

IN THE COURT OF SH. HASAN ANZAR,  
SPECIAL JUDGE, PC ACT (CBI)-03,  
ROUSE AVENUE DISTRICT COURT, NEW DELHI



Registration/CC No. 56/2022  
CNR No. DLCT11-000590-2022  
RC No. 0032022A0050  
PS: CBI, ACB, New Delhi.  
Under Section 120-B IPC & Section 7 of Prevention of Corruption Act,  
1988 (as amended in 2018).

Central Bureau of Investigation

Versus

1. Satish Kumar ..... Accused No. 1  
S/o Ramniwas,  
R/o VPO Ganiyar, Tehsil Narnaul,  
Distt. Mahendergarh, Haryana-123021  
Present address: Barrack No. 2, Vikaspuri  
Police Line, Delhi.
2. Deepak ..... Accused No. 2  
S/o Dharampal  
R/o VPO Mandothi, Tehsil Bahadurgarh,  
Distt. Jhajjar, Haryana-124507  
Present Address: House No. 1995, Sector 9 A  
Bahadurgarh, Haryana-124507.

*Date of Institution : 22.09.2022*

*Arguments concluded on : 28.04.2026*

*Date of Judgment : 16.05.2026*

Memo of Appearance

1. *Shri Shekhar Gehlot, Ld. PP for the CBI.*
2. *Shri Sandeep Sharma and Sh. Sachin Baisla, ld. Counsels for Accused Satish.*
3. *Shri Sanjay Gupta and Shri Raj Kamal Arya, ld. Counsels for Accused Deepak.*

## JUDGMENT

1. Accused Satish and Deepak are charge-sheeted for committing offence u/s 7 of Prevention of Corruption Act, 1988 (as amended in 2018) (*hereinafter to be called as "PC Act"*) and u/s 120 B IPC r/w Section 7 of PC Act.

2. In brief, the case of prosecution is that a complaint dated 21.07.2022 vide Ex.PW6/A was given to the Central Bureau of Investigation (*hereinafter to be called as CBI*) by Complainant/PW-6 Tarsem S/o Shri Sunil Kumar alleging that on 19.07.2022, Constable Deepak and HC Satish from PS Mundka, Delhi were demanding Rs.2 lakhs and threatening that if the money is not paid, then complainant/PW-6 Tarsem would be implicated in a false NDPS case and since, the complainant Tarsem did not want to pay the bribe and accordingly, he approached the SP, ACB, CBI, ND for necessary action.

3. Pursuant to the receipt of complaint dated 21.07.2022, verification was conducted by PW-13 Insp. CMS Negi in the presence of independent witness/PW-7 Ramdarash Singh Kushwaha. It was also found during the verification that the accused Satish Kumar would not discuss the bribe amount over the telephonic conversation and, hence, in order to verify the allegations, the CBI team went to a make shift shelter point of police personnel in the lane adjacent to Sarvodaya Kanya Vidyalaya with the complainant

carrying the recording device/DVR and the CBI team and independent witness were stationed at different places.

4. During the verification proceedings on 21.07.2022, PW-6 Tarsem went to a dilapidated first floor of the building at Tikri Kalan where accused Satish had spoken to accused Deepak over phone and thereafter, enquired about the bribe amount and demanded the same. It is further alleged that complainant told the accused Satish that he could only arrange Rs.80,000/- and Rs.20,000/- shall be paid subsequently. A Verification Memo vide Ex.PW6/B incorporating the verification proceedings conducted at the Tikri Kalan was prepared and the memory card (Q-1) was sealed in an envelope and given marking Q-1 and the DVR alongwith CBI seal were handed over to the witness Ramdarash Singh Kushwaha and both the complainant and independent witness were directed to report for conducting further verification on 22.07.2022 as the role of accused Deepak was not revealed on 21.07.2022.

5. Thereafter, on 22.07.2022, independent witness/PW-7 Ramdarash Singh Kushwaha and PW-6/complainant Tarsem reported to the office of CBI and a fresh memory card was arranged for conducting further verification. It was decided by the Verification team to proceed to Village Tikri Kalan on a vehicle arranged by CBI and after reaching near the vicinity of village Tikri Kalan, a call was made to Constable Deepak from mobile of complainant by putting the phone on speaker mode and during the call, PW-6/complainant Tarsem discussed the bribe amount with Constable Deepak and Deepak told him to meet him in the shop on the Firni Road, Village

Tikri Kalan.

6. It is further alleged in the charge-sheet that consequent to the complaint dated 21.07.2022 and the verification proceedings vide Ex.PW6/B and Ex.PW6/C, an FIR u/s 120B of IPC and Section 7 of PC Act was registered on 22.07.2022.

7. Consequent to the registration of FIR, the investigation of the case was handed over to TLO/PW-16 Sh. Ravinder Kumar Bharti. A trap team comprising PW-16 Ravinder Kumar Bharti, PW-7 Ramdarash Singh Kushwaha, PW-8 Pushpender Khatana, members of verification team and others was constituted and the trap team assembled near Tikri Kalan Metro Station and the purpose of the assembly was explained to all the persons and it was decided to lay a trap on accused Deepak and for this purpose DVR alongwith Memory Card was arranged. PW-6/complainant Tarsem arranged Rs. 80,000/- which is to be given to Constable Deepak on his specific demand. Thereafter, the distinctive serial numbers of government currency notes of Rs.80,000/- were noted down in the presence of the independent witnesses in a separate note sheet and after giving demonstration about the purpose of laying trap and the significance of use of phenolphthalein powder and its reaction with sodium carbonate with water and after completing other formalities, the tainted bribe amount of Rs. 80,000/- was kept in the right side front pocket of the cargo pant of complainant and the recording device was put in the lower left side pocket of the cargo pant of the complainant and the shadow witness Sh. Ramdarash Singh Kushwaha was directed to remain with the complainant and witness the transaction

and also to over hear the conversation by giving a pre-decided signal. At the pre-decided place i.e. shop near Firni Road, Constable Deepak came and demanded and accepted the bribe amount of Rs. 80,000/- and kept the same in his right front pocket of his pant. PW-6/complainant gave a pre-decided signal and Constable Deepak was apprehended and he told that the bribe amount was kept in his right front pocket of his pant and accused Deepak was apprehended by members of the CBI team.

8. The hand washes and pant pocket wash of accused Deepak were taken and the necessary samples etc. were preserved, bribe amount was recovered by Sh. Pushpendra Khatana (independent witness) and both the independent witnesses matched the numbers of recovered GC notes with those mentioned in the sheets prior laying trap.

9. Thereafter, the apprehended Constable Deepak could not give whereabouts of HC Satish Kumar, therefore, CBI team alongwith witnesses and Deepak went to make shift shelter of the police personnel near Sarvodaya Kanya Vidyalaya and thereafter, the CBI team went to PS Mundka and asked the SHO Mundka to ensure the presence of accused Satish. The necessary post trap proceedings were undertaken and the specimen voice samples of both accused persons and complainant Tarsem and introductory voices of both independent witnesses were recorded and a pre-trap cum recovery memo was prepared and mobile phones of accused persons were seized and both the accused persons were arrested vide their separate arrest cum personal search memo dated 23.07.2022 vide Ex.PW16/B and

Ex.PW16/C. During the course of investigation, the CDRs, CAFs of Mob. Nos. 8383061271, 8368527173, 7015366242 and 8800225142 were also obtained. During the course of investigation, the relevant memory cards as well as DVRs and Mobile Phones of both the accused persons were seized and the respective washes were sent to CFSL for analysis and after analysis the report was also obtained and after conclusion of the investigation, a charge-sheet under section 120B of IPC r/w Section 7 of Prevention of Corruption Act and substantive offences against both the accused persons was filed.

10. Subsequently a supplementary charge sheet containing CFSL Report dated 22.09.2022 and Kalandara u/s 107/151 Cr.P.C. alongwith the Prosecution Sanction under Section 19 PC Act against both the accused persons was filed in the Court.

11. Both the accused persons were summoned on 27.03.2023 to face the trial and consequent to the appearance of both the accused Satish Kumar and Deepak, compliance of Section 207 Cr.P.C. (Now Section 230 BNSS,2023) was made and thereafter, on 05.03.2024 charges were framed against both the accused persons.

12. To Substantiate its case against the accused Satish and Deepak, the Prosecution has examined 20 witnesses and their testimonies are being discussed below.

13. **PW 1 Sh. Praveen Kumar**, Alternate Nodal Officer Reliance JIO, Infocomm Ltd. brought on record Customer Application Form of Mob. No. 883061271 in the name of Brij Nandan Singh S/o Punnu

Singh along with CDR from 18.07.2022 to 22.07.2022 vide Ex. PW1/B and Ex. PW1/C respectively. PW-1 also brought on record Customer Application Form of Mob. No. 8368527173 in the name of Tarsem S/o Sunil Kumar alongwith CDR for the period 18.07.2022 to 22.07.2022 vide Ex. PW1/D and Ex. PW1/E respectively. PW-1 also brought on record Customer Application Form of Mob. No. 7015366242 in the name of Rekha W/o Raj Kapoor alongwith CDR for the period 18.07.2022 to 22.07.2022 vide Ex. PW1/F and Ex. PW1/G respectively. PW-1 further brought on record the relevant certificate u/s 65 B of Indian Evidence Act in support of CAFs, CDRs of Mob. Nos. 883061271, 8368527173 and 7015366242 vide Ex. PW1/H. PW 1 testified that he had downloaded CAFs and CDRs from the official server of the company by accessing it from his official login ID.

14. **PW-2 Shri Rajiv Vashisht** Nodal Officer, Bharti Airtel Ltd. had provided documents i.e. CDR, CAF, Location Chart and Certificate u/s 65-B of Indian Evidence Act in respect of mobile number 8800225142 to the CBI officials vide Ex. PW2/A. PW2 further brought on record CAF of Mobile number 8800225142 vide Ex. PW2/B (in the name of Satish Kumar S/o Pradeep Kumar) and CDR vide Ex. PW2/C w.e.f 18.07.2022 to 22.07.2022 and also furnished certificate u/s 65 B of Indian Evidence Act vide Ex. PW2/D in support of above mentioned CAF and CDR. PW2 also deposed that CDR was downloaded from the official server of the company by accessing it from his login ID. PW-2 further referred to outgoing calls from Mob. No. 8800225142 to 7015366242 & 8368527173 and Incoming calls from Mob. No. 8368527173 to 8800225142 (on

21.07.2022).

15. **PW3 Sh. HC Kuldeep** from PS Mundka stated that on 19.07.2022 accused Satish inquired about Mobile number of Tarsem and to which he expressed his inability. PW-3 was cross-examined by Ld. PP for the CBI and in his cross-examination he told that he knew accused Deepak and he further denied that he told PW-6 Tarsem that accused persons were calling him.

16. **PW-4 SI Jagbir Singh** stated that he had received a call vide GD No. 0054A and 0062 A of PS Mundka wherein it was reported that one boy having the chemist shop was selling Narcotics and showed knife to the caller and accordingly, PW-4 reached the spot immediately. PW-4 also brought on record the copy of Kalandara u/s 107/150 Cr.P.C. alongwith GD Entries vide Ex. PW4/A to Ex. PW4/D. PW-4 further deposed that it was found that no narcotics substances were being sold in the chemist shop.

17. **PW-5 Thakur Das** brought on record the duty roster with respect to the duty of both accused Satish and Deepak at PS Mundka for the period 18.07.2022 to 22.07.2022 vide Ex. PW5/B (D-13) through forwarding letter Ex. PW5/A. He also clarified that Beat No. 8 pertains to Tikri Extension whereas, Beat No. 9 pertains to Tikri Kalan Village.

18. **PW 6 Sh. Tarsem** deposed that he visited the Office of CBI to give complaint as one of his employees was beaten by a Police Official called Satish who was also threatening him to implicate him

in a false NDPS Case. He further stated that he gave a complaint against his employee Deepak who got him beaten from one Police Official namely Satish to CBI in Hindi. He further stated that when he gave the complaint in Hindi to the CBI official, he was told that no action could be made out and pursuant to which, PW-6 wrote different complaint in Hindi on the dictation of CBI official, however, he did not object to that as he want to get rid of the harassment of the police officials and acted on the directions of CBI officials and PW-6 upon perusing the complaint vide Ex.PW6/A states that the same does not bears his signature and only identified his handwriting. PW 6 further stated that police official Deepak referred in the complaint vide Ex PW-6/A was his friend Deepak and he further deposed that Deepak who was referred in the complaint vide Ex.PW6/A is one and same person.

19. PW-6 further deposed that when he visited the office of CBI, the CBI officials took him to some building in a dilapidated condition at Tikri Kalan near Sarvodaya Kanya Vidyalaya and thereafter, he came back to the CBI office between 11 AM to 12 Noon and was only told that a raid would be conducted on the following day without telling the purpose of the raid. PW-6 further deposed that he reached the office of the CBI on the next day and met some CBI officials and thereafter, proceeded for Tikri Kalan alongwith CBI officials in the official vehicle and on the direction of CBI officials, he made two-three calls to Satish, however, the calls were not picked by Satish and thereupon, he called Deepak, his friend who asked him to come to Firni Road office and upon reaching the Firni Road office , Deepak told him that he would bring Satish to the Office and

asked PW-6 to remain seated.

20. PW-6 further deposed that when he was waiting at Firni Road Office then, he received a call from the CBI official, asking him to come at Parked Vehicle near Main Rohtak Road and he further deposed that he received another call from Deepak who asked him to reach Firni Road Office and the said call was heard by the CBI official. PW6 further deposed that CBI official told him that he had to hand over an amount of Rs. 80,000/- to Satish which was to be handed over to his employee Deepak towards the pending dues/salary of employee Deepak. PW-6 further deposed that he went home and brought Rs. 80,000/- (in the denomination of Rs. 500/-) and handed over the same to the CBI official who were at main Rohtak Road and upon receiving a call from Deepak, he reached Firni Road Office where Deepak told him that he was not able to contact Satish and after 15-20 Minutes, PW-6 came out of the Firni Road office and Deepak also proceeded/left on his bike whereupon, CBI officials intercepted and apprehended Deepak after exchange of some abusive language. PW-6 further stated that he informed the CBI officials that Deepak had committed no wrongful act and should be released/let off. PW-6 further deposed that the CBI officials took back the said amount of Rs. 80,000/- and that he had no knowledge regarding Satish.

21. PW 6 did not support the case of Prosecution against any of the accused and accordingly, PW-6 was cross-examined by Id. PP for CBI. PW-6 in his cross-examination, PW6 deposed that complaint Ex. PW6/A was incorrect and he was made to write the said

complaint by the CBI officials and the case was of beating only. PW-6 further deposed that when he visited the office of CBI, his signatures, etc. were obtained on number of papers and he further deposed that on the next date when he visited the office of CBI, a team was constituted but he was unaware about its purpose. PW-6 identified his signatures on the following documents:-

- Verification Memo dated 21.07.2022 vide Ex. PW6/B (D-2).
- Further Verification Memo dated 22.07.2022 vide Ex. PW6/C (D-3).
- Pre Trap Cum Recovery Memorandum dated 22.07.2022 vide Ex. PW6/D (D-5).
- Rough Site Plan dated 22.07.2022 vide Ex. PW6/E (D-6)
- Transcription cum voice identification memo dated 05.09.2022 alongwith Hindi Transcription vide Ex. PW6/F and Ex. PW6/G (Colly) (D-14)
- Transcription cum voice identification memo dated 19.12.2022 alongwith Hindi Transcription vide Ex. PW6/H & Ex. PW6/I (colly) (D-22).

22. PW-6 identified his signatures on envelopes and packing of memory cards vide Ex. PW6/P-1, Ex. PW6/P-2, Ex. PW6/P-3 and Ex. PW6/P-4 respectively. From these envelopes the memory cards were taken out. The various recordings in File Nos. 220721\_1410.MP3, 220721\_1549.MP3, 220721\_1621.MP3, 220721\_1621\_01. MP3 and 220721\_1639.MP3 (pertaining to Q-1) were played and PW-6 did not identify any voices in the audio files. Thereafter, various recordings in memory card (Q-2) from File Nos. 220722\_1218.MP3, 220722\_1719.MP3, 220722\_1721.MP3 and 220722\_1735.MP3 were played and PW-6 did not identify any voice except his. Thereafter, CD-R Q-3 (I) was played before him and file No. f0015232.MP3 was played and PW-6 upon hearing did not identify any voice except his. PW-6 also clearly denied as to who he was talking to in the recordings.

23. During his cross-examination when File No. 22722\_1735. MP3 was played, the witness identified his voice and further stated that he was speaking to Deepak and when his attention was drawn to the portion B to B in Transcription i.e. "ठीक है 80 ला दू पूरे आप बैठो" and when specific clarification was asked from PW-6 by the Prosecution, PW-6 clarified to the suggestion given by the prosecution that he was uttering these words to the CBI officials.

24. During cross-examination, PW-6 Tarsem deposed that on 17.10.2022 and 14.12.2022, he gave a written complaint to SHO PS Mundka against the threat to kill him, however, he was unaware as to who was giving threats for killing him. PW-6 upon perusing the said complaints dated 17.10.2022 and 14.12.2022 vide Ex. PW6/I and Ex. PW6/J stated that the complaints were in his handwriting, however, it does not bear his signatures. PW-6 further deposed that complaints were made against Deepak and Satish (Police Officials), however, no action was taken except that an FIR was registered. PW-6 upon perusing NCR dated 13.12.2022 alongwith certificate u/s 63 of BSA states that the same was provided to him by SI Sunil vide Ex. PW6/K (Colly).

25. PW-6 stated reason for entertaining doubt with respect to threatening call as because of him Deepak was apprehended by CBI officials. PW-6 further deposed that he had given the memory card containing threatening calls to Police officials of PS Mundka and the recordings were heard by Police officials of PS Mundka, however, PW-6 did not identify the voice contained in the recordings and the CDR reveals that the mobile number pertains to Bihar and the

persons were not found on the given address.

26. PW-6 was unable to identify the voice in audio recording vide File No. 220723\_0432.MP3 and when voice recording from File No. 220723\_0435. MP3 was played, PW-6 identifies his voice but stated that he is unable to recall to whom he was speaking to. PW-6 was unable to identify the voice in audio recording vide File No. 220723\_0453.MP3 (from Ex. S-2). PW-6 was unable to identify the voice in audio recording vide File No. 220723\_0506.MP3 (from Ex. S-1).

27. PW-6 further deposed that he was the user of Mob. No. 8368527173 which was probably registered in the name of his father. PW-6 further deposed that his employee Deepak had worked for about 7-8 months during the period 2021 to 2022 and he used to assist him in his medical shop at Tikri Kalan, Delhi. PW-6 further deposed that he was unable to recall the mobile number of Deepak and used to pay salary by cash/online mode and he had lastly met him in the year 2022 and he had closed his shop in the year 2022.

28. PW-6 denied making of substantial part of his statement recorded u/s 161 Cr.P.C. vide Mark PW-6/X1, Mark PW-6/Y1 and Mark PW-6/Y2.

29. PW-6 admitted that a raid was conducted at his shop in relation to some case under NDPS Act, however, nothing incriminating was found by the Police Officials from the shop. During cross-examination by Id. PP, he stated that his signatures were obtained on

number of documents.

30. PW-6 denied the suggestions that PW-6 had deliberately not identified the voices of accused Satish and Deepak contained in Q-1, Q-2, Q-3, S-1 & S-2 or that Deepak was not acquainted with accused Satish or that PW-6 made the complaint in order to get rid from the harassment of police officials and he had acted upon the direction of CBI officials. PW-6 further denied the suggestion that amount of Rs. 80,000/- was to be handed over to his employee Deepak on the direction of accused Satish (police man) towards the salary of his employee Deepak. PW-6 also denied the suggestions that he is deposing falsely as he is won over by accused persons or that PW-6 is concealing the material/true facts in order to save accused persons from legal punishment. PW-6 further denied the suggestion that he deliberately denied making the statement to the IO or that he had made the statement to the IO. PW-6 identified both the accused Satish Kumar and Deepak in the Court, however, regarding accused Satish he had stated in the cross-examination by the Id. Defence Counsel that he had seen the accused in the Court and thereafter, again said he had seen him for the first time in the Office of CBI.

31. **PW-7 Ramdarash Singh Kushwaha**, Asstt. Engineer, Sewa Bhawan, Zone-3, R.K. Puram, New Delhi deposed that pursuant to the letter received by his office on 20.07.2022 from ADG Office, Nirma Bhawan, he reported to the office of CBI on 21.07.2022. Thereafter, he went to the fourth floor and then he was taken to one room where he met one Negi who further introduced him to Complainant Tarsem and Insp. Negi also provided him the complaint

given by Tarsem and the complaint was regarding the demand of money by two Constables Satish & Deepak. The complainant further disclosed that both the police officials were harassing him and also demanding some money from him and the staff of the complainant was taken by those police officials. PW-7 further deposed that Insp. Negi told him that the said complaint and the demand would be verified and thereafter, a DVR was arranged and voice of PW-7 was recorded and thereafter, PW-7, complainant, Insp. Negi and other staff left for some place in afternoon at 01:00-01:30 PM in CBI vehicle and parked near Tikri Kalan Metro Station at about 03:30 PM and the complainant brought a scooty from his acquaintance near Tikri Kalan Metro Station and Insp. Negi had handed over the voice recorder to Tarsem and Tarsem was directed to proceed towards the booth on his scooty as he had received the call whereas he and the CBI team were following the scooty. He further deposed that CBI team had parked their vehicles on the main road near Gali whereas complainant went to Police Booth situated on the first storey. He further deposed that after some time the complainant came towards the Gali and the CBI team followed him and he alongwith the CBI team waited at Tikri Kalan Metro Station where DVR was taken from complainant and was switched OFF and he further deposed that at about 07:00 PM to 08:00 PM, they came back to the office of CBI and a memo was prepared. PW-7 identified his signature on Memo vide Ex. PW6/B and further stated that complaint vide Ex. PW6/A was shown to him when he visited the office of CBI on 21.07.2022. PW-7 further deposed that Sh. Negi handed over DVR and CBI Brass Seal to him.

32. PW-7 further deposed that he came to the office of CBI on 22.07.2022 at 10:00 AM and handed over DVR as well as CBI brass seal to Insp. Negi. He further deposed that at about 02:00 to 03:00 PM, they left for Tikri Kalan Metro Station and one DVR was handed to Tarsem who proceeded on his scooty to his shop and the complainant stopped his scooty at his shop where he used to run a shop of building material whereas, the CBI vehicle was parked at some distance. He further deposed that after some time, a police man was seen entering in the material shop and after some time, the complainant came to his scooty and they started following the complainant, DVR was taken from the complainant.

33. PW-7 further deposed that on 22.07.2022 some documents with respect to proceedings dated 22.07.2022 vide Ex. PW6/C was prepared and signed by him. He further deposed that second team also came to Tikri Kalan Metro Station which explained the purpose of trap. PW7 narrated about the exercise of pre trap cum recovery memorandum vide Ex. PW6/D. PW-7 further deposed that complainant left on the scooty and was followed by three vehicles and the complainant went inside a building material shop whereas the CBI vehicle was parked at some distance. PW-7 further deposed that he saw that from the building material shop a uniform police official came out and he was being followed by the complainant Tarsem and then, complainant gave a pre decided signal and the uniformed police official was apprehended and the DVR was taken and switched off and the inquiries were made about the bribe amount. PW-7 further deposed that the vehicles were moved on the side and thereafter, separate handwashes of police officials were taken and the DVR was

taken from PW6/complainant Tarsem. PW-7 further deposed that inquiries were also made from the said police official who was apprehended and after inquiry, they went to the Police Booth which was near a Gali through Iron Staircase i.e. on the first storey where no Police Officials were present but some files and laptop bag were found. PW-7 further deposed that thereafter all of them proceeded towards Police Station Mundka and the CBI team made inquiries about the second police official as the second police official Constable Satish was called to the Police Station.

34. PW-7 further deposed that the concerned SHO provided the room to the CBI where further proceedings took place. PW-7 further deposed that in the room of the concerned SHO, Constable Deepak changed his cloth and right side pant pocket of the uniform of Constable Deepak was dipped in the solution which turned PINK and the solution was then transferred in the bottle and the bottle was capped. PW-7 further deposed that the recovered currency notes were matched and PW-7 identified his signature on pre-trap recovery memorandum vide Ex. PW6/D and the details of the currency notes were also matched by him. He further deposed that recovered currency notes were sealed and RHW and Pant Wash were separately kept in an envelope and during his examination in chief, PW-7 identified his signatures on three glass bottles vide Ex. PW7/P-1 (RHW), Ex. PW7/P-2 (LHW) and Ex. PW7/P-3 (RSFPPW).

35. PW-7 also identified the currency notes in the denomination of Rs. 500/- i.e. total 160 notes and compared the same with page No. 15 to 18 of Pre Trap Memo vide Ex. PW6/D and upon matching the

same, he deposed that these were the same currency notes which were used during the trap proceedings and same were matched in toto. PW-7 also identified the pant vide Ex. PW7/P-6 and further deposed that the said pant was seized and sealed in the Police Station. PW-7 also identified his signature on Handing Over Cum Taking Over Memo vide Ex. PW7/A. PW-7 further deposed that both the police officials alongwith independent witnesses and other CBI officials reached the office of CBI in the midnight where his voice as well as voice of Pushpender Khatana as well as voice of both the accused persons were recorded.

36. PW-7 further deposed that in the month of August, 2022, he once again visited the office of CBI where inquiries were made from him and he further deposed that recordings were also played in the office of CBI with respect to the conversation on 21.07.2022 & 22.07.2022/23.07.2022. PW-7 further deposed that some of the recordings were clear and audible whereas, some recordings were not clear and audible. PW-7 further deposed that in the month of September, he was called by the CBI official and the CBI brass seal which was with him was taken back and then, again given to him for keeping it with him. PW-7 produced CBI brass seal and the same was taken on record vide Ex. PW7/P-7. PW-7 was unable to identify both the accused persons in the Court. PW-7 further deposed that in the month of September, 2022, complainant identified the voice in the voice recordings as that of Satish & Deepak and also identified his voice.

37. During the examination in chief of PW-7, PW-7 identified his

voice in the audio file Nos. 220721\_1410.MP3, 220722\_1218. MP3. PW-7 identified his signature on transcription cum voice identification memo vide Ex.PW6/F as well as on the transcriptions of Q-1 & Q-2 vide Ex. PW6/G (Colly).

38. **PW-8 Sh. Pushendra Khatana** was another independent witness and he deposed that he reported to the office of CBI in the month of July, 2022 and on the second day of his visit to the office of CBI, he reached Tikri Kalan Metro Station where he met complainant and other team members and came to know that there was a demand of Rs. 2 Lakhs by Delhi Police Officials. He explained in detail about the pre-trap proceedings. He stated that a Recording Device was put in the pocket of complainant and thereafter, complainant left from Tikri Kalan Metro Station on his white colour scooty and was being followed by the CBI officials and the CBI vehicles were parked near a shop. He further deposed that he saw that the complainant gave a signal by scratching his head after coming out of shop and he saw a police man in uniform i.e. Deepak and then Deepak moved his bike and was stopped by the CBI team and after apprehension the bribe money was taken from the right side pant pocket of Deepak and thereafter, the hand washes and uniform wash were taken. Thereafter, the currency notes recovered from accused Deepak were matched with the already mentioned details of currency notes.

39. PW-8 further deposed that recording device was taken from the complainant and then, he alongwith CBI officials went to the place where police officials used to sit and the search of that place was conducted and some articles/things were also found and thereafter,

CBI team went to Police Station Mundka and met the concerned SHO and inquiries were made about other police official i.e. Satish.

40. PW-8 identified his signatures on three separate glass bottles RHW vide Ex. PW7/P-1, LHW vide Ex. PW7/P-2 and RSFPPW vide Ex. PW7/P-3. PW-8 also identified the Pant of accused Deepak vide Ex. PW7/P-6 and also identified his signature on the inner pant pocket. PW-8 also identified the "Trap Money" in the denomination of Rs. 500 (total 160 Notes) contained in an envelope vide Ex. PW7/P4 and PW-8 upon matching the trap money with pre trap memo vide Ex. PW6/D states that these were the same currency notes used during the trap proceedings and same were matched in toto.

41. PW-8 further deposed that items found during the personal search of accused Deepak were handed over to the SHO, PS Mundka and thereafter, between 10-11:00 PM on 22.07.2022, they left for the office of CBI. Upon reaching the office of CBI, a fresh memory card was inserted in the DVR and introductory voices of PW-7 and PW-8 and voices of both the accused persons were recorded in separate memory cards and the accused persons were asked to read from the paper and they had given their voices voluntarily. Thereafter, PW-7 and PW-8 gave their concluding voices and same were recorded in the DVR and the memory cards were sealed and seized.

42. PW-8 identified his signatures on yellow colour envelope vide Ex. PW8/P-1 (Exhibit S-1 ) and on cut open brown envelope vide Ex. PW8/P-2. PW-8 upon hearing the voice recording contained in file

Nos. 220723\_0503.MP3 and 220723\_0509.MP3 identified his introductory and concluding voice. PW-8 upon hearing the File Nos. 220723\_0504.MP3 and 220723\_0509.MP3, identified the voice of another witness Sh. Ramdarash Singh Kushwaha, however, with respect to File No. 220723\_0506.MP3, he states that he is unable to identify the voice contained in the said audio file.

43. PW-8 identified his signature on yellow colour envelope vide Ex. PW8/P-3 (Exhibit S-2 ) and on the cut open brown envelope vide Ex. PW8/P-4 and upon hearing the File Nos. 220723\_0450.MP3, 220723\_0451.MP3, 220723\_0454.MP3 and 220723\_0455.MP3, he identifies his voice as well as the voice of independent witness Sh. Ramdarash Singh Kushwaha. However, in File No. 220723\_0453.MP3, he identifies the voice of accused Deepak. PW-8 further deposed that specimen voice of complainant was also taken on 23.07.2022.

44. PW-8 identified his signature on yellow colour envelope vide Ex. PW8/P-4 (S-Tarsem ) and on cut open brown envelope vide Ex. PW8/P-5 and upon hearing the File Nos. 220723\_0432.MP3, 220723\_0433.MP3, 220723\_0435.MP3, 220723\_0437.MP3 and 220723\_0438.MP3, he identifies his voice as well as the voice of independent witness Sh. Kushwaha.

45. PW-8 also identified the DVR vide Ex. PW8/P-5 (Colly) and also identified his signatures on DVR at Point A. PW-8 upon perusing the pre trap cum recovery memorandum vide Ex. PW6/D identifies his signature at Point C on all the pages and further

deposed that the said document was prepared at the time of conclusion of the proceedings. PW-8 further perused the Rough Site Plan vide Ex. PW6/E (D-6) and identified his signature at Point B and further states that the document was prepared during trap proceedings.

46. **PW-9 Sh. Gulshan Nagpal** who was posted as SHO PS Mundka during 2022 deposed that accused Satish Kumar and Deepak were posted as Head Constables in PS Mundka during 2022 and PW-9 further deposed that on the direction of CBI, he provided duty rosters vide Ex. PW5/A and Ex. PW5/B and also provided certified copies of transfer/posting order and promotion order of both the accused persons vide forwarding letter Ex. PW9/A (Colly).

47. PW-9 further deposed that on 07.09.2022, when he visited the office of CBI certain recordings were played before him and PW-9 after hearing the said recordings, identifies the voice of accused Satish and Deepak and a transcription memo alongwith transcription was also prepared to this effect and upon perusing the transcription memo and transcription vide Ex. PW9/B (Colly), PW-9 identified his signature at point A.

48. PW-9 upon hearing the recordings (contained in Q-2) in File Nos. 220721\_1549 and 220721\_1621.MP3, identified the voice of accused Satish and same corresponds to name of the speaker as Satish from different portion of transcript vide Ex. PW9/B (colly). PW-9 upon hearing the recordings (Q-2) in File Nos. 220722\_1719.MP3, 220722\_1721.MP3 and 220722\_1735.MP3,

identifies the voice of accused Deepak and same corresponds to the speaker as Deepak on Ex. PW9/B (colly) on different pages.

49. **PW-10 ASI Subhash Chand** who was posted at PS Mundka deposed that a DD No. 78 A vide Ex. PW10/A was handed over to him and it was informed that Tarsem was engaged in the sale of Drugs and thereafter, he was arrested u/s 107, 151 Cr.P.C. on 15.02.2022 and a Kalandara vide Ex. PW10/B (D-23, 10 Sheets) was prepared, however, nothing incriminating was found from his possession or from his shop.

50. **PW-11 Ms. Deepti Bhargava**, Asstt. Director & Scientist, Chemistry deposed that vide forwarding letter No. RC 003\_2022\_A-0050/6229 dated 01.08.2022 vide Mark PW11/B (D-10), three glass bottles marked as RHW, LHW and RSFPPW were forwarded by SP, CBI, ACB, ND to Director, CFSL, ND for laboratory examination and expert opinion and same were received in Chemistry Division on 01.08.2022 against acknowledgment vide Ex. PW11/A . PW-11 further deposed the said exhibits were examined by PW-11 by PHYSICO-CHEMICAL Methods, Chemical Test, UV-Visible Spectrophotometry and Thin Layer Chromatographic Technique and same gives positive tests for the presence of Phenolphthalein and Sodium Carbonate and same were detailed in the examination report vide Ex. PW11/C and remnants of exhibits alongwith report were sent to the forwarding authority through Ms. Asha Srivastava, the then Director, CFSL, New Delhi vide intimation Ex. PW11/D and the exhibits alongwith reports were collected by Prabhu Ram vide letter Mark PW-11/E.

51. **PW-12 Dr. Subrat Kumar Choudhary**, Asstt. Director & Scientist “C”, CFSL, Delhi deposed that after receipt of letter for forensic examination of memory card Q3, he retrieved one audio file from the memory card (Q3) and the said audio file was written in one CD-R marked as “Recovered Audio File of Exhibit Q-3”. He further deposed that the detailed process of retrieval/extraction of audio file from memory card and its writing on the CD-R is mentioned in his report dated 22.09.2022 vide Ex.PW12/A. PW-12 also deposed that the exhibit of the case was internally received for the second time from Physics Division on 13.06.2023 and after writing on the CD, the exhibit was then sent back to the Physics Division and a report vide Ex.PW12/B dated 14.06.2023 was also furnished by him.

52. **PW 13 Sh. C.M.S. Negi (Verification Officer)** deposed that he was entrusted verification of the complaint vide Ex.PW6/A made by Tarsem by the then SP, ACB, CBI, ND and for the purpose of verification, he alongwith SI Sumit read over the complaint to the independent witness Sh. Ramdarash Singh Kushwaha and a fresh memory card was arranged and inserted into the DVR after ensuring the blankness of the memory card and the introductory voice of independent witness was recorded in the memory card through DVR and thereafter, it was decided that verification of the complaint would be conducted at the spot i.e. dilapidated building at Village Tikri Kalan.

53. PW13 further deposed that he alongwith SI Sumit, independent witness and complainant Tarsem proceeded to Village

Tikri Kalan on CBI vehicle and after reaching near Village Tikri Kalan, the DVR having the memory card was given to the complainant in switch ON mode and he was directed to meet the police personnel. Thereafter, the complainant proceeded from his office on a white scooty and the CBI team was following him on the vehicle and then the complainant took a right turn on the lane adjacent to Sarvodaya Kanya Vidyalaya and parked his scooty near the building and the CBI team remained in the vehicle and on random verification from a passerby, it was apprised that the dilapidated building in the lane was used by the police personnel as a resting place and after 15-20 minutes, complainant was seen coming back from the lane on his white scooty and the DVR was taken back from him and was switched OFF. He further deposed that the complainant narrated the sequence of events i.e. at the first floor of the dilapidated building, he met HC Satish and had a conversation with him regarding the demand of bribe money from PW-6/complainant Tarsem and during the conversation, Satish also spoke to Constable Deepak by taking him aside and during the conversation, HC Satish told him that Constable Deepak had told him that complainant would certainly pay the bribe amount. Thereafter, the recorded conversation was heard through the DVR. Thereafter, the complainant again received a call from HC Satish and during the call HC Satish told complainant that he wanted to meet the complainant and asked him to come at some distance from dilapidated building.

54. PW 13 deposed that verification proceedings did not reveal the role of Constable Deepak and hence, further verification was

required to be conducted. In the Office of CBI, Verification Memo vide Ex.PW6/B incorporating the verification proceedings conducted at the Tikri Kalan as well as the detail regarding use of memory card and DVR was prepared and the memory card was sealed in an envelope and given marking Q-1 and the DVR alongwith CBI seal was handed over to the witness Ramdarash Singh Kushwaha and both the complainant and independent witness were directed to report for further verification on 22.07.2022.

55. On 22.07.2022 independent witness Ramdarash Singh Kushwaha and complainant Tarsem reported to the office of CBI and a fresh memory card was arranged for conducting further verification. It was decided by the Verification team to proceed to Village Tikri Kalan on a vehicle arranged by CBI and after reaching near the vicinity of village Tikri Kalan and waited, however, no calls were received from HC Satish or Constable Deepak. PW-13 further stated that a call was made to Constable Deepak from mobile of complainant by putting the phone on speaker mode and during the call, complainant discussed the bribe amount with Constable Deepak and Deepak told him to meet him in the shop on the Firni Road, Village Tikri Kalan and thereafter, the DVR in switched ON mode was handed over to complainant and the complainant left for Firni Road on the white scooty and the CBI team was following him on the vehicle and after that the complainant stopped his bike/scooty near the shop and the CBI team also parked the vehicle at a safe distance from the said shop and the complainant went inside the said shop and the police personnel in uniform also approached the said shop and entered inside and after some time, the complainant was seen coming

out of the said shop and started riding his scooty and thereupon the CBI team also left the said place and reached the spot where the DVR was handed over to the complainant and thereafter, the DVR was taken back from the complainant and switched it OFF and the complainant narrated that he met Constable Deepak in the said shop and during the meeting, complainant requested Deepak to lower the bribe amount of Rs. 80,000/- and upon which Deepak told him that he is not alone in the demand of bribe and he also assured him that complainant would not face any harassment after payment of the bribe amount. PW-13 further deposed that memory card was extracted from the DVR in the presence of independent witness and an investigating copy was prepared using the write blocker and the memory card was then sealed in the envelope and marked as Q-2 and the envelope was signed by PW-13 and the independent witness and further verification memo dated 22.07.2022 vide Ex. PW6/C was also prepared.

56. PW-13 further deposed that a communication was received from the office that a trap team was constituted under Ravindra Bharti and was sent to lay the trap and thereafter, PW-12 alongwith SI Sumit, independent witness Ramdarash Singh Kushwaha and complainant joined the trap team near Mundka Metro Station and the trap proceedings were carried out at Firni Road and PS Mundka under the directions of TLO Ravindra Bharti.

57. **PW-14 Mohit Bhardwaj** is a resident of Tikri Kalan and deposed that Tarsem used to run a medical shop which was closed in the year 2021-22. He was cross-examined by Id. PP for CBI and

denied that he had received a call from Tarsem who had informed him that Deepak and Satish had detained his employee.

58. **PW-15 Harendra Kumar Singh**, the then Deputy Commissioner of Police, had granted prosecution sanction u/s 19 of PC Act against Satish and Deepak vide Ex.PW15/A & Ex. PW15/B (part of D-25).

59. **PW-16 Sh. Ravinder Kumar Bharti (Trap Laying Officer)** deposed that the present FIR was assigned to him on 22.07.2022 by SP, CBI, ACB, ND and he alongwith Insp. Rajiv, Insp. Ashutosh Tiwari, SI Pradeep and other subordinate staff and independent witness Pushpendra Khatana had reached Tikri Kalan Village at about 05:00 PM on 22.07.2022. PW-16 alongwith trap team members reached near Tikri Kalan Metro Station and met members of the verification team and introduced to complainant and independent witnesses and the contents of the complaint vide Ex. PW6/A were read over and verification memo vide Ex. PW6/C also reflects that constable Deepak was demanding illegal gratification from complainant and is waiting at the shop of the complainant for the money and accordingly, it was decided to lay a trap for Deepak for demanding and accepting Rs 80,000/- and thereafter, the pre trap proceedings vide Ex. PW6/D was carried out in which the reference was made for production of Rs. 80,000 by the complainant, the arrangement of DVR and memory card for recording the conversations and the usual instruction to the independent witnesses and the modalities of the pre decided signal and demonstration was conducted to explain the significance of phenolphthalein powder with Sodium Carbonate Solution.

60. Thereafter, the produced amount of Rs. 80,000/- was smeared with phenolphthalein powder and the tainted money was kept by independent witness Pushpender Khatana in the right side front pocket of cargo pant worn by Tarsem and asked to deliver the same to Deepak on his specific demand. Thereafter, the DVR in switch On & Hold mode was kept in the lower left side pocket of cargo pant of Tarsem and thereafter, complainant proceeded towards the shop of complainant at Firni Road on his scooty and the trap team was following the scooty of complainant.

61. PW-16 further deposed that after some time, they reached near the shop of complainant Tarsem and the trap team took their positions discreetly and Tarsem went inside his shop. Thereafter, a man wearing police uniform came out of the shop of complainant and the complainant was also following him and complainant gave the pre decided signal of rubbing his head and also gave missed call on mobile of PW-16. Thereafter, the said man in police uniform sat on his bike and started proceedings towards PVC Road and when CBI team tried to apprehend him, he started accelerating his bike and tried to escape, however, he was apprehended and PW-16 challenged him that he had demanded Rs. 80,000/- from Tarsem and same was admitted and accused Deepak disclosed that the bribe amount was kept by him in his right side pant pocket. Thereafter, respective hand washes of Deepak were taken by dipping the fingers in separate solution which turned Pink and the turned pink solution was transferred into separate glass bottles which were capped, wrapped and sealed and were marked as "LHW" and "RHW" in RC

50(A)/2022” and the bribe money was recovered by independent witness Pushendra Khatana from pant pocket of accused Deepak. PW-16 further deposed that the DVR was taken back from complainant and switched it OFF and the sequence of events narrated by complainant was corroborated with the voice recordings contained in the DVR and Rough site plan vide Ex.PW6/E was also prepared reflecting the positions of team members, complainant and accused.

62. PW-16 further deposed that CBI team alongwith accused Deepak reached PS Mundka and SHO Sh. Gulshan Nagpal was apprised of the trap and he was requested to ensure the presence of HC Satish and on the arrival of HC Satish, he was interrogated by PW-16 and later, he admitted that he met Tarsem on 21.07.2022 at Make shift shelter near Sarvodaya Kanya Vidyalaya and had demanded the bribe from him, thereafter, search was conducted on the residential addresses of both the accused persons.

63. PW-16 further deposed that right side pant pocket wash of accused Deepak was obtained by dipping the inner side of pocket in Sodium Carbonate solution and same turned PINK and the said solution was kept in a bottle and was marked “RSFPPW in RC 50 (A)/2022” and the pant was also kept in an envelope and was sealed and marked “PANT of Accused Deepak in RC 50 (A)/2022. PW-16 further deposed that the distinctive serial number of recovered bribe amount of Rs. 80,000/- was tallied by both the independent witnesses and same were correctly tallied and the recovered notes were seized and kept in an enveloped marked as “Trap Money in RC 50 (A)/2022). Thereafter, the memory card used during trap proceedings

were kept in its original plastic cover and kept in an envelope and were marked as Q-3. Thereafter, fresh memory cards were arranged and specimen voices of complainant, independent witnesses were recorded and similarly, specimen voices of accused were also recorded and same were given by them voluntarily in the separate memory cards and the memory cards were marked as S-Deepak, S-Tarsem and S-Satish in RC 50 (A)/2022 and kept in the envelope and sealed. Thereafter, the DVR was also sealed and kept in an envelope and marked as “DVR in RC 50(A)/2022”.

64. PW 16 further deposed that both the accused persons were arrested through their separate arrest memos vide Ex.PW-16/B & Ex.PW16/C and their mobile phones were also seized. PW-16 identified the case properties such as RHW, LHW, RSFPPW, trap money, DVR, memory cards, etc., and also identified the voices of accused persons, complainant and both the independent witnesses in memory cards i.e. Q-3, Q-3(I), S1, S2 and S-3.

65. **PW-17 Rafiq Mashi**, witness to the voice identification proceedings at the office of CBI, stated that PW-6 Tarsem identified the voice of Deepak. PW-17 identified his signatures on Ex. PW6/H (D-22) and Ex. PW6/I (part of D-22).

66. **PW-18 Satish Kumar Bana (Investigating Officer)** deposed that the present FIR RC 50 (A)/2022 was assigned to him for investigation by SP, ACB, ND from PW-16 and he took charge on 26.07.2022.

67. PW-18 identified letter dated 01.08.2022 vide Ex. PW18/A through which he sent hand washes and pocket washes of accused Deepak to CFSL, ND for analysis against acknowledgment receipt vide Ex. PW11/A. PW-18 also identified the letter dated 12.08.2022 vide Ex. PW11/D for collection of exhibits from CFSL and the relevant exhibits/articles vide Ex. PW11/C were collected and handed over to PW-18 and same were deposited by him in the Malkhana.

68. PW-18 also identified the CDRs, CAFs & Certificate u/s 65 B of IEA pertaining to Mob Nos. 8383061271, 8368527173, 7015366242, 8800225142 (accused Satish) vide Ex. PW1/A to Ex. PW1/G, Ex. PW2/A to Ex. PW2/D from Nodal Officers of telecom companies and it was revealed that number of calls were exchange amongst these mobile numbers.

69. PW-18 deposed that he prepared transcription cum voice identification memos of the recorded conversations (Q-1 & Q-2) and complainant Tarsem identified the voices of accused persons in recorded conversations (Q-1 & Q-2) in the presence of PW-18 and independent witnesses and after the voice identification proceedings, PW-18 prepared the memorandums vide Ex. PW6/F and Ex. PW6/G (Hindi Transcriptions) to this effect.

70. PW-18 further deposed that during investigation, he collected certified copies of transfer posting and promotion orders of both the accused persons vide letter dated 07.09.2022 Ex. PW9/A. PW-18 further deposed that Sh. Gulshan Nagpal (PW-10) was also called for the purpose of voice identification and he identified the voices of

both the accused persons in Q-1 and Q-2 and PW-18 also prepared the memorandum dated 07.09.2022 vide Ex.PW9/B to this effect.

71. PW-18 also sent the exhibits Q-1, Q-2, DVR-1 & DVR-2, S-Satish, S-Deepak and S-Tarsem to CFSL for analysis vide Ex. PW18/B through special messenger and PW-18 also identified the acknowledgment receipt of CFSL vide Ex.PW18/C. PW-18 further upon perusing the letter vide Mark PW18/D stated that both the accused persons were dismissed from their services. PW-18 further deposed that retrieved copy of Q-3 was prepared by CFSL in a CD-R vide Ex.PW12/A and thereafter, he prepared the transcript of Q-3 vide Ex.PW6/I and for the purpose of voice examination, Sh. Rafiq Mahi (PW-17) and Tarsem (PW-6) identified the voices of accused Deepak and memorandum vide Ex.PW6/H was prepared to this effect.

72. PW-18 further deposed that CFSL Report vide Ex.PW12/B was received from Dr. Subrat Kumar Chaudhary (PW-12) and PW-18 collected Kalandara vide Ex. PW4/A to Ex. PW4/D from PW- 4 SI Jagbir Singh, PS Mundka.

73. PW-18 further deposed that he obtained Prosecution Sanctions u/s 19 PC Act vide Ex.PW15/A and Ex.PW15/B against both the accused Satish Kumar and Deepak from the competent authority and after recording the statement of witnesses as per their version and after collecting the evidence, he filed the charge-sheet dated 19.09.2022 and supplementary charge-sheet dated 09.03.2023 in the Court and after filing the charge-sheets, he filed the voice

examination report vide Ex.PW19/D on record.

74. **PW-19 Sh. Deepak Kumar Tanwar**, Deputy Director & Scientist D at CFSL, New Delhi deposed that vide forwarding letters dated 08.09.2022 and 28.02.2023 vide Ex.PW19/A (OSR) and Ex.PW19/B (OSR) from SP ,CBI, ACB, New Delhi, he received eight sealed parcels marked Q-1, Q-2, Q-3 (I), DVR-1, S-1, S-2, S-3, DVR-2 (in sealed condition), against acknowledgment vide Ex. PW19/C (OSR) and Ex.PW18/D. PW19 further deposed that exhibits Q-1, Q-2, Q-3 (I), DVR-1, S-1, S-2, S-3, DVR-2 were examined and upon auditory and spectrographic analysis, the questioned voices were found to be the probable voices of Satish Kumar, Deepak and Tarsem matching in acoustics features, phonetic characteristics and linguistic cues with their respective specimen voices. He further opined that audio recordings in Q-1, Q-2, Q-3 (I), S-1, S-2, S-3 were continuous and showed no sign of tampering and the recordings could have been recorded through DVR-1 and DVR-2.

75. PW-19 further deposed that after examination, the said exhibits were returned to SP CBI, ACB, ND alongwith report dated 28.06.2023 vide Ex.PW19/D and also enclosed report dated 14.06.2023 vide Ex.PW12/B. PW-19 upon perusing the exhibits i.e. Q-1, Q-2, S-1, S-2, S-3, DVR-1, DVR-2 and Compact Disc Q-3 (I), stated that he identified his official seal and his signatures affixed thereupon at the relevant points.

76. **PW-20 Deepak Singh**, Ex-employee of complainant Tarsem deposed that he was working in the shop of complainant on the

monthly salary of Rs. 20,000/-. The complainant closed his shop and stopped making payments to him and pursuant to which, he approached/met beat officials who called Tarsem and directed him to give the pending salary totaling Rs. 80,000/- to him. PW-20 was cross-examined by the Id. PP for CBI and during his cross-examination, PW-20 deposed that he did not make any call to Tarsem from his mobile phone on 19.07.2022, however, he was not aware about the name of the beat officials to whom he had approached for speaking to Tarsem as he had only met them once and is unable to identify the beat officials.

**STATEMENT U/S 351 BNSS (Corresponding to Section 313 CrPC) OF THE ACCUSED PERSONS.**

77. After conclusion of the Prosecution Evidence, statement of both the accused persons were recorded. Both the accused Satish Kumar and Deepak in their separate statements denied all the incriminating evidence put to them and claimed their innocence and stated that they were falsely implicated in the case without any basis. They also stated that case properties were fabricated and planted upon them and the recordings were tampered by using the software, both the accused persons did not opt to lead any Defence Evidence despite opportunity however, both accused Satish and Deepak had not opted to lead any Defence Evidence in their favour.

78. Accused Satish submits that he has been falsely implicated in the present case and at the relevant time, there were several police officials posted at PS Mundka bearing the name as “Satish” and the

evidence and testimonies on record indicate that the complainant had grievances against some other police official namely Satish, who had alleged reprimanded him regarding non-payment of salary to his ex-employee Deepak. He further stated that the complainant initially approached the CBI with a complaint containing no allegation of corruption or demand of illegal gratification, however, the said complaint was subsequently converted and manipulated into a false corruption case against him. He also stated that he was wrongly arrested and implicated in the present case and CBI has relied upon manipulated CDRs and alleged recorded conversations to falsely implicated the accused and he had neither demanded any bribe nor ever met the complainant at any point of time. Whereas accused Deepak denied that he had demanded or accepted any bribe from complainant/PW-6 Tarsem and the hand/pocket/pant washes were planted upon him. He also stated that he was wrongly identified at the instance of the CBI officials and denied that audio recordings contained his voice. He also stated that he was falsely implicated when he was on patrolling duty.

#### **SUBMISSIONS ON BEHALF OF PROSECUTION**

79. ***Mr. Shekhar Gehlot, Ld. PP for the CBI*** has contended that the prosecution has proved its case beyond reasonable doubt. It is also contended that the recorded conversations during verification and trap proceedings clearly indicate the both accused Satish and Deepak demanded undue advantage of Rs. 80,000/-. It is further contended that pursuant to the demand of bribe, the bribe money was accepted by accused Deepak and the consequent recovery from accused

Deepak is attributable to both the accused persons which indicate that in pursuance to the demand, the bribe and acceptance was made by accused Deepak for himself as well as for accused Satish. It is submitted that although the complainant/PW-6 Tarsem has not supported the prosecution case to some extent, however, if his testimony is considered in proper perspective, it would reveal that pursuant to the complaint made by him, verification was conducted and the subsequent trap was laid in which accused Deepak was caught with the tainted bribe money and the hand wash and pocket wash shows the presence of phenolphthalein powder.

80. It is also contended by Id. PP for CBI that audio recordings contain the voices of accused Satish and Deepak as well as PW-6 Tarsem and the voice examination report vide Ex.PW19/D attributes to accused persons and complainant/PW-6 Tarsem and voices of both the accused persons were identified by PW-9 SHO Gulshan Kumar from PS Mundka. It is further contended that relevant CDRs as well as CAFs establish that calls were exchanged between Satish & Tarsem and Tarsem & Deepak during the period when verification and trap proceedings were conducted. It is also contended that material prosecution witnesses PW-7, PW-8, PW-13 and PW-16 have corroborated the factum of demand, acceptance and recovery. It is further contended that recovery of tainted bribe money raises the presumption u/s 20 of Prevention of Corruption Act which was not rebutted by the accused persons.

81. It is argued that the complaint, verification memos, memory cards, and transcripts corroborate the oral evidence of witnesses

examined by the Prosecution. It is further contended that the hand-wash and Pant Pocket Wash reports establish that the bribe was accepted by accused Deepak in pursuance of the conspiracy. It is contended by the ld. PP for CBI that Duty Rosters vide Ex.PW5/B records Constable Deepak was deputed for duty in Beat No. 9 which records his mobile number. It is also contended by ld. PP for CBI that testimony of PW-3 would indicate that incident dated 19.07.2022 is corroborated. It is further contended by ld. PP for the CBI that PW-3 Head Constable Kuldeep also proves that accused Satish was deputed for duty in beat no. 09 pertaining to Village Tikri Kalan.

82. It is also contended that PW-6 turned hostile and narrated a false story by claiming that the amount was towards the pending salary of his ex-employee Deepak. Moreover, the complainant's complaint vide Ex.PW6/A does not mention the fact that amount was to be paid towards the pending salary of his ex-employee Deepak.

83. It is further contended by ld. PP for CBI that complainant/PW-6 Tarsem has duly identified both the accused persons before the Court and has specifically affirmed in his deposition that accused Deepak is the same person named in complaint Ex.PW6/A and the complainant Tarsem further proved his complaints dated 17.10.2022 and 14.12.2022 vide Ex. PW6/I and Ex.PW6/J made to the police officials of PS Mundka regarding threats given by accused Satish and Deepak and while deposing so, he has identified both the accused persons before the court.

84. It is further contended that PW-6 had turned hostile yet, he has

corroborated his complaint in material particulars, identified accused persons, identified his handwritten complaints, fact that a police official named Satish had threatened him for false implication in NDPS case and demanded bribe, that he participated in the CBI proceedings, he has duly identified his signatures on all the papers and exhibits, he has admitted to the fact of bringing Rs.80,000/- and also identified the GC currency notes before the court.

85. It is further contended that complainant Tarsem after hearing the recording file no. 220722\_1735.MP3 (Q-2) admitted that he was talking to accused Deepak and further the transcription when read as a whole, depicts the whole case of the Prosecution and proves the factum of demand on part of accused Deepak and Satish as well as the fact of coercion upon complainant as places by both the accused persons.

86. Id. PP for the CBI further contended that although accused Satish has claimed innocence and denied any association with PW-6 Tarsem, however, he had failed to explain the exchange of calls between them during the verification proceedings and the contents of such calls were within the exclusive knowledge of accused Satish and the burden to furnish a plausible explanation rested upon him, however, he failed to discharge the said burden.

87. It is further contended that complainant Tarsem was won over by the accused persons, particularly as they were posted at the complainant's local police station i.e. PS Mundka and evidence has also emerged regarding threats allegedly extended to the complainant

at the behest of accused persons and he also made complaints against them. The complainant has advanced a version materially inconsistent with the prosecution case. In such circumstances, it is the duty of the Court to separate the credible from the unreliable. Furthermore, the complainant had admitted the existence of threat to false implication by police officials in NDPS case and also identified them before the Court and when the two versions are tested on the anvil of probability and normal human conduct, the defence version appears imaginary and divorced from the practical realities. Thus, it cannot be said that two equally probable version exists before the Court and therefore, the prosecution has succeeded in establishing its version beyond the reasonable doubt. Furthermore, the testimony of PW-20 Deepak is unreliable in so far as he falsely denied having contacted the complainant on 19.07.2022, however, during his examination, he admitted his mobile number as well as the fact that the name of his father is Brijnanadan Singh and when the CDR of mobile number 883061271 is perused, it establishes that in fact various calls were made by PW-20 Deepak to complainant Tarsem on 19.07.2022 and the same fortifies the version of the prosecution. Id. PP further submits that the deliberate falsehood assumes significance in light of evidence suggesting pressure upon witnesses at the behest of accused persons to turn hostile, accordingly, the testimony of PW 20 Deepak requires strict scrutiny. Moreover, PW-3 HC Kuldeep stated on 19.07.2022, accused Satish was enquiring about the complainant's mobile number and when this circumstance is read alongside the CDR, it clearly establishes telephonic contact between accused persons and the complainant on the relevant date and therefore, the hostile portions of the testimony deserves rejection

and the prosecution evidence regarding such calls remains duly proved.

88. Ld. PP has relied upon the following judgments (i) State of Kerala Vs. K.A. Abdul Rasheed, 2026 INSC 365, (Special Leave Petition (Crl.) No. 1808 of 2026) (ii) Rajoo Vs. State of MP, (2003) 5 MPLJ 60 (iii) Prakash Chand Vs. Delhi Administration (1979) 3SCC 90 (iv) M Narsingh Rao Vs. State of AP, (2001) 1 SCC 691, CA 791/1995 (v) CBI Vs. Baljeet Singh, 2026 INSC 221, SLPC No. 12486 of 2025 (vi) Vishnu Krihsna Belurkar Vs. The State of Maharashtra, 1974 SCC OnLine Bom 61, Criminal Appeal No. 948 of 1972.

#### **SUBMISSIONS ON BEHALF OF ACCUSED SATISH.**

89. **Mr. Sandeep Sharma and Mr. Sachin Baisla, Ld. Counsels for accused Satish** contended that accused Satish Kumar has not demanded any bribe from the complainant Tarsem. It is also contended that prosecution has failed to prove that there was any conspiracy between accused Satish and co-accused Deepak. It is also contended that complainant Tarsem had not identified the accused either in the Court or during investigation of the case. It is further contended that substantive evidence in the form of identification qua the offences is absent in the present case. It is also contended that prosecution had failed to prove that complainant and accused Satish had met each other during the verification proceedings or prior to the filing of the complaint vide Ex.PW6/A. It is also contended that the voices in the memory cards remained unidentified as complainant had failed to identify the voice of accused Satish. It is also contended that there is no credible material on record or evidence

regarding the identification of the voices of accused persons and it is also contended that identification of the voice by PW-9 is of no significance as prosecution has failed to ensure the safe custody of exhibits/case properties containing the purported conversation. It is also contended that PW-19 even failed to state whether recordings contained were original or were copied. It is also contended that memory card Q-1 did not contain any demand of bribe by accused Satish from PW-6 Tarsem. It is also contended that the prosecution has failed to establish that there was any conspiracy between both the accused persons and no material was placed on record to indicate that both Satish and Deepak in pursuance to any criminal conspiracy had either demanded or accepted the bribe. It is also contended that there was neither acceptance or any recovery from the accused Satish.

90. Ld. Counsel for the accused has relied upon the following judgments i. Anand Ramachandra Chougule Vs. Sidarai Laxman Chougala & Ors, Crl. Appeal No. 1006 of 2010 of Hon'ble Supreme Court decided on 06.08.2019, ii. Gurucharan Singh Vs. State, 1933 SCC Online Del 101; iii. Dola @ Dolagoinda Pradhan @ Anr Vs. State of Odisha (Crl. Appeal No. 1095/2018), (iv) S.K.Singhal Vs. CBI, Crl.A. 577/2002 decided by Delhi High court on 03.05.2013, (v) Mahabir Prasad Verma Vs. D.r Surinder Kaur (1982) SCC 2 258, (vi) Anvar PV Vs. PK Basheer & Ors (2014) 10 2014 SCC 473, (vii) Arjun PanditRao Khotkar Vs. Kailash Kushanrao Gorantyal & Ors., Civil Appeal No.s 20825-20826 of 2017 decided by Hon'ble Apex Court on 14.07.2020, (viii)Nilesh Dinkar Paradkar Vs. State of Maharashtra 2011 (4) SCC 143, (ix) Jahan Singh Vs. CBI. Crl Appeal No. 106/2013, (x) Ajay Gupta Vs. CBI Crl . A 469/2003, (xi)

Ram Pratap Vs. State of Haryana Crl. A No. 804/2011, (xii) Roshan Lal Saini Vs. CBI, (xiii) Varkey Joseph Vs. State of Kerela, 1993 AIR 1892.

**SUBMISSIONS ON BEHALF OF ACCUSED DEEPAK.**

91. **Mr. Sanjay Gupta alongwith Mr. Raj Kamal Arya, ld. Counsels for Accused Deepak** contended that the Prosecution has failed to prove its case beyond reasonable doubt and the very genesis of the Prosecution case i.e. complaint vide Ex.PW6/A did not bear the signature of complainant/PW-6 Tarsem. It is also contended that PW-6 in his testimony had stated that complaint vide Ex.PW6/A was changed by the CBI and complaint was regarding beating by one Satish. It is also contended that PW-6 did not level any allegation of demand of bribe at any point of time. It is also contended that PW-6 had stated that he is not aware about the contents of various documents such as Ex.PW6/B to Ex.PW6/I. It is also contended that PW-6 did not identify the voice in number of files. It is also contended that PW-6 was confronted with his previous statement recorded u/S 161 Cr.P.C. but he denied about the same. It is also contended that PW-6 had clearly stated in the Court that he was never threatened by any of the persons in the present case. It is also contended that PW-20 had clearly denied that he had went to supply injection at any point of time and PW-20 had corroborated the version of the complainant that there was a salary/payment dispute with PW-6 Tarsem. It is also contended that Ex.PW6/A, Ex.PW11/C are not admissible as CFSL Expert has not conducted the analysis in proper manner. It is also contended that voice examination report

vide Ex.PW19/E cannot be taken into consideration as PW-19 did not undergo certificate course from Delhi University. It is also contended that PW-19 was not qualified to give any opinion as he was not an expert. It is further contended that PW-19 had failed to analyze DVR containing the software which could have been used for tampering, editing, addition and deletion. It is further contended that SD cards containing in the envelopes were tampered as reflected from the testimony of PW-7. It is further contended that prosecution has failed to establish the safe custody of exhibits since its seizure till the time the same was produced before the Court and the witnesses PW-16 and PW-18 had failed to even tell the date of deposits of exhibits. It is further contended that prosecution has failed to prove the demand of bribe by the accused Deepak and the consequent recovery, if any, is also failed in the absence of demand. It is further contended that both the independent witnesses PW-7 and PW-8 did not overhear the conversation between accused Deepak and Satish and as such there is no independent witness of demand and acceptance of bribe. It is also contended that prosecution sanctions vide Ex.PW15/A and Ex.PW15/B cannot be taken into consideration as PW-15 was not competent to remove the accused persons. It is further contended that grant of prosecution sanction is also marred by non application of mind. It is also contended that FIR in the present case is ante-dated and ante-timed and no information regarding the arrest of the accused was given to his family members. It is further contended that neither Verification Officer nor the Investigating Officer has failed to even inquire during investigation as to why Ex.PW6/A (complaint) did not bear the signature of complainant/PW-6 Tarsem. It is also contended that material prosecution witnesses PW-7, PW-8, PW-13 and PW-16

admittedly had not witnessed the demand of bribe or its acceptance apart from the fact that PW-6/complainant Tarsem had denied that there was any demand or acceptance of bribe by the accused persons.

92. Ld. Counsel for accused Deepak has relied upon the following judgments (i) Narayan Yadav Vs. State (2025) 3 RCR (Cr) 706 SC, (ii) Mir Mustafa Ali Hashmi Vs. State (2024) (3) RCR (Cr.) SC, (iii) PC Mishra Vs. CBI (2021) (1) LRC 301 Delhi, (iv) Om Prakash Vs. State AIR 2006 SC 894, (v) Paritala A Sudhakar Vs. State SLP (Cr.) 6066/2024 (DOD 09.05.2025), (vi) Roshan Lal Saini Vs. State (2011) 1 JCC 102 Delhi, (vii) Mukhtiyar Singh Vs. State (2017) 3 RCR (Cr.) 694 SC, (viii) Soundarjan Vs. State (2023 2 RCR 759, (ix) B. Jayaraj Vs. State (2014) 2 RCR (Cr.) 410 SC, (x) Mahal Singh Vs. State (2023) 2 LRC 712 Delhi, (xi) Mir Mustafa Ali Hashmi Vs. State (2024) 3 RCR (Cr.) 562 SC, (xii) P. Somaraju Vs. State of A.P. Cr. Appeal no. 1770 of 2014 (SC), (xiii) Raj Kumar Singh V. State (2011) 4 JCC 2818 Delhi, (xiv) State Vs. S. Subbegowda CA No. 1958/2023 (SC), (xv) Parshottam Lal Dhingra Vs. Union of India & Ors. Air 1958 SC 36, (xvi) Johan Singh Vs. CBI (2020) 2 RCR (Cr.) 794, (xvii) Om Prakash Vs. State (2009) 3 RCR (Cr.) 293, (xviii) Savita @ Babbal Vs. State (2011) 3 JCC 1687, (xix) Karnail Singh Vs. State (2009) 1 RCR (Cr.) 406, (xx) Subodh Anand Vs. CBI Crl. A 768/2013, (xxi) Ram Singh Vs. Colonel Ram Singh AIR 1986 SC 3,(xxii) P. Parasurami Reddy Vs. State (2011) 12 SCC 294, (xxiii) S. Murtaaza Fazal Ali V. Varadarajan Sabyasachi Mukharji, Civil Appeal No. 6623 of 1983, .

93. I have considered the submissions made by both the sides and

perused the written submissions on behalf of the Prosecution as well as on behalf of accused persons and also perused the record of the case.

## ANALYSIS & FINDINGS

### PROSECUTION SANCTION

94. PW-15 Sh. Harinder Singh, Addl. Commissioner of Police has granted Prosecution Sanction u/s 19 of PC Act against accused Satish and Deepak vide Ex. PW15/A and Ex. PW15/B respectively.

95. The grant of prosecution sanction against accused Deepak was challenged on two grounds i.e. (i) PW-15 was not competent to grant the prosecution sanction and (ii) Non-application of mind.

96. The issue whether PW-15 was competent to grant prosecution sanction was disposed and settled vide detailed order dated 03.02.2024. Relevant Paragraph No. 17 and 19 are quoted below: -

“17. A perusal of this order would indicate that the order mentions **Commissioner of Police was pleased to assign Functional Rank of Head constable to the constables in their respective cadre with immediate effect to cope with emergent operational requirements of Delhi Police and in the interest of Government work, on the recommendation of the Screening Committee subject to the conditions.** It was also mentioned that the persons whose names were mentioned in the list have been considered on the basis of their service record on Intra DP module updated by the Distt./Unit concerned, which is subject to review at any stage in case of incorrect service record on Intra DP comes to

notice. A personal bio-data as annexed with the case file records that the designation of the accused persons are that of Head Constable in Functional Rank. It is pertinent to mention that the pay scale of both the accused persons i.e. Satish Kumar and Deepak remained at Rs.25,500 – Rs.81,100. A perusal of order would indicate that both accused Satish Kumar and Deepak were granted Functional Rank of Head Constable in their respective cadre and the cadre of both the accused persons is Constable and the order itself clearly mentions that the same was basically granted to meet out the operational requirement of Delhi Police and the interest of the government work. It is also necessary to mention that order did not say that both the accused persons were promoted or appointed and rather it clearly used the word as “**Functional Rank of Head Constable**”, meaning thereby that both the accused persons are substantially retaining their cadre of Constable and the assertion that both of them were promoted as Head Constable on the substantive post is not emerging from the record produced by the Prosecution and, therefore, the submission of the Ld. Counsel for the accused persons that since both the accused persons were promoted and appointed as Head Constable by Commissioner of Police is rejected and rather, both the accused persons were assigned the Functional Rank of Head Constable.

19. **The Delhi Police (Appointment & Recruitment) Rules 1980 provides that appointing authority in relation to the subordinate police officers below the rank of Inspector is DCP/Addl. DCP/Principal/PTS or any other officer or equal rank. The appointing authorities are mentioned in Rule 4 and for Constable/ Head Constable appointing authority is Dy. Commissioner of Police. It is apparent that both appointing and sanctioning authority are same”.**

97. The contention of the Id. Counsel for accused Deepak by referring to Judgment titled as **Mrs. Sarla @ Sarla Devi Vs. CBI in CrI. MC No. 5043/2019 of Hon’ble Delhi High Court** dated 12.05.2023 that issue of prosecution sanction can be decided at the

final stage. It is evident from the perusal of Order dated 03.02.2024 that issue regarding the competence of the authority granting prosecution sanction was discussed in detail and during trial no material had surfaced which indicate that PW-15 was not competent to grant the prosecution sanction. The contention of Id. Counsel by referring to some part of the cross-examination would unveil that it is basically the reiteration of the reasons which were already decided and disposed on 03.02.2024. The Delhi Police (Appointment and Recruitment) 1980 Rules provides that the appointing authority for the subordinate Police officers below the rank of Inspector is DCP or other officers of same rank and in the present case, both appointing and sanctioning authority are same.

98. In view of the above discussion, the prosecution sanction u/s 19 of PC Act was granted by PW-15 Sh. Harendra Kumar Singh who was posted as Deputy Commissioner of Police.

99. The Sanction Orders vide Ex. PW15/A and Ex.PW15/B respectively were challenged on the ground that it was granted without due application of mind. It is also contended that complete documents and the copy of audio recordings as well as voice examination reports were not sent for the perusal of the Sanctioning Authority. It is also contended that file relating to the grant of prosecution sanction would reveal that it was not paginated and no internal note sheet was found available in the file.

100. Ld. PP for the CBI contended that Prosecution Sanction vide Ex. PW15/A and Ex.PW15/B were granted after perusing the relevant material on record and the sanctioning authority is only required to consider whether prima-facie case is made out against the accused persons and production of the audio recordings and report are the matter of trial.

101. It would be appropriate to refer to relevant paragraphs of " **Vinod Kumar Garg vs State (2020) 2 SCC 88** in relation to the grant of prosecution sanction:-

"25. On the said aspect, the later decision of this Court State of Maharashtra Vs. Mahesh G. Jain, (2013) Part 8 SCC 119 has referred to several decisions to expound on the following principles of law governing the validity of sanction:

"14.1. It is incumbent on the prosecution to prove that the valid sanction has been granted by the sanctioning authority after being satisfied that a case for sanction has been made out.

14.2. The sanction order may expressly show that the sanctioning authority has perused the material placed before it and, after consideration of the circumstances, has granted sanction for prosecution.

14.3. The prosecution may prove by adducing the evidence that the material was placed before the sanctioning authority and its satisfaction was arrived at upon perusal of the material placed before it.

14.4. Grant of sanction is only an administrative function and the sanctioning authority is required to prima facie reach the satisfaction that relevant facts would constitute the offence.

14.5. The adequacy of material placed before the sanctioning authority cannot be gone into by the court as it

does not sit in appeal over the sanction order.

14.6. If the sanctioning authority has perused all the materials placed before it and some of them have not been proved that would not vitiate the order of sanction.

14.7. The order of sanction is a prerequisite as it is intended to provide a safeguard to a public servant against frivolous and vexatious litigants, but simultaneously an order of sanction should not be construed in a pedantic manner and there should not be a hyper technical approach to test its validity." The contention of the appellant, therefore, fails and is rejected.

28. This Court in *Ashok Tshering Bhutia Vs. State of Sikkim*, (2011) 4 SCC 402 referring to the earlier precedents has observed that a defect or irregularity in investigation however serious, would have no direct bearing on the competence or procedure relating to cognizance or trial. Where the cognizance of the case has already been taken and the case has proceeded to termination, the invalidity of the precedent investigation does not vitiate the result, unless a miscarriage of justice has been caused thereby. Similar is the position with regard to the validity of the sanction. A mere error, omission or irregularity in sanction is not considered to be fatal unless it has resulted in a failure of justice or has been occasioned thereby. Section 19(1) of the Act is matter of procedure and does not go to the root of the jurisdiction and once the cognizance has been taken by the court under the Code, it cannot be said that an invalid police report is the foundation of jurisdiction of the court to take cognizance and for that matter the trial.

102. Hon'ble Supreme Court of India in "**C. S. Krishnamurthy v. State of Karnataka**", 2005 CRI. L.J. 2145, while dealing with the issue regarding validity of sanction, observed as under:

".....It is no doubt true that the sanction is necessary for every prosecution of public servant, this safeguard is

against the frivolous prosecution against public servant from harassment. But, the sanction should not be taken as a shield to protect corrupt and dishonest public servant." "The sanction itself shows that there is something to be accounted by the accused. When the sanction itself is very expressive, then in that case the argument that particular material was not properly placed before the sanctioning authority for according sanction and sanctioning authority has not applied its mind becomes unsustainable. When sanction order itself is eloquent enough, then in that case formal evidence has to be produced by the sanctioning authority or by any other evidence that the sanction was accorded by a competent person with due application of mind."

103. Prosecution sanction vide Ex.PW15/A and Ex.PW15/B were granted by PW15 Harendra Singh after going through the relevant material documents including statements of the witnesses etc., and Ex.PW15/A and Ex.PW15/B are detailed and speaking orders disclosing the due application of mind. The contention of Id. Counsel for the accused persons that audio recordings/CFSL Report were not sent to the Sanctioning Authority (PW-15). In this regard, it is observed that grant of prosecution sanction is an administrative act and the Sanctioning Authority is not supposed to conduct a "Mini Trial" considering the merits or demerits of the case. The actual evaluation of the recordings is a matter of trial and sanctioning authority is not supposed to give a detailed judgment regarding each and every material produced before it. In **State vs R.C. Anand (2004) 4 SCC 615**, it was observed that;

".....The counter affidavit of the present appellant before the High Court clearly indicated that relevant aspects were noted by the Governing Body before arriving at its decision. The High Court seems to have proceeded on the basis that since the basic material or evidence i.e. alleged taped conversation, was not looked into by the Governing Body to

form its own independent opinion to depart from the view of the President, the sanction was contrary to law. In Kalpnath Ravi Vs State, (1997) 8 SCC 732 it was clearly observed by this Court that the sanctioning authority is not required to wait for the report of the experts. The sanctioning authority has only to see whether the facts disclosed in the complaint prima facie disclose commission of an offence or not. The actual production of the tapes, etc. are matters for proof during trial and are not necessarily to be undertaken at this stage.....

104. Accordingly, it is held that prosecution sanction u/s 19 of PC Act vide Ex PW-15/A & Ex PW-15/B against Satish and Deepak was validly granted after due application of mind.

#### **PROVISIONS & CASE LAWS.**

105. In order to properly appreciate the respective contention of the parties, it would be appropriate to refer to the provisions invoked against the accused persons.

##### **7. Offence relating to public servant being bribed.**

- Any public servant who,-

(a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or

(b) obtains or accepts or attempts to obtain, an undue advantage from any person as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or

(c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in

consequence of accepting an undue advantage from any person, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

Explanation 1. - For the purpose of this section, the obtaining, accepting, or the attempting to obtain an undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper. Illustration. - A public servant, 'S' asks a person, 'P' to give him an amount of five thousand rupees to process his routine ration card application on time. 'S' is guilty of an offence under this section.

Explanation 2. - For the purpose of this section,- i) the expressions "obtains" or "accepts" or "attempts to obtain" shall cover cases where a person being a public servant, obtains or "accepts" or attempts to obtain, any undue advantage for himself or for another person, by abusing his position as a public servant or by using his personal influence over another public servant; or by any other corrupt or illegal means; (ii) it shall be immaterial whether such person being a public servant obtains or accepts, or attempts to obtain the undue advantage directly or through a third party.

**106. Section 120A of the Indian Penal Code** defines Criminal Conspiracy as follows:

When two or more persons agree to do, or cause to be done, (1) an illegal act, (2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

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

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

that object.

**Section 120B**, which prescribes in sub-section (1) the punishment for criminal conspiracy provides: Whoever is a party to a criminal conspiracy to commit an offence punishable with death, [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in the Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

107. Section 2(d) of PC Act defines undue advantage as any gratification whatever, other than legal remuneration. The gratification is explained in Explanation (a) to Section 2(d) i.e. the word gratification which is not limited to pecuniary gratifications or to gratifications estimable in money.

108. Section 20 of the Prevention of Corruption Act are as under: -

- Where, in any trial of an offence punishable under section 7 or under section 11, it is proved that a public servant accused of an offence has accepted or obtained or attempted to obtain for himself, or for any other person, any undue advantage from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or attempted to obtain that undue advantage, as a motive or reward under section 7 for performing or to cause performance of a public duty improperly or dishonestly either by himself or by another public servant or, as the case may be, any undue advantage without consideration or for a consideration which he knows to be inadequate under section 11.]

109. Section 20 of PC Act provides that if during the trial it is proved public servant accused of an offence has accepted, obtained or attempted to obtain any undue advantage either for himself or for

any public servant as a motive for the performance of public duty, it *shall be presumed* that undue advantage of pecuniary advantage has been obtained or attempted to obtain by the public servant as a motive or reward under section 7 of PC Act. The expression “*shall be presumed*” is a legal presumption is attracted when foundational facts constituting demand and acceptance are proved during the trial. It was held in **Neeraj Dutta Case (Constitution Bench judgment)** that Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of motive or reward and the presumption is rebuttable.

110. The demand of undue advantage is a sine qua non for making out an offence under section 7 of PC Act. In order to arrive at the conclusion whether all the ingredients of the offence viz. demand, acceptance and recovery of amount of illegal gratification have been satisfied or not, the facts and circumstances are to be considered in entirety. Mere recovery of tainted money is not sufficient to convict the accused when evidence with respect to demand and acceptance is grossly inadequate. Prior to invoking the presumption under Section 20 of the PC Act, the prosecution has to established the foundational facts of demand and acceptance.

111. It is well settled through chain of judgments of Hon’ble Supreme Court and Delhi High Court that one of principles of criminal jurisprudence is that an accused is presumed to be an innocent unless proven guilty and the suspicion howsoever strong cannot take the place of proof. It is the bounden duty of the prosecution to establish its case beyond reasonable doubt. The

Hon'ble Supreme court of India in "*P. Sathyanarayana Murthy v. District Inspector of Police, State AP and another (2015) 10 SCC 152*" after relying upon the judgment *Sujit Biswas Vs. State of Assam, (2013) 12 SCC 406* was held that "suspicion, however, grave cannot take the place of proof and the prosecution cannot afford to rest its case in the realm of "may be" true but has to upgrade it in the domain of "must be" true in order to steer clear of any possible surmise of conjecture. It was held, that the court must ensure that miscarriage of justice is avoided and if in the facts and circumstances, two views are plausible, then the benefit of doubt must be given to the accused. The prosecution is required to establish its case beyond reasonable doubt, but this doctrine cannot be stretched to such an extent that prosecution is required to prove the impossible in respect of the facts and issues before the court and, therefore, in accepting the version given by the prosecution witnesses, the question is whether the witness is able to pass the test of the credibility vis-à-vis the case of the prosecution.

112. Like any criminal trial, oral testimonies of the witness(s) plays a vital role and in trial for the offences under PC Act, where the allegations are based on the allegations that bribe was attempted to be obtained or accepted by a public servant in cases and thereafter, trap is laid for the public servant which in usual parlance is called as "*Trap case*". The complainant is the most material witness apart from other witnesses. However, in the absence of the testimony of the complainant, if remaining witnesses are able to prove demand, acceptance and recovery of the bribe/tainted money then an accused can be convicted by the court. In evaluating the testimony of the

complainant or any witness, the credibility and the manner in which he or she narrates the facts of the case is critical in determining the case projected by the prosecution. In appreciating the oral evidence, the testimony of the witness should be truthful, consistent and trustful. When court is considering the *inter se* testimonies of the witnesses, the minor contradictions and slight exaggeration in the testimonies of the witnesses are liable to be ignored and what is to be considered whether the version given by the witness(s) is consistent and the testimonies of the witnesses leads to one conclusion that an offence has been committed by the accused persons.

113. In *P. Sathyanarayana Murthy (supra)* it is observed that :

*“23. the proof of demand of illegal gratification, thus, is the gravamen of the offence under Sections 7 and 13(1)(d) (i)&(ii) of the Act and in absence thereof, unmistakably the charge therefor, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, dehors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Sections 7 or 13 of the Act would not entail his conviction thereunder.”*

114. In *Neeraj Dutta Vs. State (Govt. of NCT of Delhi), (2024) INSC 503: (2023) 4 SCC 731*, it was held by the Apex Court that proof of demand and acceptance of illegal gratification is sine-qua-non for establishing the guilt under section 7 of Prevention of Corruption Act 1988. The Constitution Bench after surveying number of judgments held that :

68. What emerges from the aforesaid discussion is summarised as under:

(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.*

*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)*

*(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."*

115. The case projected by the prosecution is that on 21.07.2022, PW-6 Tarsem approached the CBI and gave complaint vide Ex.PW6/A alleging that both the Police officials accused Deepak and Satish were demanding bribe of Rs.2 Lakhs failing which he would be implicated in a false NDPS case and thereafter, usual verification was conducted on 21.07.2022 and 22.07.2022. It is also established that both the accused persons were posted at PS Mundka and the relevant duty roaster vide Ex.PW5/B was proved by the Prosecution.

116. It is further the case of prosecution that consequent to the verification of demand, a case FIR/RC bearing No. RC-003-2022-A-0050/CBI/ACB/New Delhi dated 22.07.2022 was registered and thereafter, the trap proceedings were undertaken in which the accused Deepak was caught demanding and accepting the bribe of Rs. 80,000/-.

117. PW-6/Complainant Tarsem deposed that one of his employee Deepak had got him beaten through a police official and the said police official had asked him to make payment to ex-employee Deepak failing which PW-6 would be implicated in a false case of NDPS. PW-6 also deposed that amount of Rs. 80,000/- was towards the payment of salary of his ex-employee Deepak who had worked for about 1.5 to 2 years and salary was Rs. 20,000/ per month. PW-6 further deposed that he had apprised one of his acquaintances i.e. Constable Deepak (accused). PW-6 further deposed that after discussing with his FUFA, he visited the office of CBI and made complaint in Hindi against his former employee and Police Official Satish who had given beating to him at the instance of his former

employee Deepak. PW-6 also deposed that contents of the complaint were changed by him at the instance of CBI since CBI official told him that no case was made out against Satish and Deepak and accordingly, on the directions of the CBI officials, he gave the complaint vide Ex. PW6/A to the CBI.

118. A perusal of examination in chief of PW-6 as well as the allegations contained in the complaint vide Ex.PW6/A reveals that complainant/PW-6 Tarsem did not support the allegations of demand of bribe/money by the accused persons. Notwithstanding the fact that PW-6 Tarsem had disowned the complaint vide Ex.PW6/A, the question arises for consideration is whether there is a material on record to substantiate the allegations that accused persons demanded bribe failing which PW6/Complainant Tarsem would be implicated in a false case of NDPS.

**EVENTS AND HAPPENINGS DATED 21.07.2022 COVERING THE VERIFICATION OF THE DEMAND.**

119. As per the complaint vide Ex.PW6/A, the demand for bribe was made on 19.07.2022 by both the accused persons. The complaint vide Ex. PW6/A does not provide the background or other distinguishing features such as time and place when the bribe was demanded by the accused persons from PW-6. No evidence/material with respect to the meeting between the accused persons and complainant/PW-6 Tarsem is produced by the prosecution during trial.

120. PW-6 Tarsem did not utter any word regarding the demand of

bribe of Rs. 2 Lakhs either on 19.07.2022 or any other date, the bribe was demanded by accused persons. The detailed cross-examination by Id. PP for CBI also did not reveal that any bribe was either demanded on 19.07.2022 or on any other date prior to the lodgment of the complaint Ex.PW6/A which forms the basis for the present proceedings against the accused persons.

121. Consequent to the receipt of complaint vide Ex. PW6/A, the verification proceedings were conducted on 21.07.2022 by proceeding to Tikri Kalan. PW-6/Complainant Tarsem Kumar stated that he accompanied the CBI team to the spot i.e. to the dilapidated building (*dilapidated building is referred as the first floor of a make shift building*) near Sarvodaya Kanya Vidyalaya at Tikri Kalan and thereafter, he alongwith CBI officials and independent witness came back to CBI office. PW-6 further deposed that he was directed to come on the next day (i.e. *following day*). Remaining witnesses such as PW-7 Ramdarash Singh Kushwaha and PW-13 CMS Negi stated that they left for the spot together with complainant from the office of CBI.

122. PW-13 & PW-7 stated that PW-6/complainant Tarsem left on his scooty from Tikri Kalan Metro Station with the voice recorder and followed by the CBI team in the official vehicle. PW-6/Complainant went inside a Gali leading to the “*Dilapidated Building*” adjacent to Sarvodaya Kanya Vidyalaya whereas, PW-13 and PW-7 remained in the official vehicle which was parked on the main road. Thereafter, PW-6/complainant came back on his scooty

and met the CBI team near Tikri Kalan Metro Station and the DVR containing memory card was taken from the complainant. PW-6 told that he met Constable Satish in the dilapidated building and conversation took place between Deepak and Satish over the phone which was not heard by PW-6.

123. PW-6/Complainant Tarsem did not support the case of prosecution regarding the demand for bribe/undue advantage by accused Satish in his visit dated 21.7.2022. PW-7 and PW-13 did not see as to who was inside the dilapidated building or over heard the conversation, if any, between PW-6 and accused Satish. PW-7 and PW-13 did even did not see who came out of the building apart from PW-6/Complainant Tarsem and even no other persons had seen the accused Satish. As per prosecution after PW-6 Tarsem came out of the building, calls were exchanged between PW-6 and accused Satish which was heard by the members of the verification team.

124. No cogent explanation has come in the testimony of PW-7 as to why he did not accompany PW-6 Tarsem to the *Police Booth/inside dilapidated building* at the first floor to observe the transaction between PW-6 and accused Satish. PW-13 CMS Negi, in his testimony had also not indicated as to why independent witness PW-7 was not instructed to accompany PW-6 inside the makeshift building at the first floor. One of the reasons for associating an independent witness during verification/trap proceedings is to observe as to what is transpiring between complainant and the accused person/bribe taker or the person who is demanding the bribe. Nothing has come on record to show that accused Satish had

prevented independent witness/PW-7 from hearing any conversation or instructed independent witness to go out of the building. The role of independent witness/PW-7 appears only to be ceremonial in nature as being participant in the procedural part of the proceedings without actually stating or narrating about the factual aspect of the demand being made by the public servant.

125. Without going into the question of admissibility of the recorded conversation (Q-1) and the transcript Ex. PW6/G (Colly) is being discussed notwithstanding the fact that Tarsem had denied any meeting with accused Satish on 21.07.2022.

126. Transcript relating to the purported conversation between accused Satish and Tarsem/PW-6 vide audio file No. 220721\_1549.MP3 would indicate that PW-6 inquired from Satish about Deepak. In the said conversation, PW-6 was asking for some time and stated that Rs. 80,000/- is due and he would further pay “Twenty”. and thereafter, in the said transcript Tarsem/PW-6 was saying that the amount of Rs. 21,000/- and Rs. 13,000/- of the said boy is involved and he had come on the assurance/guarantee of his uncle. It is also revealed from the transcript that at one point of time, Satish was purported to be inquiring whether he is Anil and to which Tarsem responded that he is “Tarsem”. A careful reading of the relevant portion of the transcript dated 21.07.2022 pertaining to audio file No. 220721\_1549.MP3 reveals an absolute lack of clarity regarding the purpose for which the amounts were being discussed or even gives an indication that at some prior point there was demand of bribe and it’s not even the case of the prosecution that bribe was indirectly

demanded by the accused Satish. The relevant portion of the transcription is reproduced as under: -

	समय	05:00 से बातचीत शुरू
तरसेम		राम राम भाई साहब दीपक भाई साहब किधर है
सतीश		किसको
तरसेम		उस छोरे ने जिसे आपने पकड़ रखा है ( गानो कि आवाज)
तरसेम		हेलो
तरसेम		भाई साहब देखो धंधा दुसरा कर लिया उसमें पुंजि लगा दी यो फरक है
सतीश		ठीक स धंधा तो बढ़िया बात है कर लिया त समझा बहुत बढ़िया बात है कैसे करें
तरसेम		आप बता दो
सतीश		बाद की कह रहा है तु वो नु के रहा है कोई बात ना विश्वासी है
तरसेम		विश्वासी है जी
सतीश		उसने ये ही बोली है नु बोल्ला कोई बात कोई ना मेरा विश्वासी है
तरसेम		आप समझे नी भाई साहब मेरे को कल शाम तक का टाइम दे दो साहब actually 80000/- रुपये हे 20 ओर करवा दूंगा
सतीश		बाद मे दे दिये 20 दो दिन बाद दे दिये
तरसेम		उस लड़के मे पैसे फसे हुए है 21000/- और 13000/-, इसका चाचा इसकी गारंटी पर आया था
सतीश		इसके चाचा को कैसे जाने है
तरसेम		इसका चाचा है
सतीश		अच्छा निकलवा दूंगा
तरसेम		कोई दिक्कत नी (अशपस्ट आवाज)
तरसेम		मिस कॉल मार दियो 8368527173 8768527173
सतीश		आ गी, अनिल नाम है
तरसेम		नहीं नाम तो तरसेम है (अशपस्ट आवाज)

127. The transcript also did not indicate speaker Satish had demanded any undue advantage/bribe from PW-6 Tarsem in the manner as alleged by the Prosecution. Different words attributed to the name of the speakers appearing on the transcript Ex. PW6/G neither individually nor cumulatively gives an impression that any bribe/undue advantage was being demanded by any person. In a conversation engaged between the complainant and the public servant on the backdrop of the allegations is required to be appreciated cautiously since in order to make the trap/verification successful, the complainant says lot of things and the response given by the public servant is to be determined whether he was simply engaged in the conversation.

128. Neither the transcripts nor audio conversations pertaining to file Nos. 22072021\_1621.MP3 & 22072021\_1621\_01.MP3 contain any reference or utterance on the part of accused Satish that he demanded any undue advantage/bribe from PW-6/Complainant Tarsem. Even if one ignores the statement of PW-6 that he did not meet the accused Satish on 21.7.2022 at the time of verification of the complaint, the conversation does not lead to the firm conclusion that accused Satish Kumar was even attempting to obtain any undue advantage.

FILE- 220721\_1621 (फोन पर)

तरसेम	हैलो
सतीश	कहा रह गा
तरसेम	बस अभी आया भाई साहब 10-15 मिनट में घर पे ही था
सतीश	जल्दी आ जा जाना था यार
तरसेम	चाय पी लागरा था बना दी थी घर आलो ने

FILE- 220721\_1621\_01 (फोन पर)

तरसेम	हैलो
सतीश	सुन उस डॉक्टर से थोड़ा सा आगे आ जइयो 200 300 मीटर वहा फोन कर लियो यहा मत आना
तरसेम	कहा पे जहा पे आप अभी बैठे थे
सतीश	जहा बैठे थे यहा नही आना इसी रोड पे आगे ने श्री श्याम है ना
तरसेम	श्री श्याम क्या
सतीश	अरे उसी पे आगे ने वो रोड जा रा श्री श्याम प्रॉपर्टी
तरसेम	इसी स्कूल के पीछे वाली गली मे ही
सतीश	स्कूल वाली गली तो ये ही है जहा अब आया था

129. The transcript and audio recording pertaining to File No. 220721\_1639 revealed that accused Satish had even asked Tarsem not to discuss anything related to money when PW-6 Tarsem brought to the notice of accused Satish that he had brought the money but due to emergency in his house, he would return later and make a call. Even in the conversation Speaker Satish is clearly instructing as to why PW-6 was speaking about money. Both the above transcription

of the relevant audio files are as under: -

FILE- 220721\_1639 (फोन पर)

तरसेम	हैलो हैलो
सतीश	हैलो
तरसेम	भाई साहब
सतीश	अरे यार लिकड ना जा फेर
तरसेम	भाई साहब हाटे मे घरा आया था वो छोटा भाई गाडी लेके जारा है ओर पीसे भी उस्से मी धरे है उर मन्ने घरा आके जान पाट्टी तो छोटे वाले लड़के के मेरे के जो मे बताऊँ डेड साल का है उल्टी लाग्न लाग री मे उन्हे लेके हॉस्पिटल मे जान लाग रा हु गाडी मंगवाई है पड़ोसी भाई की मागी है जैसे भी होगा उन्हे बेरा भी कोना के गाडी मे पीसे धरे है आते ही फोन मारुगा
सतीश	पैसे वैसे वाली कोई बात मत कर तु मिल ले पैसे की बात क्यु करे है
तरसेम	चलो ने भाई की गाडी आते ही मे फोन कर लूंगा

130. There is complete silence after the above referred conversation between PW-6 Tarsem and accused Satish and verification proceedings stopped on 21.07.2022 and nothing is indicated whether contact was made between accused Satish & PW-6 Tarsem on the said day or further attempt on the part of the accused Satish to demand bribe or further attempts on the part of PW-6 to deliver the bribe or to further engage him in the conversation for the purpose of getting the demand from Accused Satish and consequent acceptance of the bribe on the said day.

131. PW-6 stated that there was an outstanding payment of Rs 80,00 towards his employee PW-20 Deepak and PW-20 complained to one

of the beat constables and due to which he was beaten by Satish who asked him (PW-6) to make payment to his employee Deepak. Interestingly, the prosecution examined PW-20 Deepak Singh who stated that he complained to one Beat Constable with respect to his pending dues and if the relevant part of the conversation in which name of Deepak had cropped, possibility of the money related discussion with respect to some other issue is altogether not ruled out. PW-20 also stated that even till date, his dues were not paid by Tarsem/PW-6. Both the witnesses PW-6 and PW-20 had stated that there was an outstanding pending dues of Rs 80,000 payable by PW-6 Tarsem to PW-20 Deepak Singh and PW-20 Deepak approached the beat Constable for the same.

132. It is palpable from the deposition of PW-6 as well as the recorded conversation and transcript pertaining to 21.7.2022 that either pursuant to the negotiation, the bribe amount was reduced from 2 Lakhs to Rs. 80, 000. The prosecution did not bring any material or the statement of the witness(s) that during the interregnum between 19.07.2022 and 21.7.2022 till the complaint PW-6/A was filed with CBI there was any negotiation which led to the reduction in the demand of bribe from Rs. 2 Lakh to Rs. 80,000/-. Even no suggestion/question was put by the prosecution while cross examining PW-6 that bribe amount was reduced to Rs 80,000 after negotiation and even investigation is completely silent on this aspect.

133. Referring to few words and sentences from the conversation/transcripts divorced from the overall context is neither

justified nor tenable particularly in a scenario when PW-6 did not support the case of prosecution that bribe was demanded by the accused Satish. It is evident from the hearing the conversation in Q-1 as well as the perusal relevant part of audio transcript that factual basis to attempt/obtain undue advantage on the part of Accused Satish is absent from the material/evidence produced by the prosecution.

134. In order to bring home a charge u/s 7 of PC Act against a public servant, the demand of bribe/undue advantage is to be made in a conscious & voluntary manner and in cases where demand is made indirectly or through gesture/conduct, the prosecution is obliged to bring on record the precise words or gesture or the circumstances on the basis of which it can be concluded that public servant had obtained/accepted/attempted to obtain an undue advantage. A Conversation between two or more individuals comprises verbal and nonverbal component. An audio recording only captures the part of conversation. The true import or meaning of the conversation could be best stated by the persons who are engaged in the conversation or the conversation is so detailed that it leaves no room of doubt that public servant is demanding a bribe. A Conversation engaged between the two persons cannot be put the pedestal of demand on the part of public servant unless such a demand is conveyed by the public servant in a clear manner without subjecting such conversations to logical inferences/deduction to draw conclusion on the basis of inferences.

135. In view of the above-mentioned discussion, it can be safely

said that prosecution has failed to establish that there was demand of bribe by accused Satish on 21.07.2022 as well as the purpose/motive for which the bribe is being demanded.

**EVENTS DATED 22.07.2022 COVERING FURTHER VERIFICATION, PRE & POST TRAP PROCEEDINGS.**

136. Verification memo dated 21.07.2022 vide Ex. PW6/B notes that “*This conduct of HC Satish further confirmed his demand as made in the recorded conversations. The allegation of demand on the part of constable Deepak however remained unverified so far as he was not present with HC Satish. **The motive of the demand was also not clearly brought out in the conversation.** Hence it was decided that the matter should be kept open for further verification*”.

137. PW-13 CMS Negi deposed that the verification dated 21.07.2022 revealed the role of HC Satish whereas the role of Constable Deepak was not clear.

138. After conducting the verification on 21.07.2022, PW-6 Tarsem, PW-7 Ramdarash Singh Kushwaha and others were directed to report to the office of CBI on 22.07.2022. PW-13 CMS Negi deposed that on 22.07.2022, verification team waited in anticipation of call from accused Deepak or Satish, however, no call was received from any of them and then it was decided to proceed for further verification at Tikri Kalan. Accordingly, at about 05:20 PM, PW-6 called accused Deepak from his mobile phone and during the conversation, the place of meeting was fixed i.e. in a shop of PW-6 Tarsem at Firni Road, Tikri Kalan. Thereafter, the verification team and PW-6 Tarsem

proceeded towards the shop of PW-6 at Firni Road, Tikri Kalan. PW-6 Tarsem went inside the shop and the verification team and other persons remained on the main road. The verification team as well as independent witness/PW-7 saw a uniformed police man going inside the shop and after some time, PW-6 Tarsem came out of his shop and proceeded on the scooty towards Tikri Kalan Metro Station and the CBI team also came back near Tikri Kalan Metro Station. PW-6 Complainant met the CBI team and apprised regarding the demand of bribe by Constable Deepak. The DVR was also taken from the complainant/PW-6. As per PW-13/Verification Officer Sh. CMS Negi, apprised the facts to the Senior Officer and the FIR was registered.

139. PW- 6 Tarsem deposed that on 22.07.2022 after reaching the office of CBI, he accompanied the CBI team to Tikri Kalan and thereafter, proceeded to his Firni Road Office/shop and met Constable Deepak and during the discussion, accused Deepak told him that he would bring Constable Satish.

140. PW-13 stated that after confirmation of the demand, the conclusion of the verification was conveyed to Senior Officers, a communication was received from the office that a trap team was constituted under Insp. Ravinder Kumar Bharti (PW-16) and he handed over all the necessary verification memorandums to TLO and further proceedings were carried out at Firni Road. As per FIR Ex. PW16/A, after verification was conducted on 21.07.2022 and 22.07.2022, Insp. CMS Negi (PW-13) informed over the phone

regarding the correctness of the allegations and accordingly, the concerned SP gave the direction for the registration of FIR and entrusted the investigation to PW-16 Ravinder Kumar Bharti and the trap team was sent near Tikri Kalan Metro Station where verification team was already present. Pre trap proceedings were conducted at Tikri Kalan Metro Station and then Verification Team as well as Trap Team, PW-6, PW-7 and PW-8 and other persons including PW-13 and PW-16 proceeded towards Firni Road Office/Shop of PW-6 Tarsem. The CBI team parked their vehicles on the main road near the shop/office of PW-6. PW-6 went inside his shop and a uniformed policeman i.e. Accused Deepak also went inside the shop.

141. PW-6 Tarsem deposed that after meeting Deepak in his shop/office at Firni Road on 22.07.2022, accused Deepak went out to bring Satish whereas, after receipt of the call from one of the CBI officials, he reached to the vehicle which was parked at Main Rohtak Road. PW-6 further stated that a CBI official told him that he had to hand over an amount of Rs. 80,000/- to accused Satish. PW-6 further stated that he brought Rs. 80,000/- from his house and handed over to the CBI Officials which were in the denomination of Rs. 500/- PW-6 further stated that CBI Officials handed Rs. 80,000/- and thereafter he went back to his shop/office. PW-6 stated that he and Accused Deepak called Satish, thereafter he and accused Deepak came out of the shop. Accused Deepak was apprehended by the CBI team and the amount of Rs. 80,000/- was taken by the CBI official from him.

142. Going by the version of PW-6 Tarsem, that after he met accused Deepak in his Firni Road Office/shop, he came out and met

the CBI team. Prior to meeting the CBI team, he had gone to his house to bring Rs. 80,000/- i.e. proposed bribe to be given to accused Satish. He further stated that he handed over the amount of Rs. 80,000/- to the CBI official (*presumably for the purposes of trap*) and thereafter CBI officials handed the amount of Rs. 80,000/- to him. And then he proceeded towards his shop, followed by the CBI team and after some time when PW-6 and accused Deepak came out of the shop, accused Deepak was apprehended by the CBI official and at that point of time PW-6 told the CBI officials that no wrongful act had been committed by accused Deepak and the CBI officials took Rs. 80,000/- from him. It is reflected from the testimony of PW-6 that on 22.07.2022, he entered and exited from his shop twice i.e. first during the further verification proceedings and secondly during the trap proceedings.

143. The point for determination is whether there is evidence/material on record to indicate that accused Deepak had demanded and accepted bribe for himself as well as for co-accused Satish on 22.07.2022 in the shop/office of PW 6 Tarsem.

144. PW-6 Tarsem did not attribute any incriminating act on accused Deepak that he demanded any bribe from him. At the cost of reiteration, PW-6 categorically stated that amount of Rs. 80,000/- was towards the pending dues of his ex-employee PW-20 Deepak and was to be handed over to Satish. He did not even utter a single word that any bribe was demanded by Accused Deepak for doing or not doing any work in the discharge of the official duties.

145. Admittedly, neither independent witness PW-7 Ramdarash Singh Kushwaha nor verification officer PW-13 CMS Negi or any person from the verification team overheard any conversation including the demand of bribe by accused Deepak from PW-6/Complainant Tarsem.

146. As per PW-16 i.e. Trap Laying Officer, the vehicle was parked on the road at some distance from the Firni Road Office of complainant/PW-6 Tarsem. PW-6 Tarsem went inside his shop and thereafter accused Deepak and PW-6 Tarsem came out and then PW-6 gave the pre decided signal and accused Deepak was apprehended. PW-16 stated that complainant/PW-6 told that bribe was demanded by Accused Deepak by gesticulation from his right hand. Relevantly, neither PW-7, PW-8 nor even PW-13 had stated that after PW-6 had told the CBI team or TLO that accused Deepak had demanded the bribe by gesticulation from his right hand.

147. PW-6 Tarsem (*Complainant*) in his evidence before the Court did not dispute the identity of accused Deepak and further stated that he was in friendship with accused since 2020 and used to meet him on frequent occasions in his office at Firni Road, Tikri Kalan. He had further stated that since accused Deepak was his friend so he was discussing about his employee Deepak who made complaint/raise grievance with the police official Satish. PW-6 did not depose any bribe was demanded by gesticulation from the right hand by the accused Deepak in the shop.

148. It is also evident from the perusal of testimony of PW-6

Tarsem that at the time of the further verification proceedings & final trap (*Post Registration of FIR*), he did not even utter a single word that any bribe was demanded and pursuant to which he paid any bribe to Deepak. PW-7 Ramdarash Singh Kushwaha, PW-8 Sh. Pushpender Khatana, PW-13 CMS Negi and PW-16 Sh. Ravinder Kumar Bharti (Trap Laying Officer) neither over heard any conversation between Deepak and Tarsem (PW-6) in which there was any demand of money. PW-6 complainant had denied that any bribe was demanded by accused Deepak from him and rather stated that he brought Rs. 80,000/- to be given to his Ex-Employee Deepak towards his pending dues. PW-20 examined by the prosecution corroborated the version of PW 6 that PW-6 had to pay Rs. 80,000/- to PW-20 Deepak Singh.

149. In order to give completeness to the discussion, it is deemed appropriate to consider the recorded conversations (Q-2) dated 22.07.2022 between accused Deepak and PW-6 Tarsem and the relevant part of corresponding transcript vide Ex.PW6/G (Colly) without going into the question of admissibility. The recordings contained in Q-2 in Haryanvi dialect were also perused by the Court.

150. Perusal of the transcript vides Ex. PW6/G (Colly) purported to be the recorded mobile conversation (Q2) between Tarsem and Deepak and the relevant file 220722\_1719.MP3 indicate that after exchanging pleasantries with each other and both of them were discussing to meet at the Firni Road Office/Shop and complainant Tarsem was even providing the location of the place of meeting. It is reflected from the conversation that no words regarding any demand

of money was raised by accused Deepak or even any bribe was offered by Tarsem (PW-6). The relevant part of the conversation is conspicuous by its absence of any demand or any attempt to obtain the bribe. The relevant portion is reproduced as under:-

A1	तरसेम	राम राम भाई साहब
	दीपक	भाई राम राम
A2	तरसेम	कित हो
	दीपक	मे एक बार थाने मे था
A3	तरसेम	थाने मे थे
	दीपक	आटे ते निकल लिया एक बर कॉलोनी मे जाऊंगा
A4	तरसेम	अच्छा मे काल भी आप मिलन ताई ओड गया था ऑफिस पे
	दीपक	कोई ना कड़े मिलेगा आज, वो ऑफिस ना फिरनी रोड पे है
A5	तरसेम	कौन सा
	दीपक	जो फिरनी रोड पे है
A6	तरसेम	हा
	दीपक	उडे आउंगा थोड़ी वार में
A7	तरसेम	मैं नु कहूँ था
	दीपक	हा
A8	तरसेम	मैने आपने सारा कुछ बेरा है मैने सब काम बंद कर राखे है मेडिकल स्टोर भी बंद
	दीपक	वही आके बात करेगे उडे आ जयीए
A9	तरसेम	अच्छा चलो कितनी देर मे आओगे

151. The transcript of 220722\_1735.MP3 was based on the recorded conversation between PW-6 and accused Deepak in the shop at Firni Road. A reading of the said transcript dated 22.07.2022 at 17:35 PM indicates that Tarsem said that he had spoken to Satish and to which Accused Deepak responded as “**Hmm**” from the accused Deepak. Tarsem then stated that he had discussed about “80”.

152. During the course of discussion, Complainant Tarsem said that he is not associated with that business and three months had passed and to which Accused Deepak said that the matter was pre planned and he had no role to play in it and locals are enjoying the fruits out of it and he further said that he knows one thing that he could

apprehend any person whenever he wanted, but he had regards for the local people and some other brother from a different Beat had caught this network and called in his presence. Further in the later part of the conversation, PW-6 Tarsem stated that he was speaking from his heart and swore on his children that he is unable to believe such a thing could happen to him when he was apprehended and then Tarsem requested that it may be reduced to “80”. Deepak replied that it is not an issue of less and he is not alone and there are other persons involved. Tarsem said that he is requesting that he should not be further involved in it or troubled. Further discussion took place and even at one point during the conversation Deepak could be heard stating that he was not aware about anything and even did not call him and meeting him after two months and in the concluding paragraph Tarsem said to Deepak that he is bringing 80 and you sit here. For easy reference, the transcription of File No. 220722\_1735.MP3 is being reproduced as under:-

	समय	
तरसेम	11:45	कल बात हुई थी उस ते सतीश ते,
दीपक		हम्मम्म
तरसेम		80 की बात होई थी, मने उड़े जाए पाछे डर लागे घना
दीपक		अरे डर मत ना
तरसेम		इब आगे यु ध्यान रखियो
दीपक		सुन मेरी बात
तरसेम		मन्ने यु काम छोड़ रखा है कती
दीपक		पुरी बात सुन भाई
तरसेम		कती तीन महीने हो लिए
दीपक		इसमे परी प्लान था यो मामला मे इसमें मैं कुछ वो ना करा करु था लोकल आदमी फला खा रहे है मन्ने एक एक चीज का बेरा है मे जब चाहु पकड लु जिसने चाहु पकड लु पर मे अपने लोकल आदमी की शर्म करा करूँ की वो दुसरा भाई है दूसरा बीट वाला उसने पकड़ा था नेटवर्क फोन करे म्हारे आगे (अशपस्ट)

तरसेम		छाती की बात के उर त बता दिये बालका की कसम घर का यकीन ने बेरा आगे मिलके मेरे साथ यु कहानी होरी है नु नु उस दिन पकड लिया था 80 मे त कम करवाओ ने
दीपक	D	कम ना हो मामला यो एसे है ना एक्ला मेरा होता ना यु है घणे आदमी शामिल है D
तरसेम	E	अच्छा देख लो आपसे एक रेक्वेस्ट है मन्ने दोबारा न अलझ वाइयो E
दीपक	B	में तेरे ते यु कहु हु तेरे तो कोई दिक्कत हो न मेरे धोरे फोन कर लियो B
तरसेम		गाम ते मे एक बात बताऊँ
दीपक		मेरे धोरे तेरा नंबर भी ना था
तरसेम		मेरी बात सुनो
दीपक		मैने तझे फोन करा कदी बता दे तु दो महिने हो लिये
तरसेम		आपने तो कती ना करा
दीपक		मे तो तेरे ने जानता भी कोना
तरसेम		हा (अशपस्ट आवाज) दुकान तो सही चाल री है उसने मेरे पाछे काल करी थी बेमतलब मे कॉल करी मन्ने कुछ ना करा था उस टाइम पे खामखा 500 रुपये मांगान आगा दुकान पे मने धमका दिया उसने ठाके काल खटका दी अक नशा बेचे है जिभी ये सारे काम होगे थे आगे यु टेक रकियो मने कही मे मत फसन दियो,
तरसेम	15:10	ठीक है 80 ला दु पुरे आप बैठो — B

153. The entire transcript containing the recorded conversation is amenable to multiple interpretation and meaning. When two individuals are engaged in a conversation and the implied connotation in such conversation is essentially the matter between two individuals. A third person such as the jury/judge or an investigator or a public prosecutor or a defence counsel has variety of reasons to explain the import of the conversation. A complete reading of the transcript or after hearing the voice of individual speaker and the totality of conversation between the individuals do not indicate the demand of bribe was made by accused Deepak and more specifically for what purpose and reason. When two individuals are engaged in conversation and even if one makes a point or say something, the second person would say something to continue with the pace of conversation, short responses given during the conversation by any speaker is not always indicative of the fact that a person is agreeing with all the things being said by such persons. Utterances by the complainant and short response by the public

servant cannot be referred as demand, unless the response indicated either by words or gesture or through any form of communication is unambiguous that demand is conscious and voluntary.

154. The discussion between both the speakers would reveal that some monetary transaction was being discussed however, it is not evident from the conversation as transcribed in Ex. PW6/G (Colly) about the true reasons for such a monetary transaction and the same could only be clarified by PW-6 in his evidence before the Court. The impugned conversation fails to establish that Constable Deepak was attempting to obtain the bribe. It is also not clear that whether the discussion which is called negotiation was in furtherance of any demand made by the accused Satish. It is also reflected from the conversation that PW-6/Complainant Tarsem was also not very emphatic in interacting with Deepak with respect to the demand of bribe. Conversation appears to be more of a case where two individuals are engaged in conversation and both of them are saying and stating something. **In order to bring such a statement within the fold of Section 7 of PC Act and to hold a public servant culpable, the word spoken or even the gesture has to be clear and unambiguous that public servant was demanding the bribe. An offer given to a public servant by Complainant/ PW-6 for payment of the bribe without positive reaction from the public servant cannot be equated to the demand by public servant unless it is clear that public servant was demanding undue advantage. Audio recording falters as it did not bring in the form of audio recording that that there was demand of bribe by the accused Deepak.**

155. A bare perusal of the transcript in relation to F0015232 (Q-3) vide Ex.PW6/I (*As per prosecution this audio recording was made when PW-6 again went inside his shop/office after meeting the CBI trap team at Tikri Kalan*) indicate that there is not even a word of Rs. 80,000/- was uttered by the accused Deepak or even by PW-6 Tarsem. The conversation only relates to the general discussion and nothing has come against the accused Deepak that he made any demand or even an attempt to obtain the undue advantage. It is necessary to mention that even PW-6 did not even give any inkling or indication that in pursuant to the demand of bribe, he handed over the bribe or some contemporaneous reaction to capture that demand was made by the accused Deepak or even acceptance was made by the accused Deepak considering the background on which the trap is laid for the demand and acceptance of the bribe by the public servant. The relevant portion of the transcription covering final demand and acceptance on 22.7.2022 are as under:-

RC-003 2022 A 0050 | 631/ACB/D21      Date-19/12/2022  
HINDI TRANSCRIPTION OF Q-3  
FILE- f0015232.mpb3.-

तस्मैम - जरा पानी फन्डा दिया, जिलास दे, जिलास फन्डा दिया!  
उरै श्थराब दे दिया गी ली। ना रहन दो ही गया।

तस्मैम - ठंडा पिपीजी

विपक - धाल दे

तस्मैम - जो आप बताओ ये वो नार् है, मैं नाम अडूनि।

विपक - हाँ

तस्मैम - आप जाट ही शायद

विपक - मैंने चहन्नाया - अपशब्द!

तस्मैम - आपने अहदा करवाया जारि धीरे पिटवा दिया!

विपक - मैं अड होला लो भैरे आगे मारे हलि मैं अड या ही नही  
भैरे आगे तु जाया मोरिनी तु नाट गया था

तस्मैम - मैं आप से बताया था की मौनीपत जा रहा हूँ

विपक - अस्पष्ट

तस्मैम - मैं जब घर मोदी खाने गया था धरे आपने जब अम्का  
देख लिया होगा चाहे लो भैरे भी

विपक - तु गया जब तेरा धाक उडे खडा था मोर सम्वापर कोरु

तस्मैम - साप्लापर जोडे और मैडिकल पर वे है। द्वादी

156. The purported transcript is based on the audio recording whose contents were copied in CD. The detailed finding with respect to the admissibility of Q-3 (I) is given in *paragraph No. 194*. The purported conversation is made post registration of FIR, when PW-6 Tarsem went back to his shop/office at Firni Road to meet accused Deepak.

157. PW-7, PW-8 and PW-16 stated that after accused Deepak came out of the building material shop, PW-6 gave the pre-decided signal and thereafter, accused Deepak was apprehended while trying to escape from his bike and Rs. 80,000/- was recovered from his right-side pant pocket and handwashes, etc. of accused Deepak were taken.

158. PW-7, PW-8 and PW-16 had only stated about the recovery of bribe amount of Rs. 80,000/- and also with respect to hand washes and pocket washes. It is revealed that none of them overheard any conversation between accused Deepak and PW-6 Tarsem (Complainant) and none of them had even stated that they had seen accused Deepak demanding any bribe by way of gesticulation or in any other manner and even none of them were witness to any of the transaction by which the bribe was being offered by Tarsem to Deepak or its acceptance by accused Deepak or putting the same inside the right side pant pocket. Admittedly all these witnesses had remained outside the shop at Firni Road. As already discussed, none of the witnesses apart from PW-16 had stated that after coming out from the shop, PW-6 had stated that bribe was demanded by way of gesticulation from right hand by accused Deepak.

159. PW-6 had altogether denied any recovery being made from the

accused Deepak. PW-13 who was present with the trap team did not even utter a single word about any recovery being made in his presence. PW-7 Ramdarash Singh Kushwaha who was present during the trap proceedings stated that the recovery of tainted money was made by PW-8 Pushpender Khatana, however, PW-8 Pushpender Khatana did not say that any tainted money was recovered by him and rather stated that he was asked to keep the tainted money with him. PW-8 deposed that accused Deepak was apprehended by CBI officials and thereafter, the bribe money was taken from the right-side pant pocket and he was directed to keep the amount which was taken out of the pant pocket of accused Deepak.

160. It is also stressed on behalf of the prosecution that PW-6 did not state the correct facts as he was threatened. PW-6 Tarsem did not support the case of prosecution on material aspects and prosecution was permitted to cross-examine PW-6 and during his cross-examination by Id. PP for CBI, he admitted that he gave a handwritten complaint to SHO PS Mundka on 14.10.2022 and 17.10.2022. On the request of Id. PP for CBI, examination of PW-6 was deferred and *an application u/s 94 BNSS (corresponding to 91 CrPC) was allowed* and complaints were produced by PS Mundka (*vide order dated 09.10.2024*). The complaints vide Ex. PW6/I and Ex.PW6/J were put to the PW-6 and PW-6 stated that he gave complaints vide Ex.PW6/I and Ex.PW6/J as he was entertaining doubt against the accused Satish and Deepak that they were making threatening call and in his further cross-examination, PW-6 clarified that reason for entertaining the doubt as because of him accused Deepak was apprehended. PW-6 stated that during inquiry the Call

Detail Record (CDR) was also obtained and it was informed that addresses pertained to Bihar and the persons mentioned therein are not residing at the said office. PW-6 also stated that after receiving the so-called threat he had also visited the office of CBI. It appears from his deposition that PW-6 did not bring to the notice of CBI in the year 2022 or subsequently that any threat was being given to him and moreover, in his cross examination, he had clearly denied that any threat was being received by him from accused Satish and Deepak. PW-6 also denied that he was beaten by accused Satish. No other material was brought by the Prosecution to the effect that PW-6 Tarsem was under any kind of pressure or threat. It is therefore apparent that Prosecution is unable to link any threatening call was made at the behest of accused persons or that both the accused persons had influenced or contacted PW-6 directly or indirectly. No other material was produced by the Prosecuting Agency that any of the accused persons had threatened or influenced PW-6 and even PW-6 did not make any complaint in this regard to the Court.

161. PW11 has proved the chemical examination report vide ExPW11/C as per which the exhibits gave positive test for the presence of phenolphthalein powder and sodium carbonate. However, same is of no avail as the recovery and the surrounding circumstances are doubtful. In **P. Parasurami Reddy vs. State of Andhra Pradesh (2011) 12 SCC294**, it was held that sole evidence of the fingers being soiled in sodium carbonate turned pink itself is not sufficient to convict the accused

162. Hon'ble Delhi High Court in **Om Prakash Vs. State of NCT of**

**Delhi, CrI. Appeal No. 765/2001** dated 06.11.2013 it was held that neither demand nor the acceptance alone is sufficient to establish the offence and mere recovery of tainted money divorced from the circumstances is not sufficient to convict the accused persons.

163. In **M.K. Harshan Vs. State of Kerala, (1996) 11 SCC 720** it was **held** that In all such type of cases of bribery, two aspects are important. Firstly, there must be a demand and secondly, there must be acceptance in the sense that the accused has obtained the illegal gratification. Mere demand by itself is not sufficient to establish the offence. Therefore, the other aspect, namely, acceptance is very important.

164. It is evident from the events dated 22.7.2022 that prosecution has failed to prove that there an attempt/ demand on the part of the accused Deepak to obtain illegal gratification/ undue advantage. The prosecution has also failed to prove that at the time of final trap there was any demand of the bribe and acceptance and its consequent acceptance by Accused Deepak and there are material contradictions on the aspect of the recovery of bribe money/tainted money from the accused Deepak.

**AUDIO RECORDINGS, CFSL REPORT & VOICE IDENTIFICATION.**

165. In order to prove the voices of accused Satish & Deepak and complainant/PW-6 Tarsem in the memory cards Q-1, Q-2 & Q-3(I) (*contents copied in the CD*). The prosecution has examined two sets

of witnesses. The first set of witness is voice examination expert from the CFSL and the second set of witnesses are stated to be conversant with the voice of the accused persons.

166. Prosecution has examined PW-6 Tarsem, PW-7 Ramdarash Singh Kushwaha, PW-9 Gulshan Nagpal and CFSL Experts with respect to the voices in the audio recordings.

167. Prior to determining the question of identification of a voice in the audio recordings, it would be appropriate to refer to the observations of Hon'ble Supreme Court of India in **Ram Singh Vs. Col. Ram Singh, (1985) Supp SCC 611**” that tape-recorded conversation is admissible in evidence, subject to the observance of the following conditions: -

(1) The voice of the speaker must be identified by the maker of the record or other persons recognizing his voice. Where the maker is unable to identify the voice, strict proof will be required to determine whether or not it was the voice of the alleged speaker.

(2) The accuracy of the tape-recorded statement must be proved by the maker of the record by satisfactory evidence: direct or circumstantial.

(3) Possibility of tampering with, or erasure of any part of, the tape-recorded statement must be totally excluded. The tape-recorded statement must be relevant.

(4) The recorded cassette must be sealed and must be kept in safe or official custody.

(5) The voice of the particular speaker must be clearly audible and must not be lost or distorted by other sounds

or disturbance.

168. In **Nilesh Dinkar Paradkar Vs. State of Maharashtra, (2011) 4 SCC 143**, Hon'ble Apex Court relied the judgment of Ram Singh (supra) as well as the judgments of foreign jurisdiction which were relied in **Ram Singh's case**, wherein the requirement of the need for minimum safeguard to be observed while considering the voice identification evidence, the relevant paragraphs are quoted below: -

The Court of Appeal in England in R Vs. Chenia and R. Vs. Flynn and St. John has reiterated the minimum safeguards which are required to be observed before a Court can place any reliance on the voice identification evidence, as follows:

(a) the voice recognition exercise should be carried out by someone other than the officer investigating the offence;

(b) proper records should be kept of the amount of time spent in contact with the suspect by any officer giving voice recognition evidence, of the date and time spent by any such officer in compiling any transcript of a covert recording, and of any annotations on a transcript made by a listening officer as to his views as to the identify of a speaker; and

(c) any officer attempting a voice recognition exercise should not be provided with a transcript bearing the annotations of any other officer. In America, similar safeguards have been evolved through a series of judgments of different Courts. The 9 [2003] 2 Cr. App. R. 6 CA 10 [2008] 2 Cr.APP.R.20, CA principles evolved have been summed-up in American Jurisprudence 2d (Vol. 29) in regard to the admissibility of tape recorded statements, which are stated as under:-"The cases are in general agreement as to what constitutes a proper

foundation for the admission of a sound recording, and indicate a reasonably strict adherence to the rules prescribed for testing the admissibility of recordings, which have been outlined as follows :

- (1) a showing that the recording device was capable of taking testimony;
- (2) a showing that the operator of the device was competent;
- (3) establishment of the authenticity and correctness of the recording;
- (4) a showing that changes, additions, or deletions have not been made;
- (5) a showing of the manner of the preservation of the recording;
- (6) identification of the speakers; and
- (7) a showing that the testimony elicited was voluntarily made without any kind of inducement. ... However, the recording may be rejected if it is so inaudible and indistinct that the jury must speculate as to what was said.

169. PW-6 Tarsem continued to display his hostility towards the case of prosecution and even when the audio recordings from memory cards Q-1, Q-2 and CD Q-3 (I) were played in the Court. Number of audio files pertaining to the conversation dated 21.07.2022 from Memory Card (Q-1) were played however, PW-6 Tarsem did not identify any of the voices in the Recordings. Number of audio files from memory card (Q-2) were played and in which PW-6 Tarsem identified his own voice but did not identify the voice of other speaker and in relation to one of the audio file No.

220722\_1735, he had stated that he was speaking to Deepak and on further clarification by Id. PP regarding the utterance of words i.e. “*Thik hai 80 la dun pure, aap baitho*”, PW-6 stated that he was uttering these words/sentences to the CBI officials and when recording is again played and a specific question was put to the witness with respect to some portion of the recording from transcript C to C, however, PW-6 Tarsem did not identify the voice of speaker. When File No. F0015232.MP3 (Q-3) (I), PW-6 Tarsem did not identify the voice of another speaker. PW-6 deposed that he had merely appended his signature on transcription cum voice identification memo vide Ex PW-6/G (colly) without reading its content. It is therefore reflected from the testimony of PW-6 that for the purposes of voice identification in the audio recording is not of much assistance to the case of prosecution.

170. PW-7 Ramdarash Singh Kushwaha did not hear any conversation between the accused Satish and Tarsem (PW-6) and during trial he did not identify the voice of Satish/Deepak.

169. PW-9 Gulshan Nagpal, SHO had identified the voices of the accused Satish and Deepak in the recorded conversation and he also identified his signature on the voice identification memo vide Ex.PW9/B (Colly).

171. PW-8 Pushpender Khatana had only identified his introductory voice as well as introductory voice of other independent witness. PW-8 initially identified the specimen voice of accused Deepak and later on when the audio file was again played, he stated that he is

unable to recall whether it contained the voice of accused Deepak or not and *in response to the Court Question*, he stated that he is not very sure whether the audio contains the voice of accused Deepak and moreover, he did not identify the voice of accused Deepak from any of the memory cards and therefore testimonies of PW-7 and PW-8 (both independent witnesses) with respect to the voice identification is not of much help to the prosecution.

172. PW-16/TLO had stated in a general manner that he heard the audio recording in File No. f0015232.MP3 and same contains the conversation between Tarsem and Deepak which he had heard from memory card “Q-3” through DVR during the trap proceedings. He stated that relevant specimen voices of Satish, Deepak and Tarsem were obtained by him and he also recorded the introductory and concluding voices of both the independent witnesses.

173. Prosecution had attempted to get identified the voice recordings from PW-7 Ramdarash Singh Kushwaha. PW-7 Ramdarash Singh Kushwaha stated that in the Month of August, 2022, he visited the office of CBI for the purposes of identifying the voice in the recordings, however, some of the recordings were clear and audible whereas some were not clear and audible. Surprisingly, Prosecution did not place on record any document that such exercise was conducted in the office of CBI.

174. PW-19 Shri Deepak Kumar Tanwar, Deputy Director and Scientist “D” at CFSL, New Delhi in his report vide Ex.PW19/D stated that the recordings contained in Q-1, Q-2 and Q-3 (I) were

probable voices of Satish, Deepak and PW-6/Complainant Tarsem and attributes similarities to their specimen/sample voices recorded in S-1, S-2 and S-3.

175. PW19 Deepak Kumar Tanwar had stated that eight sealed parcels were received in the CFSL for analysis. During the cross-examination of PW-19, he stated that the copy of the transcription containing the names of speakers was provided by the forwarding agency and the copy of the transcript is also available in his file. PW-19 also stated that forwarding letter did not provide the details that transcripts were being sent to CFSL. Perusal of Ex.PW19/A and Ex. PW19/B do not mention that copy of the transcripts were also sent along with the exhibits. PW-18 IO Satish Kumar Bana also did not disclose that he had sent the copy of the transcription containing the conversation to CFSL. It appears that copy of the transcription was provided in a clandestine manner.

176. In **Nilesh Dinkar Paradkar (Supra)** Hon'ble Supreme Court had emphasized for maintaining safeguard to be observed before placing reliance on the voice identification evidence and one of the conditions was that any officer attempting a voice recognition exercise should not be provided with a transcript bearing the annotation of any other officer.

177. The CFSL report vide Ex PW-19/D given by an expert should not be marked or tainted by any source or material giving the broad hints regarding the name of the speaker otherwise exercise of voice examination would be reduced to an empty formality and the name of

the speakers were brought to the knowledge of PW-19 prior to the start of voice examination, hence probative value of the voice examination Report is substantially weakened.

178. PW-19 Deepak Kumar Tanwar stated that there was no tampering, editing or cutting in the audio file in the memory cards and he also examined the internal memory of DVR-I and DVR-II. In his cross-examination dated 01.12.2025, regarding the installation of sound organizer software in DVR and whether such software could be used for editing, cutting and pasting or organizing digital audio files. PW-19 was unable to answer the question regarding availability/existence of Sound Organizer Software in DVR-I and DVR-2 and when both of them were inserted in the laptop by using write blocker, they were found containing SoundOrganizer\_V2002.exe. PW 19 expressed his ignorance about the same and further stated that no specific request was received from the forwarding authority vide Ex.PW19/A and Ex.PW19/B. The testimony of PW-19 in support of his report further loses its value as PW-19 despite examining the internal memories of DVRs, failed to notice the sound organizer software! Moreover, PW-19 had also stated that there is no software through which it can be determined that recordings in a particular SD card is original or copied.

179. It is well settled law through chain of judgments that electronic documents and records are susceptible to editing, cutting and tampering that even it is not possible for an expert to give an opinion regarding the tampering. In ***“Nilesh Dinkar Paradkar Vs. State of Maharashtra, (2011) 4 SCC 143”***, Hon’ble Supreme Court

had referred to the judgment of *R. Vs. Robson, (1972) 2 All ER 699* in which it is observed that “... *The determination of the question is rendered the more difficult because tape recordings may be altered by the transposition, excision and insertion of words or phrases and such alterations may escape detection and even elude it on examination by technical experts.*” The presence of sound organizing software in DVRs which is capable of editing, cutting, pasting and organizing the digital audio file in the original source and its non-disclosure in the report vide Ex.PW19/D casts a serious doubt on the credibility and reliability of such a report. PW-19 failed to answer the question put to him during cross-examination and also failed to explain about the impact of voice organizing software to the recordings subjected to him for analysis. The lame excuse/answer given by PW-19 that since there was no query so he did not make any disclosure about the presence of such software in his report is not convincing and further reduces the credibility of the report in support of the voice examination.

180. It is vehemently contended on behalf of the accused persons that prosecution had failed to establish the safe and proper chain of custody of the case properties such as memory cards Q-1, Q-2 & Q-3 and DVRs from the time of its seizure till it reached CFSL and its actual production in the court by leading cogent and reliable evidence.

181. Ld. PP for CBI has rebutted the contention of the accused persons and submitted that exhibits were not tampered and chain of custody was maintained in proper manner. It is also contended that

CFSL Report vide Ex PW-19/D notes that respective seals were found to be intact and hence, there is no possibility of any tampering.

182. In order to appreciate the respective contentions, it would be appropriate to discuss the testimonies of Prosecution Witnesses and the documents referred in their testimonies to examine the contention regarding the safe custody of the exhibits.

183. PW 13 CMS Negi (Verification Officer) stated that he had sealed Q-1 & Q-2 by placing in an envelope which was sealed and signed by the witnesses. PW 13 further stated that he handed over the verification memos to the TLO. PW-13 in his cross-examination stated that copies of Q-1 and Q-2 were prepared by him in his official laptop.

184. PW-16 Ravinder Kumar Bharti (TLO) stated that on 22.07.2022, the verification of the complaint vide Ex. PW6/A was done by Insp. CMS Negi (PW-13) and he further stated that after perusing the verification memo, he found that Constable Deepak was demanding bribe. PW-16 further stated that the memory card Q-3 containing the conversations between complainant and accused was extracted from the DVR and the investigation copy was prepared with the help of write blocker and Q-3 was kept in an envelope and same was signed by him and independent witnesses. He further stated that the CBI brass seal was handed over to PW-7 Ramdarash Singh Kushwaha against receipt at Point Y on Ex. PW6/D.

185. A perusal of the deposition of PW-13 would reveal that he did

not state with sufficient clarity as to whom he had handed over memory cards Q-1 & Q-2 which were used during the verification proceedings on 21.07.2022 and 22.07.2022.

186. PW-16 further stated that he had prepared the investigation copy of Q-3 covering the transaction relating to the bribe and Q-3 was kept in an envelope and was sealed. PW-16 stated that he deposited the exhibits of the present case on 23.07.2022 in Malkhana. PW-16 further stated that relevant entries were made in the Malkhana and the Malkhana stamp was also put on the respective memos and record from the Malkhan was not obtained by him.

187. A perusal of verification memo vide Ex.PW6/B, Further Verification Memo vide Ex. PW6/C (handwritten) and pre trap cum recovery memorandum vide Ex. PW6/D reveals that each bear the stamp of Malkhana, however, the exact date of deposit of the relevant exhibits in Malkhana is absent from the said memos. A perusal of statement under section 161 CrPC did not disclose the precise date of deposits of exhibits in the Malkhana either by PW-16 or PW-13.

188. PW-18 IO stated that vide forwarding letter vide Ex.PW18/B, Q-1, Q-2, DVRs, Sample voices of Satish, Deepak and Tarsem (S-1, S-2 & S-3) were sent to CFSL on 12.09.2022. PW-18 stated that the voice conversation between accused and complainant/PW-6 Tarsem was recorded in the memory card Q-3 and its copy was prepared in the official laptop by using the write blocker, however, it could not be played and thereafter, the Memory card Q-3 was sent to CFSL for preparing an investigation copy. A perusal of ExPW12/A would

reveal that Q-3 was received in the Computer Forensic Division on 16.09.2022. It is also revealed that it was firstly received in the Photo Division and subsequently, received in the Computer Forensic Division.

189. Relevantly, PW-7 Ramdarash Singh Kushwaha stated in his cross-examination that on 05.09.2022, the seal was taken by CBI official and then it was handed over to him and in the office of CBI the SD cards were de-sealed and after playing the recordings, it was once again re-sealed by the CBI official in his presence. The statement of PW-7 regarding the de-sealing of SD card remained unchallenged by the Prosecution. In so far as the contention of Id. PP for CBI that the exhibits bear the signatures of number of persons including the independent witnesses, in this regard it is necessary to observe that mere appearance of signature on documents only shows its preparation on a particular day, but that does not answer the question, the specific date on which the exhibits were deposited in the Malkhana and no convincing explanation was furnished in whose custody the SD cards remained from 21.07.2022 to 12.09.2022 and the revelation made by the PW-7 that SD cards were de-sealed and subsequently sealed on 05.09.2022 further puts question on the safe custody of the exhibits. It is the duty of the prosecution to establish the safe custody of the exhibits from the date of its seizure till it is deposited in the CFSL to rule out any possibility of tampering, however, no material was brought by the Prosecution to substantiate the specific date of deposit of exhibits in Malkhana and even no Malkhana Register was produced to show the relevant entries pertaining to the deposit of exhibits in the Malkhana. PW-18 had

stated that TLO did not inform him about the date of deposit of case properties in the Malkhana and he also did not make inquiry from Malkhana regarding the date of deposit of case properties. PW-16 Ravinder Kumar Bharti (TLO) had not stated about the date of deposit of the exhibits in the Malkhana and he also did not obtain the extract of register or the subsequent movement of exhibits from Malkhana. Neither IO/PW-18 nor TLO/PW-16 recorded the statement of Record Keeper/Malkhana In-charge regarding the date of deposit of the exhibits/case properties.

190. It is evident from the deposition of above-mentioned witnesses as well as the forwarding letters that from 21.07.2022 till 12.09.2022, Q-1, Q-2 and Q-3 remained with investigating agency and it was not explained when investigating copy of Q-1, Q-2 and Q-3 were already prepared then, why memory cards Q-1, Q-2 and Q-3 were not sent in reasonable time to CFSL for analysis. PW-16 and PW-18 maintained complete silence on this aspect.

191. The conversations between accused persons and PW-6 Tarsem were stated to have been recorded in memory cards Q-1, Q-2 & Q-3 on 21.07.2022 and 22.07.2022.

192. Memory card Q-3 stated to be the purported conversation recorded on 22.07.2022 capturing the conversation at the time of final trap. (*It is stated to be the conversation between PW-6 Tarsem and accused Deepak inside the shop/office of PW-6 Tarsem*). Memory Card Q-3 had malfunctioned and the memory card was sent to CFSL for retrieving the data contained in it. As per PW-12 Dr.

Subrat Kumar Choudhury, he had retrieved the data from the memory card by the usage of the appropriate software and copied its contents in the CD-R. The CD-R i.e. Q-3 (I) containing the audio recording dated 22.07.2022 was questioned on behalf of the accused persons by contending that same is not accompanied with any certificate u/s 65 B of Indian Evidence Act (Now Section 63 of BSA,2023). The objection was recorded and raised on behalf of accused persons when PW-6 was examined in the Court and therefore, prosecution was put to the notice regarding the contents copied in Q-3 (I). It is also settled through the chain of judgments that when the original device is produced before the Court then, there is no requirement to produce certificate u/s 65 B Indian Evidence Act (Section 63 BSA,2023). The copying of the contents from memory card Q-3 to the CD-R is basically bringing into record the secondary evidence of the electronic document/record.

193. In **Arjun Pandit Rao Vs. Kailash Kushanrao Gorantyal & Ors., (2020)7 SCC 1** in paragraph no. 31 and 32, it was observed as under :-

*31. The non-obstante clause in sub-section (1) makes it clear that when it comes to information contained in an electronic record, admissibility and proof thereof must follow the drill of Section 65B, which is a special provision in this behalf - Section 62 to 65 being irrelevant for this purpose. However, Section 65B (1) clearly differentiates between the "original" document - which would be the original "electronic record" contained in the "computer" in which the original information is first stored- and the computer output containing such information, which then may be treated as evidence of the contents of the "original" document. All this necessarily shows that Section 65B differentiates between*

*the original information contained in the "computer" itself and copies made therefrom - the former being primary evidence, and the latter being secondary evidence.*

*32. Quite obviously, the requisite certificate in sub-section (4) is unnecessary if the original document itself is produced. This can be done by the owner of a laptop computer, a computer tablet or even a mobile phone, by stepping into the witness box and proving that the concerned device, on which the original information is first stored, is owned and/or operated by him. In cases where "the computer", as defined, happens to be a part of a "computer system" or "computer network" (as defined in the Information Technology Act, 2000) and it becomes impossible to physically bring such network or system to the Court, then the only means of proving information contained in such electronic record can be in accordance with Section 65B(1), together with the requisite certificate under Section 65B(4). This being the case, it is necessary to clarify what is contained in the last sentence in paragraph 24 of Anvar P.V. (supra) which reads as "...if an electronic record as such is used as primary evidence under Section 62 of the Evidence Act...". This may more appropriately be read without the words "under Section 62 of the Evidence Act,...". With this minor clarification, the law stated in paragraph 24 of Anvar P.V. (supra) does not need to be revisited.*

194. It is therefore, apparent that contents of Q-3 were copied in CD-R by PW-12, however, the same was not accompanied by any certificate u/s 65 B of Indian Evidence Act (Now Section 63 (c) BSA, 2023) therefore, the contents/recording contained in Q-3 cannot be looked or taken into consideration as same fails to materially fulfill the requirements u/s 65 B of Indian Evidence Act, 1872.

195. PW-9 is stated to have identified the voice of both the accused

person, when prosecution is unable to establish the safe custody of the exhibits including memory card containing recording and the expert is unable to tell whether recording is original or copied in SD card/memory card and there are glaring doubts on the voice examination report in such circumstances, the identification of voice by a person after about 3 years is difficult to be accepted in the absence of independent corroboration.

196. In view of the above-mentioned discussion, the prosecution has failed to establish the safe and proper custody of the exhibits and also failed to prove the recordings contained in memory cards were of the accused persons and the report Ex.PW19/D suffers from serious infirmities and cannot be relied for the purposes of voice identification.

197. In **Mahabir Prasad Verma Vs. Dr. Surender Kumar, (1982) 2 SCC 258**, it was held by Hon'ble Supreme Court of India that tape-recorded evidence can only be used as a corroborative piece of evidence.

198. The learned PP for the CBI has contended that the Call Detail Records (CDRs) and Customer Application Forms (CAFs) pertaining to mobile numbers 8800225142 (accused Satish Kumar), 7015366242 (Rekha, wife of Raj Kapoor), and 8368527173 (Tarsem) reveal exchange of calls in between accused Satish and PW-6 Tarsem, as reflected in CDR vide Ex. PW2/C on 21.07.2022 and plea of the accused that he had no interaction with PW-6 stands falsified. It is

relevant to mention that CAF vide Ex.PW2/B was admitted on behalf of the accused. In so far as the submission of Id. PP for CBI that on 19.07.2022 calls were exchanged between PW-20 Deepak and PW-6 Tarsem (complainant) that pursuant to the direction of police officials. Nothing has come on record that PW-20 had made any call to PW-6 Tarsem at the instance of any police official and moreover, PW-20 was an employee of PW-6 Tarsem and therefore, it is quite natural that calls could be exchanged between the employee and the employer and moreover, PW-20 had clearly denied the allegation that he was detained by the police officials and in that context he made a call to Tarsem.

199. It must be borne in mind that mere call detail record in itself is not a substantive piece of evidence as it only indicates that that mobile contact is made between two individuals or person at a particular point of time. In the absence of the proof regarding actual contents of the conversation between two persons, the CDR cannot be made as basis for imputing the guilt or complicity in a criminal case.

200. It is contended on behalf of the accused Satish that prosecution had failed to prove involvement of the accused Satish in the present case as there is no material to indicate he had ever met PW-6 Satish. PW-6 Tarsem gave the complaint vide Ex. PW6/A to the CBI against Satish and Deepak by naming them and therefore, the complainant/PW-6 would be the best person to identify accused Deepak as well as Satish. There is no other independent witness or any CBI official who had seen accused Satish prior to 21.07.2022 and even on 21.07.2022 except PW-6, no member from the

verification team i.e. PW-7, PW-13 or any other person had seen HC Satish on 21.07.2022. At the time of final trap on 22.07.2022, no other witness had seen accused Satish being present at FIRNI Road.

201. Accused Deepak was detained consequent to his apprehension on 22.07.2022 and handwashes, pant wash, recovery of bribe money and other proceedings were undertaken by the CBI at Firni Road. As per TLO/PW-16, the concerned SHO was asked to call HC Satish and when HC Satish came, he (Satish) was apprehended. There are grave inconsistencies as to how trap team and the CBI especially TLO/PW-16 came to the conclusion that Satish Kumar named in the complaint Ex.PW6/A is the same person who had met PW-6 Tarsem on 21.07.2022 or even prior thereof. The best person who could have identified accused Satish Kumar would be PW-6 Tarsem but he did not support the prosecution.

202. PW-7 Ramdarash Singh Kushwaha also did not identify the accused Satish in the Dock identification although, he had gone to the PS Mundka after apprehension of Constable Deepak on 22.07.2022 and as per him Constable Satish was called and he admitted his involvement in the present case and yet he expressed his inability to identify him in the court.

203. PW-8 Pushpender Khatana did not identify accused *Satish* (*Prosecution did not ask for the dock identification of HC Satish qua this witness*). He had only stated that the CBI officials made inquiries from SHO, PS Mundka and other officials and during the conversation, he came to know about the name of accused Satish

who was apprehended in PS Mundka.

204. PW-16/TLO Ravinder Kumar Bharti without elaborating as to how he had come to the conclusion that HC Satish was the same person whom the complainant/PW-6 met on 21.07.2022 except stating the complainant/PW-6 Tarsem had talked about the demand of bribe made by HC Satish and Satish had admitted that he met complainant on 21.07.2022 during interrogation. Interestingly, PW-16 also did not detail as to how accused Satish was apprehended and whether it was confirmed from the PW-6/Complainant that the person who is being apprehended is the same person namely Satish whom the complainant/PW-6 met on 21.07.2022 and who had demanded Rs. 80,000/- from Tarsem as illegal gratification. He only stated that accused Satish was arrested in relation to the present case. PW-13 Sh. CMS Negi also did not identify the accused Satish or even stated that he was apprehended at PS Mundka on the identification of the complainant.

205. The CBI team went to PS Mundka and asked the concerned SHO to produce accused Satish and thereafter, accused Satish was arrested in the present case. It appears that accused Satish was arrested in the present case on the basis of CDR and CAF and without undertaking any exercise whether he was the person who demanded money from PW-6 Tarsem and it is further noted that even post apprehension of accused Deepak, no controlled call was made to accused Satish to establish his link in the case. Even perusal of the arrest memo of accused Satish Kumar Vide Ex.PW16/C does not contain the signature of PW-6 Tarsem that on the identification of

PW-6 Tarsem, the accused Satish Kumar was arrested. Moreover, the ground of arrest is general in nature stating that “*Demanding illegal gratification and criminal conspiracy*”. The circumstances surrounding the arrest of accused Satish at PS Mundka is simply based on the statement made by PW-16 that accused admitted his involvement and was arrested in the present case.

206. PW-6 had identified accused Satish in the court in the dock identification, however, in his cross-examination by the Id. Defence Counsel PW-6 stated that he stated that he had seen accused Satish in the court and again said ; in the office of CBI. PW-6 had categorically stated in his cross-examination that present accused is not the same person against whom he had visited the office of CBI for lodging the complaint and in his further cross-examination he had reiterated that he had seen accused Satish in the office of CBI. The fact stated in the cross examination with respect to the identification of accused Satish were not challenged by the Prosecution. Perusal of the cross examination in so far as accused Satish is concerned the same only relates to his statement u/s 161 Cr.P.C. made by the witness during investigation of the case. PW-6 had denied making any statement that he had met or seen accused Satish on the first floor of the building on 21.07.2022.

207. One of the submissions of the Id. PP for the CBI is that accused has given the complaint vide Ex. PW6/I and Ex.PW6/J to PS Mundka against accused Satish and Deepak and therefore in so far as the question of identification against Satish is concerned the same was being falsely stated by PW-6 complainant.

208. It is relevant to mention that PW-6 had explained in his cross examination by Ld. PP for the CBI that he had developed suspicion against accused Satish and Deepak and it is already observed that prosecution failed to link accused persons with the threatening call. In view of the conflicting version brought by PW-6 regarding the identification and moreover there is no other person who had seen accused Satish on 21.07.2022, considerable doubt has arisen with regard to the involvement of the accused Satish in the present case.

209. Section 2 (b) of PC Act defines “*public duty*” a duty in the discharge of which the state/public or community at large has an interest and the performance of the duty by a person who holds an office to perform a public duty is a public servant defined u/s “2 (c) of PC Act”. Both the accused persons are the public servants on the post of Constable/Head Constables. The police officers by their rank/position are in a position to initiate criminal proceeding or can represent to a private person that he or she can do anything including arrest or detention in any case. It is not necessary whether a public servant was capable or not capable to ensure the performance of a public duty and mere representation on his behalf that he is capable to perform a public duty or not to perform a public in consideration of an undue advantage is sufficient to invoke section 7 of PC Act against such a public Servant. In any trap case, when allegations are made against a public servant that he demanded bribe or undue advantage, the prosecution is duty bound to explain the motive or the reward for the performance of the public duty which forms the basis to make a demand of bribe/undue advantage. Mere allegation that a

public servant had threatened to implicate in a false case is required to be elaborated with sufficient clarity. It is apparent from the evidence led during the course of the trial the motive for the demand of bribe is not proved by the prosecution with sufficient clarity so much so that PW-20 did not even state that he was beaten by any person or that he was dealing with any injection. PW-6 stated that the medical shop was closed long time back. Prosecution had also examined PW-4 & PW-10 regarding initiation of proceedings u/s 107/150 CrPC and interestingly, the said proceedings would reveal that a Kalandara Proceedings were initiated against PW-6 Tarsem by noting that he was not engaged in any illegal activity. When Prosecution has itself placed a document on record that PW-6 was not indulging in any Narco/illegal activity then, very basis to demand bribe is significantly diminished and apparently does not provide much basis to demand any bribe. The motive for reward is to also required to be proved by the prosecution as any discussion by the public servant on monetary aspect cannot brought to him with in the culpability of section 7 of PC and thus making the entire case quite suspect. The allegation that if Rs 2 Lakhs is not paid then accused persons would implicate the complainant is too general to be given any credence and requires more evidence/material to link with the alleged demand. Motive for which so called undue advantage being demanded by the accused persons is further shattered by the fact that even Medical Shop was closed long time back.

210. It is not unusual to find that trap proceedings that after demand of bribe is made by the proposed bribe taker, the proposed bribe taker would avoid making call to the complainant or in certain cases it is

the complainant who will call the bribe taker. Prosecution alleges that on 21.07.2022, demand for the bribe was made by the accused Satish. Usual commonsense would dictate that either Satish would make a call to the complainant or the complainant would call Satish. There is no call from Satish and after more than 24 hours when the verification team waited in the office of CBI to receive calls from Satish, the complainant tried calling Satish, however, same was not picked up by him and thereafter, it was decided to make a call to Deepak and the said call was picked up by Deepak at 05:20 PM and as per the case of prosecution, calls were exchanged between accused Deepak and complainant/PW-6 Tarsem without any act on the part of Satish.

211. Apart from the substantive offence under section 7 of PC Act, both of them were also charged under section 120 B IPC.

212. Criminal conspiracy u/s 120 A of IPC (Now Section 61(1) of BNS, 2023) that criminal conspiracy is defined as when two or more persons agreed to do or cause to be done, (i) an illegal act, (ii) An act which is not illegal by illegal means, such an agreed is designated as criminal conspiracy.

213. Section 120 B IPC is a substantive offence and like any other offence, the prosecution is bound to prove the ingredients of offence through cogent evidence. Since conspiracies are usually hatched in secrecy and, therefore, in order to establish the charge of conspiracy, the indirect circumstances are taken into consideration provided that circumstances are conclusive in nature and lead to one hypothesis

that there was an agreement to commit an illegal act.

214. The Prosecution traces the conspiracy to obtain the bribe from PW-6 Tarsem since July, 2022, however, the evidence and the material as placed on record would reveal that in so far as the involvement of both the accused persons to demand and accept bribery rests on the testimony of PW-6 and in the instant case, PW-6 denied that any bribe was demanded or accepted by either accused Satish or Deepak and even the charge u/s 7 of PC Act does not make out against any of the accused persons. PW-6 had completely absolved both the accused Satish and Deepak from any wrongdoing.

215. It is also revealed from the perusal of the deposition as well as material available on record that the prosecution had alleged that accused Satish had demanded bribe on 21.07.2022 during verification proceedings and yet on 22.07.2022 there was no call or any attempt on the part of accused Satish to demand any bribe and rather further proceedings were conducted against accused Deepak in which accused Deepak was apprehended. There is no controlled call or any material brought on record to indicate that accused Satish was aware regarding any meeting between PW-6 Tarsem and accused Deepak and once the link is broken, the allegation that there was any conspiracy gets broken. Relevant recorded conversation also does not indicate that there was any conspiracy between Deepak and Satish. Accused Satish was also not present at the spot and he was apprehended from PS Mundka after being called by the CBI team through SHO, PS Mundka. In order to link both the accused persons, Prosecution has examined PW3 HC Kuldeep except stating that

Kuldeep enquired about mobile number of Tarsem and in cross examination by Id. PP for the CBI, he denied that he told Tarsem that Satish and Deepak were calling him. PW 14 did not support the case of Prosecution in any manner and denied that he had ever stated that PW6 had informed him that accused Satish and Deepak had detained his employee.

216. Therefore, in the present case, the prosecution has miserably failed to prove that there was any conspiracy between A-1 an A-2 and even otherwise, in view of the findings as recorded above.

217. One of the contentions of Id. PP for CBI that version of PW-6 Tarsem that his complaint and instead he was made to write different complaint cannot be accepted and furthermore he had stated that he had signed on various memos without reading the same. In this regard, the version of the complainant that his complaint was torn and the complaint Ex.PW6/A was taken into consideration as if the same was given by the complainant/PW-6 Tarsem and further proceedings were undertaken. Merely a complainant had given a complaint to the CBI. The allegations mentioned in the said complaint are required to be proved by the Prosecution by leading cogent and reliable evidence. When two diametrically opposite versions had surfaced in the trial, the Court is duty bound to consider such version which favours the accused by taking into consideration the totality of the facts and circumstances relevant to the case. In the present case, independent witnesses such as PW-7 and PW-8 had only stated about the procedural aspect of the present case. The question would always remain to be considered whether prosecution

is successful in proving the necessary ingredients of the demand and acceptance of the bribe even in the absence of the testimony of Complainant/ PW-6.

218. In so far as the contention of the Id. PP for CBI regarding the weakness of the defence case that accused Deepak was apprehended and the CBI had implicated accused Deepak in the present case is not believable and to plant any money or that CBI would falsely implicate the accused person. It is also contended that there is recovery of the tainted bribe money which is not explained by the accused person. The prosecution case has to stand on its own legs and it cannot thrive on the weakness of the defence version. Crucially in the present case, both PW-7 and PW-8 as well as Verification Officer/PW-13 and Trap Laying Officer/ PW-16 had neither witnessed the demand and acceptance of bribe and mere recovery of bribe money is of no consequence, when the recovery coupled with demand and acceptance were not proved by the prosecution beyond doubt. In so far as the contention that various memos which were prepared can be taken into consideration while appreciating the case of prosecution and such memos record the exact events which had happened on 21.07.2022 and 22.07.2022.

219. Mere exhibition or preparation of the memos does not mean that facts stated therein had been proved by the Prosecution. Facts and events mentioned in memos are required to be proved during the trial in accordance with law.

220. The Id. PP for CBI has relied upon **State of Kerala Vs. Abdul**

**Rasheed (2026), INSC 365** and also referred to the judgment of Neeraj Dutta (Supra) as well as Satpal Vs. Delhi Administration (1996) 1 SCC 727 in appreciating the testimony of the hostile witness. In relation to the present case, PW-6 Tarsem did not support the case of prosecution in any manner regarding demand and acceptance of bribe and moreover, in the present case none of the independent witness had witnessed demand and acceptance of bribe. Evidence of a hostile witness can certainly be taken into consideration; however, the fact would always remain whether prosecution is able to establish the crucial aspect of demand and acceptance and therefore, the cited judgment is distinguishable in reference to the present case.

221. The Id. PP for CBI has relied upon **CBI Vs. Baljeet Singh (2026) INSC 221** to the effect that testimony of the trap witness is not an interested witness and his testimony can be relied upon. There is no cavil to the proposition as cited by the Id. PP for CBI, however, the said judgment is not applicable in reference to the facts of the present case.

222. The Id. PP for CBI has also relied upon **M. Narsingh Rao Vs. State of AP (2001) 1 SCC 691** and contended that presumption u/s 20 of PC Act can be invoked even if the complainant had turned hostile. There is no cavil to the proposition as cited by the Id. PP for CBI, however, prior to invoking Section 20 of PC Act, the foundational facts are required to be proved by the Prosecution and hence, the cited judgment is not applicable in reference to the facts of the case.

223. Id. PP for CBI has also relied upon **Vishnu Krishana Belurkar Vs. State of Maharashtra (1974) SCC OnLine Bom 61** and **Rajoo Vs. State of MP, (2003) 5 MPLJ 60**, and both the judgments are duly perused.

224. In ***Sharad Birdhichand Vs. State of Maharashtra***, AIR 1984 SC 162, it was observed that the circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned “must or should” and not ‘may be’ established. The court while laying emphasis on the above legal principle relied on a judgment of the Supreme Court in ***Shiva Sahabrao Bobade and another V. State of Maharashtra***, (1973) 2 SCC 793 where it was observed that “Certainly, it is primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between ‘may be’ and ‘must be’ is long and divides vogue conjectures from sure conclusions.

225. It is a well settled law that evidence of a hostile witness cannot be treated as washed off the record and can be accepted to the extent their versions is found acceptable. (vide **Khuji @ Surendra Tiwari Vs. State of MP (1991) 3 SCC 627**). In the present case, the core of the prosecution is shattered in view of the testimony of PW-6 who denied the case on material aspect and no legally acceptable evidence exists to base the conviction.

226. Recently Hon’ble Supreme Court of India in **Talari Naresh Vs. State of Telangana 2026 INSC 486 dated 13.05.2026** after referring to **Khuji @ Surendra Tiwari Vs. State of MP (1991) 3 SCC 627** and

Bhagwan Singh Vs. State of Haryana (1976) 1 SCC 389 and other judgments was pleased to observe that *“When the testimony of the hostile witness is admissible subject to be feeded by corroboration and the conviction on that basis could be arrived at, the reverse is also true as a canon of appreciation of evidence. What necessarily implies is that as the evidence of a hostile witness can be used for convicting the accused, such evidence could indeed be applied and utilized also for the purpose of acquitting the accused, when what is testified by the hostile witness inspires credibility, when read with the other evidence on record, either ocular or documentary. **The dictum would be that the testimony of a hostile witness or statement in the deposition of hostile witness could be properly employed to discredit the prosecution case and a conclusion of acquittal could well be supported through it and could be founded therein”.***

227. Taking into consideration the deposition of witnesses as well as material available on record, no offence is made against accused Satish Kumar and Deepak.

228. In view of the above-mentioned discussion and taking into consideration the oral as well as documentary evidence, the benefit of doubt is given to the accused persons as prosecution has failed to prove the charges framed against them and accordingly, accused Satish Kumar and Deepak are acquitted of the charges u/s 120-B IPC r/w Section 7 of PC Act & Section 7 of Prevention of Corruption Act, 1988 respectively.

229. The Bail Bonds and surety bonds stand discharged. The

bond/Personal Bond furnished u/s 481 BNSS, 2023 (*Formerly Section 437 A CrPC*) shall remain in force for six months.

230. Case properties, if any, be destroyed as per rules.

231. File be consigned to Record Room, after the compliance as per rules.

*(Dictated and Announced in the open Court today i.e. on 16.05.2026)*

**(Hasan Anzar)**  
Special Judge (PC Act) CBI-03,  
RADC, New Delhi/16.05.2026

**Annexures:-**

- i. Chart for Exhibited Documents. (Page No. 114 to 118)**
- ii. Chart for Material Objects/*Muddamals* (Page No. 119)**
- iii. Chart for Witnesses Examined (Page No. 120 to 121)**

**Chart for Exhibited Documents**

Sl. No.	Exhibit No.	Description of the Exhibits	Proved by/Attested by
1	Ex.PW6/K (Colly)	Certificate u/s 63 BSA Act	PW-6
2	Ex.PW6/I	Complaint dated 17.10.2022	PW-6
3	Ex.PW6/J	Application made by Tarsem addressed to SHO, Mundka requesting for withdrawal of his previous complaint dated 17.10.2022	PW-6
4	Ex.PW6/X1	Extract of Diary Entry maintained at PS Mundka.	PW-6
5	Ex.PW6/Y1	Extract of Diary Entry maintained at PS Mundka.	PW-6
6	Ex.PW7/P-7	CBI brass Seal Impression.	PW-6
7	Ex.PW6/A	Complaint dated 21.07.2022.	PW-6
8	Ex.PW6/B	Verification Memo dated 21.07.2022	PW-6
9	Ex.PW6/C	Further Verification Memo dated 22.07.2022	PW-6
10	Ex.PW16/A	FIR	PW-16
11	Ex.PW6/D	Pre-trap cum Recovery Memorandum	PW-6
12	Ex.PW6/E	Rough Site Plan	PW-6
13	Ex.PW16/B	Arrest cum Personal Search Memo of accused Deepak.	PW-16
14	Ex.PW16/C	Arrest cum Personal Search Memo of accused Satish.	PW-16
15	Ex.PW7/A	Handing Over cum Taking Over Memo dated 2.07.2022.	PW-7
16	Ex.PW18/A	Letter dated 01.08.2022	PW-18

17	Ex.PW11/A	CFSL (CBI) acknowledgement receipt dated 01.08.2022 of three glass sealed bottles received in Chemistry Division.	PW-11
18	Ex.PW11/D	CFSL letter dated 12.08.2022 through which the report and exhibits were collected.	PW-11
19	Mark.PW11/E	Authority Letter dated 23.08.2022 to collect exhibits and report.	PW-11
20	Ex.PW11/C	Chemical Examination Report dated 08.08.2022	PW-11
21	Ex.PW1/A	Letter dated 12.08.2022	PW-1
22	Ex.PW1/H	Certificate u/s 65B (4) (c) of the Evidence Act 1872	PW-1
23	Ex.PW1/B	Forwarding letter for CDR, CAF of different mobile numbers.	PW-1
24	Ex.PW1/C	CDR of Mob. No. 8383061271.	PW-1
25	Ex.PW1/D	CAF of Mob. No. 8368527173.	PW-1
26	Ex.PW1/E	CDR of Mob. No. 8368527173.	PW-1
27	Ex.PW1/F	CAF of Mob. No. 7015366242.	PW-1
28	Ex.PW1/G	CDR of Mob. No. 7015366242.	PW-1
29	Ex.PW2/A	Letter dated 08.09.2022 for providing the AF and DR of Mob. No. 8800225142.	PW-2
30	Ex.PW2/B	CAF of Mob. No. 8800225142.	PW-2
31	Ex.PW2/D	Certificate u/s 65-B of Indian Evidence Act of Mob. No. 8800225142.	PW-2
32	Ex.PW2/C	CDR of Mob. No. 8800225142.	PW-2

33	Ex.PW5/A	Letter for supply of certified copies of Duty roster of PS Mundka w.e.f 18.07.2022 to 22.07.2022.	PW-5
34	Ex.PW5/B	Duty Roaster of accused persons.	PW-5
35	Ex.PW6/F	Transcription cum Voice Identification Memo dated 05.09.2022	PW-6
36	Ex.PW6/G (Colly)	Hindi Transcription Q-1 & Q-2 dated 05.09.2022	PW-6
37	Ex.PW9/A (Colly)	Letter dated 07.09.2022	PW-9
38	Ex.PW15/DA	Promotion Order dated 02.06.2022 of accused Satish	PW-15
39	Ex.PW15/DB	Promotion Order dated 21.05.2022 of accused Deepak	PW-15
40	Ex.PW9/B (Colly)	Transcription cum Voice Identification Memo dated 07.09.2022	PW-9
41	Ex.PW10/A	General Diary of PS Mundka reflecting GD No. 0078A	PW-10
42	Ex.PW18/B	Forwarding Letter dated 08.09.2022 Director, CFSL for analysis of exhibits	PW-18
43	Ex.PW18/C	CFSL (CBI) Acknowledgment Receipt dated 12.09.2022 for receipt of 7 parcels	PW-18
44	Mark PW18/D	Forwarding Letter dated 09.09.2022 regarding RC003202240050 registered against accused Satish and Deepak	PW-18
45	Ex.PW4/A	Preventive Action	PW-4
46	Ex.PW4/B	General Diary of PS Mundka bearing GD No. 0102A dated 15.06.2022	PW-4

47	Ex.PW4/C	General Diary of PS Mundka bearing GD No. 0062A dated 15.06.2022	PW-4
48	Ex.PW4/D	General Diary of PS Mundka bearing GD No. 0054A dated 15.06.2022	PW-4
49	Ex.PW6/H	Transcription cum Voice Identification Memo dated 19.12.2022	PW-6
50	Ex.PW6/I	Hindi Transcription of Q-3 dated 19.12.2022	PW-6
51	Ex.PW10/B (Colly)	Preventive Action	PW-10
52	Ex.PW12/A	CFSL Report	PW-12
53	Mark PW18/E	Forwarding letter dated 28.02.2023 to CFSL for analysis of exhibits	PW-18
54	Ex.PW18/D	Case Registration and Acknowledgment Receipt	PW-18
55	Ex.PW19/D	Voice Examination Report	PW-19
56	Ex.PW12/B	CFSL Report dated 14.06.2023	PW-12
57	Ex.PW15/DA	Copy of letter regarding RC00322022A0050 registered against accused Satish and Deepak	PW-15
58	Ex.PW15/DB	Copy of Sanction Order of accused Deepak	PW-15
59	Ex.PW15/DC	Sanction Order of accused Satish Kumar	PW-15
60	Ex.PW19/A	Forwarding letter dated 18.09.2022 to CFSL	PW-19
61	Ex.PW19/B	Forwarding letter dated 28.02.2023 to CFSL	PW-19
62	Ex.PW19/C	CFSL Acknowledgment Receipt dated 12.09.2022	PW-19

63	Mark PW-19/DX	Photocopy of Syllabus for Certificate Course in Forensic Science, Dept. of Anthropology, University of Delhi	PW-19
64	Ex.PW19/SS-1	Screenshot of file SoundOrganizer_V2002.exe	PW-19
65	Ex.PW19/SS-2	Screenshot of file SoundOrganizer_V2002.exe	PW-19

**Chart for Material Objects/*Muddamals***

<b>Material Object No.</b>	<b>Description of the Exhibits</b>	<b>Exhibit No.</b>	<b>Proved by/Attested by</b>
1	Memory Card of make Simmtronics (Q-1)	Ex.PW6/P2	PW-6, PW19
2	Memory Card of make Simmtronics (Q-2)	Ex.PW6/P3	PW-6, PW19
3	Memory Card of make Simmtronics (S-3)	Ex.PW6/P5 (Colly)	PW-6, PW19
4	Right Hand Wash (RHW) of accused Deepak	Ex.PW7/P1	PW-7
5	Left Hand Wash (LHW) of accused Deepak	Ex.PW7/P2	PW-7
6	Right Side Front Pant Pocket Wash (RSFPPW) of accused Deepak	Ex.PW7/P3	PW-7
7	Pant of accused Deepak	Ex.PW7/P6	PW-7
8	Memory Card of make Simmtronics (S-1)	Ex.PW8/P-2	PW-8, PW19
9	Memory Card of make Simmtronics (S-2)	Ex.PW8/P-4	PW-8, PW19
10	DVR make SONY (DVR-2)	Ex.PW8/P-5 (Colly)	PW-8, PW19
11	Paper packing & plastic cover alongwith memory card (Q-3)	Ex.PW12/P-6	PW-12, PW19
12	CD	Ex.PW12/P-8	PW-12
13	CD (Q-3) (I)	Ex.PW12/P-10	PW-12, PW19
14	DVR (DVR-I)	Ex.PW13/P-2	PW-13, PW19

### Chart for Witnesses Examined

Prosecution Witness No.	Name of Witness	Description
1	Sh. Praveen Kumar	Alternate Nodal Officer, Reliance Jio, Infocomm Ltd. (handed over documents pertaining to CDR, CAF, Cell ID Chart, Certificate u/s 65 B of IE Act)
2	Sh. Rajiv Vashisht	Nodal Officer, Bharti Airtel Ltd. (handed over documents pertaining to CDR, CAF, Cell ID Chart, Certificate u/s 65 B of IE Act)
3	HC Kuldeep	Head Constable, PS Mundka
4	Sh. Jagbir Singh	Signature Identification
5	Sh. Thakur Das	Signature Identification on duty roaster
6	Sh. Tarsem	Complainant
7	Sh. Ramdarash Singh Kushwaha	Independent Witness (Eye Witness)
8	Sh. Pushpendra Khatana	Independent Witness
9	Sh. Gulshan Nagpal	Signature and Voice Identification
10	ASI Subhash Chand	Filed Kalandra against PW-6 Tarsem
11	Ms. Deepti Bhargava	Conducted Laboratory examination and expert opinion of three sealed glass bottles i.e. RHW, LHW & RSFPPW
12	Dr. Subrat Kumar Choudhury	Conducted Forensic examination of memory card
13	Sh. C.M.S. Negi	Verification Officer
14	Sh. Mohit Bhardwaj	Miscellaneous Witness
15	Sh. Harendra Kumar	Accorded Prosecution Sanction against both the

	Singh	accused persons (for identifying his signatures on Sanction Orders)
16	Sh. Ravinder Kumar Bharti	Trap Laying Officer
17	Sh. Rafiq Mashi	Witness to Voice Identification Proceedings
18	Sh. Satish Kumar Bana	Investigating Officer
19	Sh. Deepak Kumar Tanwar	Deputy Director & Scientist D, CFSL
20	Sh. Deepak Singh	Ex-Employee of complainant

**(Hasan Anzar)**  
Special Judge (PC Act) CBI-03,  
RADC, New Delhi/16.05.2026