 and introduced himself as ACB Officer. Immediately the accused No.2 thrown the amount below the SHO table. The complainant shown the accused No.2 to the Investigating Officer. The I.O. by holding both wrists made accused No.2 to sit in the chamber of PSI and informed that the accused No.2 is going to be arrested as he had taken bribe on behalf of accused No.2 Sunkanna. The staff of complainant police prepared Sodium Carbonate solution in a bowl. A part of that solution was separated and taken in a bottle and seized the same through seal impression 'U'. The fingers of accused No.2 when rinsed in sodium carbonate solution it was

turned pink. The same was seized in a separate bottle. The complainant and the panch witness Girish stated about the events to the I.O. When the accused No.2 was questioned about the illegal gratification, he has stated that he has no such amount in his possession. The complainant and the panch witness Girish informed the I.O. that he has thrown the amount near SHO Table. The panch witness Basavaraju has collected the entire amount and the I.O. has tallied the said tainted currency notes with the serial numbers already prepared which were tallied. The I.O. has kept the said tainted currency notes in a cover and sealed it. During enquiry the accused No.2 orally stated that as per the say of accused No.1, he has collected the illegal gratification amount.

When the I.O. instructed accused No.2 to give his written explanation he has given statement stating that he has nothing to do with the said amount and he has been made as scape goat. The I.O. has also seized the voice recorder and the voice recorder was inserted in a laptop and played the conversation between complainant and Sudhakar and the same was recorded. The said conversation is transferred to a Compact Disk and the compact disk was seized. The I.O. also collected the mobile phone of accused No.2 in which some conversation was recorded through audio recording which was also played through laptop and the six files containing in the said mobile phone was transferred to a C.D. and seized the said C.D. The conversation were

transcribed. The I.O. has seized the said mobile phone and memory card of accused No.2. The I.O. has handed over the seal to panch witness Basavaraja Kanabur and instructed to produce before the court when directed. The photographs were also snatched at the time of panchanama. The trap panchanama was prepared between 5.45 p.m., to 11.00 p.m., as per Ex.P.6 to which the panchas and I.O. are the signatories. Thereafter, the accused No.2 was brought to Bengaluru along with the complainant. The complainant has given statement on 07.04.2017. That on 30.05.2017, the complainant came to ACB Office where the police have given the transcription copy and directed to read it for three times which was recorded in a C.D. and a

panchanama was drawn to that effect which is marked at Ex.P.7. The sound sample C.D. is seized. On 07.07.2017 he has given statement before the Magistrate under Section 164 of Cr.P.C., He can identify the amount seized from accused No.2.

In the cross-examination the witness stated that in Cr. No.2/2021 there was a allegation made against him stating that he has received Rs.3,000/- to execute a warrant in a case and the Lokayuktha Police have trapped him on 06.04.2011. At that time the Lokayuktha Police have rinsed his hands in Sodium Carbonate solution. He do not remember whether the said proceedings were made by accused No.2 Sudhakar or not. But the witness admitted that

Sudhakar was a member of said raid team. The witness admitted that the trap panchanama in Cr. No.2/2011 marked at Ex.D.1 is signed by him by reading the contents of the same. The police have given the copy of said panchanama subsequently. The witness admitted that as per Ex.D.1 panchanama it is the accused No.2 Sudhakar who has washed the hands of Kalleshappa Poojar in sodium carbonate solution. The witness also admitted that accused No.2 was working as police constable in APMC P.S., Bellary when the Cr. No.11/2017 was registered and the witness also admitted that he was also working in the same police station as police constable in the year 2017. The witness further admitted that the accused No.2 Sudhakar who is said to have

received the tainted currency notes & the Sudhakar who is member of raid team in Cr. No.2/2011 are one and the same. The witness also admitted that he knows the accused No.2 Sudhakar since 2011 and they were selected in the same batch i.e., in the year 2002. The accused No.2 Sudhakar has not informed him when trap was conducted with respect to Cr. No.2/2011. He came to know that the accused No.1 and accused No.2 were acquainted with each other. He has also known that accused NO.1 and 2 were worked with each other in Bellary Lokayuktha Office. He do not know the transactions between the accused No.1 & 2. When the complainant spoken with accused No.1, the accused No.1 informed that he is due

amount to the accused No.2. The witness admitted that he has got typed the complaint marked at Ex.P.3 on 14.03.2017 and he has sufficient time to prepare the said complaint. He has explained all the injustice caused to him in Ex.P.3 complaint. He has not mentioned the contents of third para of his chief examination in his complaint. The witness stated that he has not asked the accused No.1 about the fact that who will prepare not fit for appeal certificate. The complainant admitted that he has knowledge that the accused No.1 has no power to issue not fit for appeal certificate. The witness stated that not for appeal certificate will be issued from Home Department. The accused No.1 informed that he will get the not fit for appeal certificate from

others. He do not know the fact that it will be issued by the Home Department till lodging of his complaint. He has received the certificate in February 2017. He cannot say the date of payment of token advance of Rs.1,000/- to the accused No.1. The witness admitted that in his complaint he has mentioned that on the date of first visit to the accused No.1 he has paid the token advance and obtained not fit for appeal certificate. It is mentioned in Ex.P.3 that the events were took place in Lokayuktha Office. On 14.03.2017 he has lodged complaint before the Registrar, Lokayuktha personally along with C.D. containing call recording. He do no know to whom the accused No.1 wants to pay the amount of Rs.34,000/- in order to get not fit for appeal

certificate. The witness admitted that in Departmental Enquiry he has been examined, but in the said proceedings he has not stated that he has paid Rs.1,000/- to accused No.1 when accused No.1 came to Bellary. On 26.11.2015 he has not visited the accused No.1 nor informed the concerned police. From 14.03.2017 to 04.04.2017 neither he called accused No.1 over phone nor accused No.1 called him over phone. He has not called accused No.1 on 04.04.2017 when the trap panchanama was conducted. The witness admitted that he has given evidence with respect to departmental enquiry conducted against Sudhakar as per Ex.D.2. The witness admitted that before registering of the case he know that not fit for

appeal certificate was ready and before registering the case the said certificate was came to the possession of the complainant. The witness also admitted that he has put his signature when receiving not fit of appeal certificate. He do not know who has received the certificate from the concerned authorities. The witness further admitted that at the time of giving complaint he knows that the accused No.1 had no power to issue not fit for appeal certificate.

10. CW-2 T.S.Girish examined as PW-3 who deposed that he was working in Industrial and Commercial Department in the year 2017. One Basavaraj Kanaburu was also working as SDA in the same department. On 27.03.2017 ACB

Police have given requisition to his higher authorities to send witnesses in the present case. His higher authorities nominated the witness and Basavaraj Kanaburu as witnesses to assist ACB Police. On the same date, the witness along with Basavaraj Kanaburu have been to ACB Office at 4.00 p.m., the I.O. has informed them about the lodging of complaint by Kalleshappa. The I.O. got played the C.D. through a laptop by which they listened the conversation. The said conversation was again transferred to a C.D. and seized by the ACB Police. The police have also got transcribed the said conversation. The witness is a signatory to the said seizer panchanama. The I.O. informed them to appear before him on 04.04.2017 at 10.00 a.m., As such both panch witnesses

reported their presence in ACB Office at 10.00 a.m., The complainant Kallehsappa Poojar was also present. The I.O. has introduced the panch witnesses to the complainant and I.O. has handed over the complaint to the witnesses to read the complaint and also explained about the contents of complaint. The complainant informed that he has brought Rs.10,000/- having denomination of Rs.2000/- X 5. The serial numbers of the same were written in a white paper to which the witness is a signatory. The concerned police have smeared the phenopthaline powder on the said notes. Basavaraj Kanaburu has kept the said smeared notes in the pant pocket of the complainant. The I.O. has instructed the witness to accompany the

complainant and to explain the events that could be took place when the complainant met the accused person. The Investigating Officer has prepared sodium carbonate solution. A part of said solution was separated as sample and when the hands of Basavaraj Kanaburu were washed in the remaining solution his hands were turned pink. The same is also collected in a bottle and sealed it which are marked at MO.1 and MO.2. I.O. instructed the complainant to call accused No.1. But when the complainant called accused No.1 through phone he did not lift the phone. Again the I.O. directed the complainant to call accused No.2. When the complainant called the accused No.2, the accused No.2 informed that he will inform after talking with accused NO.1. The

Police have snatched photographs. The police informed that they have to appear when they were called to do so. He is a signatory to pre trap panchanama marked at Ex.P.4.

Further on 04.04.2017 the I.O. called him and Basavaraj Kanaburu and informed to come to the office on 05.04.2017 at 10.00 a.m., and also informed that they have to move to Bellary along with the police. On 05.04.2017 they left the ACB Office at 12.00 p.m., to reach Bellary. On the said day at 6.00 p.m., they reached Hosapete and stayed there. On 06.04.2017 at 6.00 a.m., they left Hosapete and went to Bellary. The I.O. called the complainant over phone & informed to come near Government Hospital Bellary by 9.00 a.m., The witness along with raid team reached

Bellary at 9.30 a.m., By the time the complainant was also came near Govt. Hospital, Bellary. The I.O. instructed the complainant to call accused No.2 Sudhakar over phone. When the complainant called Sudhakar, he informed that he will come by 1.00 p.m., Again at 12.30 the complainant called accused No.2 Sudhakar. The complainant Kalleshappa Poojar informed that he has to arrange another Rs.15,000/-. As such he went to home and returned along with amount of Rs.15,000/-. The I.O. has smeared phenopthaline powder on the said notes also and also the serial numbers of the said currency notes were written in a paper. The I.O. informed that Rs.25,000/- is to be given Sudhakar. The Basavaraj Kanaburu had kept the amount of Rs.25,000/- in the right

side pant pocket of the complainant. When the complainant called accused No.2 he informed that he will come to the ACB police station at 4.00 p.m., Further, the I.O. informed the witness to accompany the complainant. The raid team went near APMC P.S., at 4.45 p.m., The complainant police met the accused No.2 Sudhakar and both of them went inside the police station. The complainant returned from the police station. When the complainant given the amount, the accused No.2 Sudhakar received the amount in his right hand and kept in pant pocket. When the complainant signaled the raid team the raid team caught hold the accused No.2. The accused No.2 thrown the amount near a table. The I.O. caught hold the accused No.2 by

introducing himself and requested to co-operate. The police staff prepared sodium carbonate solution. A part of said solution is separated for sample and when the hands of accused No.2 is washed in the remaining sodium carbonate solution his hands turned to pink. The same is also seized by the police. The accused No.2 also given written explanation to the I.O. as per Ex.P.12.

In the cross-examination the witness stated that from 27.03.2017 to 06.04.2017 he had not seen the accused. He had seen the accused for the first time only before the Court. Ex.D.3 is his statement given in Departmental enquiry.

11. CW-3 Basavaraj Kanaburu examined as PW-4 deposed before the court that the police have handed over a metal seal to him and the same is marked at MO-6.

12. CW-14 Sanjith Kumar Nodel Office examined as PW-5 deposed before the court that since 2015 he is working as nodel officer in Reliance Jio Info company ltd., On 07.06.2017 the I.O. has sought for CDR with respect to a phone number 8310435039 between 04.04.2017 to 06.04.2017. The said phone number was in the name of the complainant. The CAF is marked at Ex.P.14 and CDR is marked at Ex.P.15. He has issued certificate under Section 65(b) of Indian Evidence Act which is marked at Ex.P.16.

13. CW-15 Prakash, Nodel Officer examined as PW-6 deposed before the Court that since 2016 he was working as nodel officer in Voda phone IDEA Pvt. Ltd., On 21.06.2017 the I.O. sought for call records of phone number 8073550082 and 9620193032 between 04.04.2017 to 06.04.2017. The details of phone number sought by the I.O. with respect to phone number 8073550082 does not belongs to Voda Phone Company. The phone number 9620193032 was in the name of Sudhakar Reddy. He has issued CAF Copy and copy of Aadhar Card received at the time of giving connection. The CDR is marked at Ex.P.18. He has issued certificate under section 65(b) of Indian Evidence Act as per Ex.P.9.

14. CW-12 Sri H.M.Nanjundaswamy examined as PW-1 deposed before the court that he was working as Registrar, Lokayuktha Office Bengaluru from May 2016 to November 2019. The accused No.1 was working as Judgment Writer. On 08.09.2017 Inspector General of Police ACB have sought for sanction to prosecute accused No.1 along with charge sheet and other documents. After going through the documents there was prima-facie case made out against accused No.1 with respect to demanding illegal gratification by the accused No.1 and acceptance of illegal gratification through accused No.2. As such, the witness being the Registrar and disciplinary authority having power to remove the

accused No.1 from the job has issued prosecution sanction as per Ex.P.1.

In the cross-examination the witness before receiving requisition for prosecution sanction, he received a complaint against accused No.1 in Lokayuktha Office which was placed before Lokayuktha. Thereafter Hon'ble Lokayuktha has directed to forward the complaint to ACB. On 23.03.2017 as per the order of Hon'ble Lokayuktha he has forwarded the complaint against accused No.1 to Director General of Police for further action.

15. CW-25 Shivashankar Reddy.B, Dy.S.P. examined as PW-7 deposed before the court that on 27.03.2017 at 1.30 p.m., when he was in the

ACB P.S., the Police Superintendent, has sent a complaint along with a C.D. and he has received the same and registered and verified the same, he has also contacted the CW-1 over phone and got confirmed about the genuinity of the complaint. He has registered a case and submitted FIR as per Ex.P.33. On the same day he has sent requisition to Director (Administration Industries and Commercial Directorate, Bengaluru) and requested to send two panchas. As per the requisition CW-2/PW-3 T.S.Girish & CW-3/PW-4 Basavaraju Kanabur were sent to Lokayuktha Office at 3.00 p.m., He has handed over the complaint copy to the said panch witnesses to read the complaint. He has also prepared panchanama with respect to seizer of C.D. which

was sent along with the complaint. He has got played the said C.D. and transcribed the said conversation as per Ex.P.36 and Ex.P.37. On 04.04.2017 he has continued the investigation, CW-1/PW-2 appeared before him who has been examined and statement of complainant was recorded. CW-2/PW3 and CW-3/PW-4 came to the office and he has introduced CW-2/PW3 and CW-3/PW-4 to the complainant. He had a copy of C.D. which was produced by the complainant and the conversation was played before the panchas and complainant in which the complainant identified the voices. The complainant has produced Rs.10,000/- having denomination of Rs.2,000 X 5. The serial numbers of said currency notes were reduced

into writing. With the help of the staff he has smeared phenolphthaleine powder to the currency notes of Rs.10,000/-. He has handed over the notes to witness Basavaraju Kanabur who has verified the serial numbers. CW-2/PW-3 Girish has verified the pant pocket of the complainant and confirmed that there is nothing in the pocket and thereafter the pancha Basavaraj Kanabur has kept the amount of Rs.10,000/- in the right pocket of the complainant. He has also instructed the panchas Girish to follow the complainant and thereafter explained about the events. He has instructed the complainant to give signal by keeping his both hands in pant pocket if the accused received amount. He has prepared sodium carbonate solution with the assistance of

staff and a part of it was separated for sample in a plastic bottle and named it as article No.2 with seal impression 'U'. Thereafter when the hands of pancha Basavaraj Kanabur was rinsed in remaining part of solution it was turned into pink colour. The said pink coloured solution is seized in a bottle and named it as article No.3. He has explained about the phenopthaline power and sodium carbonate solution and its chemical effect to the panchas and complainant and thereafter they have cleaned the hands in fresh water. He has also taken photographs with respect to pre trap panchanama. He has instructed the complainant to call the accused No.1 Sunkanna to confirm whether he is in the office or not. When the complainant called the accused No.1

over phone he has not responded. As already accused No.1 informed the complainant to hand over the amount to accused No.2. As such, the complainant confirmed that accused No.2 Sudhakar is in Bellary. As such the trap proceedings were postponed. He has instructed CW-2/PW3 and CW-3/PW-4 to appear before him on 05.04.2017 at 10.00 a.m., & thereafter he has kept the phenopthaline smeared notes in a almirah. The pre trap panchanama was conducted between 11.05 a.m., to 12.45 p.m., On 05.04.2017 CW-2/PW3 and CW-3/PW-4 appeared before him at 10.00 a.m., He has informed the panchas that the accused No.2 Sudhakar is in Bellary and the information was given by the complainant. As such, they have left

the office at 11.00 a.m., and went towards Bellary. They have stayed at Hosapete on the said day. On 06.04.2017 at 6.30 a.m., they left Hosapete and reached Bellary by 8.30 a.m., During the journey he has called the complainant and informed him to come near Govt. Hospital, Bellary. The complainant came near District Govt. Hospital Bellary at 9.00 a.m., When the witness enquired the complainant he has informed that the accused No.2 Sudhakar has been to house and he will return within one hour. Thereafter they have waited for the call of accused No.2 Sudhakar. At 12.30 p.m., the accused No.2 Sudhakar called the complainant and informed that accused No.1 instructed to receive Rs.25,000/- by the complainant. Again

the complainant went to his house and arranged another Rs.15,000/- amount which was also smeared with phenopthaline powder by the raid team. They have also entered the denomination and serial numbers of Rs.15,000/- and kept the same in the middle of Rs.10,000/- which was already smeared with phenopthaline powder. Again the said amount of Rs.25,000/- was kept in the pant pocket of complainant by the pancha Basavaraju Kanabur. The witness also handed over a USB Voice recorder to the complainant and explained about the procedure to use the same and instructed to record the conversation when he went near the accused No.2. When the complainant again called accused No.2 at 1.42 p.m., and informed accused No.2 that he has

arranged Rs.25,000/-, the accused No.2 informed that he will come to APMC Yard P.S., at 4.00 p.m., At 4.50 p.m., the witness sent the complainant and CW-3/PW-4 to the APMC Yard P.S., and the raid team were waiting at a distance of 75 feet from the police station. At 5.26 p.m., CW-1/PW-2 came out of the police station and given signal by keeping his hand in the pant pocket. Soon after the raid team along with panchas went inside the police station & caught hold the accused No.2. The accused No.2 thrown the amount below a table. Complainant shown the same to CW-2/PW-3 and said that the accused No.2 after counting the notes and after observing them has thrown the notes on the floor. The witness introduced himself to the

accused No.2 and requested to co-operate with investigation. The raid team prepared sodium carbonate solution out of which a part was taken as sample and named it as article No.4. When the hands of accused No.2 Sudhakar was rinsed in the remaining part of solution, his hands turned pink colour and the same was seized. He has enquired the complainant, the complainant stated that the accused No.2 called accused No.1 over phone and informed accused No.1 that the complainant has paid Rs.25,000/-. The amount was seized. When he has enquired the accused No.2, the accused No.2 stated that as per the say of accused No.1 he has received the amount. But in his statement he has given adversely to what he has stated earlier. The statement of accused

No.2 is recorded as per Ex.P.12. He has collected the digital voice recorded from complainant in which the conversation was recorded. The same was transcribed. He has transferred the conversation into a C.D. and seized the said C.D. He has also verified the mobile phone of accused No.2 in which six conversations were recorded in separate files which was also transcribed as per Ex.P.26. The said conversation was transferred to C.D. and the C.D. was seized as per Ex.P.23. He has seized the mobile phone of accused No.2 as per MO-7. The complainant informed that he has recorded the conversation on 04.04.2017 which was also transcribed as per Ex.P.25 and the said conversation was also transferred to a C.D. which is marked at Ex.P.24. The witness informed the

Police Inspector and arrested the accused No.2. He has prepared trap panchanama between 5.45 p.m., to 11.00 p.m., as per Ex.P.6. He has collected the copies of SHD and centry book of APMC Yard P.S., which is marked at Ex.P.39. He has also taken photographs, he has prepared P.F. On the same day he has recorded statements of one G.Mohammed, Vasanthakumar, Rajashekar and PSI Hanumanthappa. He has returned to Bengaluru along with the complainant, accused No.2, Panchas and seized articles. He has reached the ACB Police at 7.00 a.m., on 07.04.2017. On the same day at 7.30 p.m., CW-22 has produced the accused No.1 before him and the accused No.1 has been arrested, but he has not given any statement inspite of

instructions to accused No.1. He has conducted a panchanama in order to collect the sound samples of accused No.1 & 2 which is marked at Ex.P.2. He has handed over the transcription to accused No.1 & accused No.2 and instructed to read the same for six times and the said voice was recorded and transferred to CD and seized the same as per Ex.P.28. He has handed over the metal seal to panch witness Basavaraju Kanaburu and obtained receipt to that effect. On the same day he has recorded statements of witnesses namely Nagaraj, Girijashankar, Purushotham and CW-1/PW-2. He has obtained certificate under Section 65(B) of Indian Evidence Act from the complainant, CW-17, 18 and 20 which is marked at Ex.P.41 to Ex.P.45. He has

produced the accused No.1 and 2 to the Court. He has recorded statements of panch witnesses Girish and Basavaraju. He has written requisition to Registrar, Karnataka Lokayuktha, Bengaluru and Superintendent of Police, Bellary requesting the service records of accused No.1 & 2 and thereafter he has handed over the file to CW-26/PW-8 Ramamurthy for further investigation.

In the cross-examination the witness stated that he has registered Ex.P.33 FIR on the basis of letter of Inspector General of Police dated 27.03.2017 and complaint dated 14.03.2017. The witness admitted that the said documents are not annexed with Ex.P.33. The witness also admitted that there is no signature of complainant in the FIR. He has recorded the statement of

complainant for the first time on 04.04.2017. The witness admitted that there are no details with respect to enquiry conducted by him with the complainant before registering the FIR. The witness further admitted that in Ex.P.3 there is no reference with respect to who has asked for not fit for appeal certificate. Further the witness stated that there is no documents to show that on 26.11.2015 the complainant met the accused No.1. The witness also stated that the complainant has not informed the exact date of commission of offence. He has not verified the CCTV Footages of Lokayuktha office to confirm that whether the complainant has met the accused No.1 or not in Lokayuktha Office. He has also not obtained the visitors register at

Lokayuktha Office. He has not obtained 65(b) Certificate from the complainant. The witness admitted that as per the statement of the complainant dated 04.04.2017 the complainant met accused No.1 for the first time in December 2016, but there is no specific mentioning of place, date and time. The witness stated that he has not enquired about the person to whom the accused No.1 intends to pay the amount to get the certificate. He has not verified that who is the competent authority to issue not fit for appeal certificate.

16. CW-29 Smt.Chandrika.G., Asst. Director FSL Bengaluru examined as PW-9 deposed before the court that on 09.05.2017 her office received

ten sealed articles from then ACB Police Station pertaining to Cr. No.11/2017 for the scientific analysis. On 08.06.2017 two sealed articles were received by her office from the same police with respect to same crime number. Before analysis she has observed that the seals affixed upon the sealed articles were found in tact and were tallying with the sample seal sent along with the record. The I.O. was seen to have marked at all sealed covers as article No.1, 8 to 18.

On opening of all the twelve sealed covers for the purpose of analysis the articles were found as here under;

Articles	Description of the properties
No.1	A CD said to contain the conversations between the suspect No.1 (Sunkanna-A1) and the complainant

- No.8 A CD said to contain the conversation between the suspect No.2 (Sudhakar-A2) and the complainant
- No.9 A CD said to contain the conversation between the suspect No.1, 2 and the complainant
- No.10 A Micro max mobile phone having 8 GB Sony micro SD card said to contain the conversation between suspect No.1, 2 and the complainant
- No.11 A CD said to contain the conversation between the suspect No.2 and the complainant
- No.12 A CD said to contain the conversation between the suspect No.1- Sri Sunkanna
- No.13 A CD said to contain the conversation between the suspect No.1- Sri Sunkanna

- No.14 A CD said to contain the conversation between the suspect No.2 – Sri Sudhakar
- No.15 A CD said to contain the conversation between the suspect No.2 – Sri Sudhakar
- No.16 A CD said to contain the conversation between the suspect No.2 – Sri Sudhakar
- No.17 A CD said to contain the sample voice⁴ of the complainant – Sri Kalleshappa Poojar
- No.18 A CD said to contain the sample voice of the complainant – Sri Kalleshappa Poojar.

She has subjected all the articles for scientific analysis by using the computerized speech laboratory model 4500 instrument and adopted the perception method, so also the semi automatic method. Based on the scientific analysis she has arrived at the opinion that;

- 1).The respective speech said to be of a male speaker Sunkanna found recorded in the C.D. at article No.1 and the sample speeches found at article No.12 were found similar and of the same person.
- 2). The respective speeches said to be of a male speaker Sunkanna found recorded in the C.D. at article No.9, the memory card at article No.10 and the sample speeches at article No.13 were found similar and of the same person.
- 3). On auditory analysis it was noted that the sample speeches said to be of suspect No.1 Sunkanna found recorded in the CDs at article No.12 and 13 are free from any type of disguise and are of the same person.
- 4). The respective speeches said to be of a male speaker suspect No.2 Sudhakar found recorded in the C.D. at article No.8 and the sample speeches found at article No.14 were found similar and of the same person.

5). The respective speeches said to be of a male speaker suspect No.2 Sudhakar found recorded in the C.D. at article No.9, the memory card at article No.10 & the sample speeches found at article No.15 were found similar and of the same person.

6). The respective speeches said to be of a male speaker suspect No.2 Sri Sudhakar found recorded in the C.D. at article No.11 and the sample speeches found at article No.16 were found similar and of the same person.

7). On auditory analysis it was noted that the sample speeches said to be of suspect No.2 Sudhakar found recorded in the C.D.s at article No.14, 15 and 16 are free from any type of disguise and are of the same person.

8). The respective speeches said to be of male speaker the complainant Kalleshappa Poojar found recorded in the C.D. at article No.1 and the sample speeches found at article No.17 were found similar and of the same person.

9). The respective speeches said to be of male speaker the complainant Kalleshappa Poojar found recorded in the C.D. at article No.8, 9, 11, the memory card at article No.10 and the sample speeches found at article No.18 were found similar and of the same person.

10). On auditory analysis it was noted that the sample speeches said to be of the complainant Kalleshappa Poojar found recorded in the C.D.s at article No.17 and 18 are free from any type of disguise and are of the same person.

Accordingly she has prepared her report and forwarded the report with case file including the sample seal and the cepstral plots to the ACB. Her report is marked at Ex.P.51.

In the cross-examination the witness admitted that by the time the articles pertaining to the case on hand was subjected to analysis her lab was not having the audio authenticating

software. The witness further admitted that as her lab had no audio authentication software, as such it is not possible to notice any kind of addition, deletion or alterations.

17. CW-26 B.Ramamurthy Police Inspector examined as PW-8 deposed before the court that on 21.04.2017 he has received the file from PW-7 and sent the seized articles to chemical examination. On 28.04.2017 he has obtained chemical analysis report as per Ex.P.46. On 02.05.2017, he has given requisition to Asst. Executive Engineer, PWD Bellary to prepare sketch with respect to the place of incident. He has obtained the said sketch on 26.05.2017 as per Ex.P.47. On 05.06.2017, he has submitted

requisition to FSL Bengaluru to give report regarding the sample voice of PW-7 dated 05.06.2017. On 06.05.2017 he has sent the sample voice recording of accused No.1 along with article No.1, 8 to 16 to FSL, Bengaluru. He has obtained sample voice of complainant on 30.05.2017. He has submitted requisition on 09.05.2017 seeking the documents with respect to filing of any appeal with respect to special C.C. No.16/2012, on 12.05.2017 he has obtained service records of accused No.1. On 23.05.2017 he has recorded statements of CW-2/PW-1. On 29.06.2017 he has obtained CDR and CAF of phone number 9620193032. He has recorded the statement of retired PSI Basavaraju on 29.05.2017. On 13.06.2017 he has produced the

complainant before ACMM Court for recording statement under Section 164 of Cr.P.C., On 31.05.2017 he has recorded statements of CW-17 to 21 and further he has handed over the file to CW-27 for further investigation.

In the cross-examination the witness stated that when he obtained Ex.P.49 the service records of accused No.1 he do not found whether the accused has power to issue NOC or not.

18. CW-28 Manjunath. K.R. Police Inspector examined as PW-10 deposed before the court that on 17.10.2017 he has received that file for further investigation and after verifying the same he has obtained permission from his higher officials and submitted charge sheet to the court.

19. It is significant to note that CW-2/PW-3 P.S. Girish deposed before the Court that before trap proceedings an amount of Rs.25,000/- which was smeared with phenopthaline powder has been kept in the pant pocket of the complainant Kalleshappa Poojar by Basavaraj Kanabur. At 4.45 p.m., they went near APMC P.S., he has also went along with the complainant inside the police station where the complainant met accused No.2. He has also went along with them. The complainant and accused No.2 came out of the police station & the witness PW-3 also followed them. The accused No.2 called some person on phone and thereafter he has received amount from the complainant which was counted by the accused No.2 and thereafter the

accused No.2 kept the same in his pocket. Soon after the raid team apprehended the accused No.2. In the cross-examination the witness stated that since from 27.03.2017 till 06.04.2017 he had not seen the accused No.1. Till drawing of panchanama he has not seen the accused No.1 & the witness has seen the accused No.1 for the first time only before the court while giving evidence.

20. It is significant to note that as already observed above, the Hon'ble High Court of Karnataka has quashed the proceedings against the accused No.2. This is one aspect.

21. It is further significant to note that as per the evidence of CW-1/PW-2 complainant he has requested one Basavaraju who was a retired ASI to give information regarding any person who is working in Lokayuktha Office, Bengaluru. As such, the said Basavaraju has introduced accused No.1 to the complainant over phone and instructed to meet him. The complainant in December 2016 visited Lokayuktha Office, Bengaluru and met accused No.1 & he came to know that accused No.1 is working as Judgment Writer. He has requested for fit of appeal certificate with respect to CC. No.16/2012 in which the present complainant was acquitted. The said certificate ought to have been issued by the Lokayuktha Office. When the complainant

asked for not fit of appeal certificate, the accused No.1 stated that it will incur Rs.34,000/-. In February 2017, the accused No.1 by obtaining not fit for appeal certificate went to Bellary and handed over the same to the complainant and the complainant had paid token advance of Rs.1,000/- & the accused No.1 informed to pay it later. But in the cross-examination the witness admitted that he knows that not fit for appeal was issued by an officer from home department. The complainant was known about the fact before lodging the complaint itself. He was also known that not fit for appeal was prepared by the accused No.1 and he has no role in issuing not fit for appeal certificate. Further the witness in his cross-examination clearly stated that he had

knowledge that the certificate was ready before lodging the present complaint and the said not fit for appeal certificate was in the possession of the complainant before filing the complaint. He had also knowledge that not fit for appeal certificate was obtained under right to Information Act & the complainant admitted that he had put his signature to the application under right to Information Act & further the witness stated that he had knowledge that the accused No.1 had no power to issue not fit for appeal certificate.

22. It is significant to note that when the complainant was in possession of not fit for appeal certificate before lodging the complaint,

again question of demanding illegal gratification by the accused does not arise.

23. Further, it is significant to note that the complainant in his cross-examination admitted that he has put his signature to the application under RTI to get the certificate. But the said fact is nowhere disclosed by the complainant until his cross-examination. When the complainant himself applied for issuance of not fit for appeal certificate, before the competent authority again requesting the accused No.1 to issue not fit for appeal certificate does not arise.

24. It is further significant to note that as per the say of the complainant CW-1/PW-2

himself there was no working pending as on the date of lodging the complaint.

25. Section 7 of P.C. Act envisages thus;

‘Section 7 – Public Servant taking gratification other than legal remuneration in respect of an official act – who ever 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 for being to do any official act or for showing or for bearing to show in the exercise of his official functions, favour dis favour to any person or for rendering or attempting to render any service of dis-service 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 not be less than 3 years but which may extend to 7 years and shall also liable to fine’.

26. It is admitted fact that accused No.1 is a judgment writer working in the office of Karnataka Lokayuktha Bengaluru, he was not the official entrusted with the responsibility of issuing ‘Not fit for appeal Certificate’. It is further significant to note that it is not the case of the prosecution that the accused No.1 is supposed to issue not fit for appeal certificate and in order to

issue said certificate by the accused No.1 he has demanded bribe. When the accused No.1 had no power to issue not fit for appeal certificate, then the question of demanding bribe to the complainant to issue not fit for appeal certificate does not arise. This is another aspect.

27. It is the case of the prosecution that the accused No.1 received the illegal gratification through his friend by name Sudhakar who is the accused No.2 in the present case and against whom the Hon'ble High Court of Karnataka has quashed the proceedings. But nowhere in the complaint, the complainant has mentioned the name of the accused No.2 Sudhakar.

28. It is pertinent to note that the defense has produced Ex.D.1 a trap panchanama with respect to Cr.No.2/2011 of Bellary Lokayuktha P.S., through which the present complainant was trapped with respect to Spl.C.C. No.12/2011. The complainant PW-2 admitted that in the said panchanama it is recited that the accused No.2 Sudhakar who was a police constable has washed the hands of the present complainant in sodium carbonate solution. The witness also admitted that at the time of registering Cr. No.11/2017 accused No.2 Sudhakar was working as Police Constable in APMC P.S. Bellary and he was the colleague of the complainant. The accused No.2 is the same person who was involved in the trap proceedings with respect to

Cr. No.2/2011 against the present complainant. The witness also admitted that accused No.2 was his batch met and the accused No.2 had not given any information regarding the trap that would be conducted on present complainant with respect to Cr. No.2/2011 which gives raise to a genuine suspicion that the present complainant is having hate red towards accused No.2. This would also be a reason to lodge complaint against accused No.1 & 2. This is another aspect.

29. It is significant to note that admittedly there is no eye witness with respect to demand made by the accused No.1 for illegal gratification. It is further significant to note that every demand made for payment of money is not a demand for

gratification. It has to be something more than mere demand for money. In the present case even though the complainant stated that the accused No.1 has demanded Rs.34,000/- illegal gratification for issuing not fit for appeal certificate and also he has produced the voice recordings, but the said recordings are not supported by certificate under Section 65(B) of Indian Evidence Act. It is well settled law that a digital evidence cannot be admissible without proper certificate under Section 65(B) of Indian Evidence Act.

30. It is clearly held by the Hon'ble High Court of Karnataka in **Crl.A. No.1081/2022 between H.P.Sadashiva V/s. State of**

Karnataka dated 22.06.2026 that – ‘In absence of a valid certificate to prove the electronic evidence, such electronic evidence cannot be said to be proved’. As such, prosecution failed to prove that demand as alleged. This is another aspect.

31. Further, it is significant note that the **Hon’ble High Court of Karnataka in Crl.A. No.119/2024 between Rangaiah V/s. State of Karnataka dated 12.06.2026** clearly held that – ‘That the offence under Section 7 of P.C. Act 1988 relating to Public Servants taking bribe requires a demand of illegal gratification and the acceptance there off. The proof of demand of bribe by a public servant and its acceptance by him is *sina-qua-non* for establishing the offence under

Section 7 of PC. Act'. In the present case also as observed above, the demand is not established by the prosecution and it is also significant to note that admittedly no money was recovered from the possession of accused No.1. This is another aspect.

32. Further it is significant to note that as per the case of the prosecution, the present complaint was registered on 14.03.2017 stating that in the month of December 2016 he has met the accused No.1 seeking not fit for appeal certificate. But there is a gap of four months in lodging complaint. If at all the alleged incident was took place what prevented the complainant

to lodge the complaint immediately is nowhere explained by the prosecution.

33. It is clearly held by the Hon'ble Supreme Court in the case of **C.M.Girish Babu V/s. C.B.I. (2009) 3 SCC 779** that 'If the prosecution story is not free from doubt, the accused is entitled to benefit of doubt, the standard is beyond reasonable doubt. As such the delay in lodging the complaint is not properly explained which is fatal to the case of the prosecution.

34. It is further significant to note that the Hon'ble High Court of Karnataka in **Cr1.A. No.1081/2022 dated 21.06.2026 between H.P.Sadashiva V/s. State of Karnataka** also

held that –‘When admittedly no work was pending with the accused as on the date on which the alleged trap has taken place, it is a relevant fact to consider that the prosecution failed to prove the allegations.’

35. Hence, it is pertinent to note that the prosecution failed to prove the work pending with the accused as on the date of which the alleged trap has taken place and also in the absence of valid certificate to prove the electronic evidence, such electronic evidence cannot be said to be proved and also the proof of demand of bribe by a public servant and its acceptance by him is not proved beyond all reasonable doubt and also failed to explain the reasons for inordinate delay.

As such the prosecution failed to prove the guilt of the accused No.1 beyond all reasonable doubt. Hence, I answer Point No.1 and 2 in the negative.

36. **Point No.3** :- In view of the aforesaid findings on point No.1 and 2 in the negative, I proceed to pass the following:

ORDER

Acting under Section 248 (1) of the Code of Criminal Procedure 1973, the accused No.1 is here by acquitted for the offences punishable under Section 7 and 13 (1) (d) R/w. Section 13(2) of the Prevention of Corruption Act, 1988.

His bail bond and surety bond stands cancelled.

The article No.7 contains cash of Rs.25000/- shall be confiscated to the Government after appeal period is over.

The MO-1 to MO-5, MO-7 and MO-7(a) being worthless shall be destroyed after appeal period is over.

MO-6 metal seal shall be returned to the jurisdictional Lokayuktha Police, after the appeal period is over.

(Dictated to the Stenographer-III, directly on the computer, corrected by me, signed and then pronounced by me in the open Court on this the 30th day of July, 2026.)

(Vijeth.V)

XXIII Addl. City Civil & Sessions Judge
& Special Judge Bengaluru.

ANNEXURE

List of witnesses examined on behalf of the prosecution:

PW-1 : H.M.Nanjundaswamy
PW-2 : Kalleshappa Poojar
PW-3 : T.S.Girish
PW-4 : Basavaraj Kanabur

PW-5 : Sanjeev Kumar Jha
PW-6 : Prakash
PW-7 : P.Shivashankar Reddy
PW-8 : B.Ramamurthy
PW-9 : Chandrika.G
PW-10 : Manjunath.K.R.

List of documents marked on behalf of
prosecution:

Ex.P.1 : Prosecution Sanction Order
Ex.P.2 : Letter dated 12.10.2017
Ex.P.3 : Original complaint dated
14.03.2017
Ex.P.3a : Signature of PW-2
Ex.P.4 : Entrustment Mahazar dated
04.04.2017
Ex.P.4a : Signature of PW-2
Ex.P.4b : Signature of PW-3
Ex.P.4c : Signature of PW-7
Ex.P.5 : Photos (a to t)
Ex.P.6 : Trap Mahazar dated
06.04.2017
Ex.P.6a : Signature of PW-2
Ex.P.6b : Signature of PW-3
Ex.P.6c : Signature of PW-7
Ex.P.7 : Mahazar dated 30.05.2017
Ex.P.7a : Signature of PW-2
Ex.P.7b : Signature of PW-8
Ex.P.8 : C.D.
Ex.P.8a : Signature of PW-3
Ex.P.8b : Signature of PW-7

- Ex.P.9 : Sheet containing Currency notes details(Rs.10,000)
- Ex.P.10 : C.D. produced by PW-2
- Ex.P.10a : Cover
- Ex.P.11 : Sheet containing Currency notes details (Rs.15,000/-)
- Ex.P.12 : Statement of accused No.2
- Ex.P.13 : Acknowledgment of seal letter dated 30.05.2017
- Ex.P.14 : Copy of customer application form in the name of Kalleshappa Poojar given by M/s. Reliance Jio
- Ex.P.15 : Call data records
- Ex.P.16 : Certificate under Section 65(B) of Indian Evidence act given by PW-5 & SHD
- Ex.P.17 : Copy of customer application form given by Voda Phone
- Ex.P.18 : Call data records of Mobile No.9620193032 given by Voda Phone
- Ex.P.19 : Certificate under Section 65(B) of Indian Evidence Act given by PW-6
- Ex.P.20 : Letter dated 29.06.2017 given by PW-6 to SP, ACB, B'luru City Dvn.,
- Ex.P.21 : Sheet containing transcription of speech available in CD i.e., article No.8

- Ex.P.22 : C.D. containing conversation between the complainant and accused No.2 on 06.04.2017 i.e., article No.8
- Ex.P.22a : Cover
- Ex.P.23 : C.D. containing conversation between complainant and accused No.2 dated 06.04.2017 i.e., article No.9
- Ex.P.23a : Cover
- Ex.P.24 : C.D. containing conversation between accused No.2 and complainant dated 04.04.2022 i.e., article No.11
- Ex.P.24a : Cover
- Ex.P.25 : Sheet containing transcription of conversation in article no.11
- Ex.P.26 : Sheet containing transcription of conversation in article No.9
- Ex.P.27 : C.D. containing sample voice of accused No.1 i.e., article No.12
- Ex.P.27a : Cover
- Ex.P.28 : C.D. containing sample voice of Accused No.1 i.e., article No.13
- Ex.P.28a : Cover
- Ex.P.29 : CD containing sample voice of accused No.2 i.e., article No.14
- Ex.P.29a : Cover
- Ex.P.30 : CD Containing sample voice of

- accused No.2 i.e., article 15
- Ex.P.30a : Cover
- Ex.P.31 : CD containing sample voice of
Accused No.2 i.e., article No.16
- Ex.P.31a : Cover
- Ex.P.32 : Sample voice recording
mahazar dated 07.04.2022
- Ex.P.32a : Signature of PW-3
- Ex.P.32b : Signature of PW-7
- Ex.P.33 : FIR
- Ex.P.34 : Letter of depute two persons
as witnesses
- Ex.P.35 : Letter/order deputing two
persons to act as witnesses
- Ex.P.36 : Sheet containing transcription
of conversation available in
Ex.P.10
- Ex.P.37 : Sheet containing transcription
of conversation found in
Ex.P.10
- Ex.P.38 : Letter dated 04.04.2017 to
depute two witnesses
- Ex.P.39 : Copies of SHD and beat book
extract
- Ex.P.40 : Seal receipt acknowledgement
- Ex.P.41 : Certificate under Section 65(B)
of Indian Evidence Act issued
by PW-2
- Ex.P.42 : Certificate under Section 65(B)
of Indian Evidence Act issued
by PW-7

- Ex.P.43 : Certificate under Section 65(B) of Indian Evidence Act issued by CW-17
- Ex.P.44 : Certificate under Section 65(B) of Indian Evidence Act issued by CW-20
- Ex.P.45 : Certificate under Section 65(B) of Indian Evidence Act issued by CW-18
- Ex.P.46 : Report of Scientific Examiner
- Ex.P.47 : Letter and sketch
- Ex.P.48 : Article No.17
- Ex.P.49 : Service Record
- Ex.P.50 : C.C. of statement under Section 164 of Cr.P.C.,
- Ex.P.51 : Forensic Test Report
- Ex.P.51a : Signature of PW-9
- Ex.P.52 : CD containing sample voice of complainant i.e., Article No.17
- Ex.P.53 : CD containing sample voice of complainant i.e., Article No.18

List of material objects marked on behalf of the prosecution:

- MO-1 : Bottle containing clear sodium carbonate solution
- MO-2 : Bottle containing hand wash of witness No.2
- MO-3 : Bottle containing clear

- sodium carbonate solution
- MO-4 : Bottle containing right hand wash of accused
- MO-5 : Bottle containing test hand wash of accused
- MO-6 : Metal seal
- MO-7 : Micro Max Mobile Phone with memory card
- MO-7a : Cover

List of witnesses examined on behalf of defence side:

NIL

List of document marked on behalf of defence side

- Ex.D.1 : Copy of Trap mahazar dated 06.04.2017
- Ex.D.2 : Attested copy of Deposition of PW-2 in D.E. Proceedings
- Ex.D.3 : C.C of deposition of PW-3 T.S.Girish before Lokayuktha enquiry
- Ex.D.4 : Copy of deposition of PW-7 in D.E.

(Vijeth.V)

XXIII Addl. City Civil & Sessions Judge
& Special Judge Bengaluru.