IN THE COURT OF I ADDITIONAL SPECIAL JUDGE FOR CBI CASES, HYDERABAD

Friday, the 30th day of December, 2022.

Present : **Dr.Ch.V.R.R.Varaprasad,**
I Additional Special Judge for CBI Cases,
Hyderabad.

C.C.No.6 of 2016

Between :

State represented by
Inspector of Police,
Central Bureau of Investigation,
Anti Corruption Branch, Hyderabad. ...Complainant

And

Kevulothu Lokesh, S/o.K.Balya,
Age : 46 Years, Occ : Postal Inspector,
RMSZ Division, Hyderabad. R/o.
H.No.15-1/43, Sai Srinivas Nagar,
Dammaiguda, Hyderabad – 500083. ...Accused

This case is coming before me for hearing and disposal in the presence of Sri.D.Gopinath, Public Prosecutor for CBI/Complainant, and Sri.G.V.Shobhanadri, Advocate for accused and after hearing the arguments and perusing the material on record and after the matter having stood over for consideration till this day, today, this Court delivered the following:

J U D G M E N T

1. This case arises out of RC.19(A)/2015-CBI/HYD registered against sole accused, who was working as Inspector of Posts, Bhainsa Sub-Division, Adilabad District at the relevant time, for offence under Section 7 of the Prevention of Corruption Act, for short `the Act', on the

basis of report dated 27.09.2015(Ex.P3) lodged by A.Sanjeev Kumar, Grameen Dak Sevak Mail Carrier (GDS-MC), Puspur Sub-Post Office.

2. Pursuant to registration of FIR by V.Sekhar Dora Babu, Inspector of Police, CBI, ACB, Hyderabad(PW18), B.Satish Prabhu, the then Inspector of Police, CBI, Hyderabad(PW17) laid trap along with V.Srinivasa Rao and D.Sridhar, Inspectors of Police, CBI, Hyderabad and two mediators namely, B.Naresh Chandra, former Assistant Manager, State Bank of Hyderabad, Pragathi Bhavan Branch, Nizamabad(PW2) and Amarawaj Prathap, former Manager, State Bank of Hyderabad, Subash Nagar Branch, Nizamabad(PW3). PW18 conducted investigation and filed charge sheet against accused for offences under Sections 7 and 13(2) r/w 13(1)(d) of the Act.

3. In response to the Notification dated 26.03.2015(Ex.P15) issued by accused in the capacity of Sub-Divisional Inspector(Postal), Bhainsa Sub-Division, Bhainsa, PW1 applied for the post of GDS-MC, Puspur. PW1 was selected on 25.05.2015 for the post of GDS-MC, Puspur by the Selection Committee, in which accused was also one of the members. The said post was reserved for OBC, PW1 being OBC candidate. Selection proceedings dated 25.05.2015(Ex.P7) were issued by V.Venkateswarlu, Sub-Divisional Inspector of Posts, Bellampalli Sub Division and accused. Provisional Order dated 21.08.2015(Ex.P1) was issued by accused provisionally appointing PW1 as GDS-MC, Puspur.

4. Before issuing Ex.P1 Provisional Order accused alleged to have visited the house of PW1 in Soan village, Nirmal Mandal, Adilabad District and alleged to have demanded bribe of Rs.50,000/- to issue Provisional Order in favour of PW1. When PW1 expressed his inability because of financial incapacity accused alleged to have reduced bribe amount to Rs.25,000/- and asked PW1 to pay the same in installments. On 23.08.2015 accused again alleged to have visited the house of PW1 and reiterated the demand of bribe of Rs.25,000/- to hand over Provisional Order, to which PW1 again expressed his inability to pay the said amount. Accused alleged to have informed PW1 that he would issue Provisional Order but he would not allow him to sign in Attendance Register unless PW1 pays the bribe amount and on the request of PW1 accused handed over Provisional Order as in Ex.P1 enabling PW1 to join duty. Accordingly, PW1 joined duty on 01.09.2015 at Puspur Branch Post Office and started working under Redla Balaji, GDS Branch Post Master (PW7). While so, several times PW1 requested accused to open Attendance charge sheet but accused refused to do so unless bribe amount is paid. On 26.09.2015 accused alleged to have demanded PW1 over phone to pay Rs.10,000/- as bribe towards first installment at his house in Nizamabad by 27.09.2015, failing which PW1 would not get his salary and also instructed PW1 to pay the balance amount a month later. Accused also alleged to have informed PW1 that if the latter does not pay the bribe amount Provisional Order would be cancelled and accused would not allow PW1 to work. Being unwilling to pay bribe amount to

accused PW1 reported the matter to CBI. These are the brief allegations made against accused in Ex.P3 report.

5. On 27.09.2015 at 10.15 AM in Room No.2, Officers Rest House, Railway Station, Nizamabad, PW17 (TLO) secured the presence of PW2 and PW3, contents of Ex.P3 report were perused by PW2 and PW3 and the factum of registration of FIR was informed by PW17 to PW2 and PW3. The facts leading to lodging Ex.P3 report were narrated by PW1 before PW2 and PW3. PW1 also informed PW2 and PW3 that he was asked to bring 6 sets of ACG-61 Forms (charge reports) signed by Branch Post Master(PW7) and accordingly PW1 produced them for perusal before the trap team members and witnesses. PW1 also produced 20 currency notes with denomination of Rs.500/-, total amount being Rs.10,000/-. Significance of phenolphthalein test was explained and demonstrated before PW2 and PW3. Phenolphthalein powder was applied to currency notes of Rs.10,000/- and they were kept in the left side shirt pocket of PW1 and he was instructed not to touch them unless and until demanded by accused. PW17 directed PW1 and PW2 to leave for the house of accused and they were asked to give pre-arranged signal by wiping their faces with hand kerchief, if accused demands and accepts bribe amount. PW1 and PW2 proceeded to the house of accused situated at Ganga Sthan, Phase-II, Road No.5, Nizamabad on two wheeler of PW2. While PW17 and other trap team members followed them separately on four wheeler. These are the brief details reflected in first mediators report (Ex.P5).

6. On reaching the house of accused PW1 introduced PW2 to accused as his uncle. On demand of accused PW1 handed over Rs.10,000/- to accused along with unfilled 6 ACG-61 forms (charge reports)(Ex.P2) to accused and they were received by accused with his right hand from PW1 and kept them on computer table in children's bed room. PW1 alleged to have signed on Ex.P2 charge report forms at the place of `Relieving Officer' on both sides and handed over to accused. Accused alleged to have wrapped bribe amount of Rs.10,000/- in Ex.P2 and kept it on the computer table. Soon after accused accepted bribe amount PW1 and PW2 came out of the house of accused and gave pre-arranged signal, on which PW17 and his team members and PW3 went into the house of accused. Right hand wash of accused and cotton swab taken on the charge report forms were subjected to phenolphthalein test, which turned to be positive. Right hand wash of accused(MO1), Cotton swab wash of Ex.P2(MO2) and tainted currency notes of Rs.10,000/- with denomination of Rs.500/- x 20/- (MO3) were seized under the cover of Ex.P6 second mediators report. On the direction of PW17, search was conducted by V.Srinivasa Rao, Inspector of CBI, Hyderabad (not examined) and seized one bunch of papers relating to appointment of PW1 as GDS-MC, one bunch of papers relating to purchase of Hero Scooty, A.C. Bill, etc., and Swamy's personal record pertaining to accused under the cover of search list (Ex.P8) besides preparing Inventory list. Rough sketch of scene of offence (Ex.P9) was prepared by PW17 at the spot. Hence, it is the case of prosecution that accused, who was working as Inspector of Posts in Bhainsa Sub-Division, Bhainsa, on

27.09.2015 demanded and accepted bribe of Rs.10,000/- from PW1 for having issued Provisional Order as in Ex.P1 and for opening Attendance charge sheet of PW1, and, therefore, accused is liable for punishment for offences under Sections 7 and 13(2) r/w 13(1)(d) of the Act.

7. On 02.04.2016 Principal Special Judge for CBI Cases, Hyderabad had taken cognizance of offences under Sections 7 and 13(2) r/w 13(1)(d) of the Act and made over the case to this court for disposal.

8. After receipt of summons accused made his appearance. Accused was furnished with copies of relevant documents as required under Section 207 of Cr.P.C.

9. On hearing both sides, charges under Sections 7 and 13(2) r/w 13(1)(d) of the Act were framed against accused, read over and explained to him. He pleaded not guilty and claimed to be tried.

10. Prosecution has examined PWs.1 to 19 and got marked Exs.P1 to P34 and MOs.1 to 3 on behalf of prosecution, the details of which are mentioned at the Appendix of Evidence.

11. Accused was examined under Section 313 of Cr.P.C. and the incriminating evidence was put forth to him. Accused admitted Question Nos.2, 27 to 30, 32 to 34, 36 and 39 as totally true and correct. Question Nos.31, 35, 38, 40 and 82 were admitted by accused to be partially true and correct. The plea of accused with regard to the offences proper is a total denial. During his examination under Section 313 of Cr.P.C. accused stated that

he never demanded any bribe from anybody; a false case is filed against him; he is innocent; after paying security deposit to Government and after undergoing training with Mail Overseer only PW1 has to join duty, but without doing so and without the knowledge of anybody by colluding with PW7, PW1 joined duty illegally; on coming to know about the said illegality accused informed PW1 and PW7 that he would take action against them, besides giving complaint to higher officials; and that developing grudge against accused PW1 gave false report to CBI against accused.

12. No oral evidence was adduced by accused. However, Exs.D1 to D5 were marked on behalf of accused. Ex.D1, and Exs.D3 to D5 are the relevant marked portions in the statements of PW3 and PW15 respectively recorded under Section 161(3) of Cr.P.C by PW18. Ex.D2 is the relevant endorsement in Ex.P20 at Page No.31 in respect of month of August,2015.

13. Heard Sri.D.Gopinath, learned Public Prosecutor representing CBI and Sri.G.V.Shobhanadri, learned counsel for accused. Learned counsel for accused has filed citations along with Memos while prosecution has filed documents relating to deputation of PW18 to CBI as Inspector of Police, which are perused by court.

14. The point that arises for determination is :

Whether prosecution has brought home guilt of accused beyond all reasonable doubt for offences under Sections 7 and 13(2) r/w 13(1)(d) of the Act?

Point **:**

Brief summary of role of prosecution witnesses (PWs.1 to 19):

15. PW1, who is working as GDS-MC in Puspur Branch Post Office, is the defacto complainant who set criminal law in motion by lodging report(Ex.P3) before CBI. From PW1 accused alleged to have demanded and accepted bribe. PW2 and PW3, who were officers of State Bank of Hyderabad in Nizamabad, are the mediators to the trap. PW4, who was working as Superintendent of Post Offices, Adilabad Division, deposed about notification issued for the post of GDS-MC at Puspur and selection process. PW5, who worked as Superintendent of Post Offices, Adilabad Division, was the predecessor of PW4. PW5 also deposed to the same effect as was deposed by PW4. PW6, who worked as Post Master in Head Post Office, Adilabad besides being the Drawing and Disbursing Officer, deposed about drawal of salary of PW1 with effect from 01.09.2015, on which date PW1 joined as GDS-MC in Puspur Branch Post Office.

16. PW7, who worked as Branch Post Master in Puspur at the relevant time, deposed about PW1 joining duty as GDS-MC in Puspur, his signining on charge reports(Ex.P2) and Register of Accounts(Ex.P20). PW8, the then Inspector of Posts, Nirmal Sub Division, who was placed in Full Additional Charge of the post of Inspector of Posts, Bhainsa Sub Division after accused was placed under suspension, deposed about clearing charge reports of GDS-MCs, including that of PW1, and sending them to Superintendent of Post Offices, Adilabad Division. PW9, the then Branch Post Master, Dehgaon of Nirmal District, and PW10, the

then Branch Post Master of Kamol, Bhainsa Mandal, Nirmal District deposed about the duties discharged by PW1 as GDC-MC in Puspur Branch Post Office.

17. PW11 to PW15, who were selected as GDS-MCs and joined in different places of Adilabad Division, deposed about accused demanding bribe from them. PW19, Assistant Director. Central Forensic Science Laboratory, Hyderabad, deposed about examination of right hand wash of accused(MO1) and swab wash of Ex.P2(MO2) and issuance of report (Ex.P33) stating that phenolphthalein, sodium and carbonate ions were detected in MO1 and MO2. PW16, the then Director of Postal Services in the office of Post Master General, Hyderabad Region, Hyderabad, issued sanction of prosecution(Ex.P25) against accused and also issued suspension order (Ex.P26) placing the accused under suspension. PW17, the then Inspector of Police, CBI, Hyderabad, is the Trap Laying Officer (TLO). PW18, who is the Inspector of Police, CBI, Hyderabad, registered FIR, conducted investigation and filed charge sheet.

Admitted facts:

18. Accused was working as Inspector of Posts in Bhainsa Sub-Division, Bhainsa at the relevant time. Puspur Branch Post office falls under the jurisdiction of accused. Under Ex.P11 Circular dated 08.07.2003 issued by Assistant Postmaster General (S&V), Office of the Chief Postmaster General, A.P.Circle, Hyderabad contained instructions regarding the procedure to be adopted for the appointment in the cadre of GDS BPMs / SPMs and other GDS agents and it was communicated to the Postmaster

General of Hyderabad, Vijayawada, Visakhapatnam and Kurnool Regions and others. Under Ex.P12 dated 25.03.2015 the Assistant Director(Estt.), Office of the Chief Postmaster-General, Hyderabad gave permission to fill up the post of GDS-MC, Puspur apart from other posts in various Branch Post Offices of Adilabad Division. Pursuant to Ex.P12 Superintendent of Post Offices, Adilabad Division issued letter dated 26.03.2015(Ex.P13) to the Inspector of Posts, Bhainsa Sub-Division(Accused) informing about the permission granted by Regional Office to fill up the post of GDS-MC, Puspur Branch Office, to verify the record and issue Notification on or before 27.03.2015 and complete the entire process of selection within 60 days from the date of Notification and intimate the particulars of selected/engaged candidates to the said office without fail. Accordingly, Notification dated 26.03.2015(Ex.P15) was issued by accused calling for the applications in prescribed proforma from eligible candidates to the post of GDS-MC, Puspur. Corrigendum dated 24.04.2015(Ex.P16) was issued by accused extending the time till 09.05.2015, besides changing the selection date from 13.05.2015 to 25.05.2015. By letter dated 28.04.2015(Ex.P14) Superintendent of Posts, Adilabad Division identified one P.Vara Prasad, ASP(R), Adilabad for Bhainsa Sub-Division as a member of Selection Committee. Mail dated 14.05.2015(Ex.P19) was sent to accused and others by the Superintendent of Post Offices, Adilabad Division nominating accused and one V.Venkateshwarlu, Inspector of Posts, Bellampalli in the Selection Committee for the posts of GDS-MC. The Selection Committee, in which accused was one of the members, selected accused as GDS-MC, Puspur and accused issued Provisional Order dated 21.08.2015 (Ex.P1/Ex.P27/Ex.P29) in favour of PW1. These facts are not in dispute. They are also evident from the evidence of PW1, PW4, PW5, PW7, PW17, PW18 and Exs.P1, P7, P11 to P20, P27 and P34 coupled with the answers given by accused in his examination under Section 313 Cr.P.C in reply to Q.Nos.2, 27 to 36, 39 and 40.

Appreciation of evidence:

19. PW1 is a material witness in this case, at whose instance trap was laid against accused. PW2, PW3 and PW17 are also the material witnesses. Ex.P3 is the original report dt. 27.09.2015 of PW1, which is the genesis to lay trap, on the basis of which FIR came to be registered against accused by CBI. Ex.P4 is the fax copy of report of PW1 containing the endorsement of DIG, CBI, Hyderabad directing PW18 to register FIR and PW17 to lay trap and proceed legally. Exs.P4 and P28 and the evidence of PW17 and PW18 disclose that soon after receipt of Ex.P3 report from PW1, PW17 faxed the same to DIG, CBI, Hyderabad and on his endorsement PW18 registered FIR and PW17 proceeded to lay trap.

20. The sum and substance of Ex.P3 is that before issuing Ex.P1 Provisional Order accused went to the house of PW1 in Soan Village and demanded bribe of Rs.50,000/- to issue Provisional Order to enable PW1 to join as GDS-MC at Puspur Post Office Branch; when PW1 expressed his incapacity to pay such huge amount accused reduced the bribe amount to Rs.25,000/- and asked PW1 to pay the same in installments; on

23.08.2015 accused again went to the house of PW1 and reiterated the demand of bribe of Rs.25,000/-, at which time also PW1 expressed his inability; accused stated that he would issue Provisional Order but he would not allow PW1 to sign Attendance Register unless he fulfills the demand of bribe and on the request of PW1 accused handed over Ex.P1 Provisional Order to PW1; on 01.09.2015 PW1 joined as GDS-MC in Puspur and working under PW7; many times PW1 requested accused to open Attendance Charge Sheet but accused reiterated the demand of bribe; and that finally on 26.09.2015 accused over phone demanded PW1 to pay Rs.10,000/- as first installment at his house in Nizamabad by 27.09.2015, failing which PW1 would not get his salary and instructed PW1 to pay balance amount a month later. It is also mentioned in Ex.P3 that accused wanted to cancel Ex.P1 Provisional Order and would not allow him to work unless PW1 pays the bribe amount. The contents of Ex.P3 are admitted by PW1 to be true and correct. There are clear recitals in Ex.P3 about repeated demands of bribe made by accused to PW1.

21. As rightly contended by learned counsel for accused, no date is mentioned in Ex.P3 about the demand of bribe made by accused for the first time, but according to the contents of Ex.P3 it was prior to the issuance of Ex.P1 Provisional Order, which is dated 21.08.2015. With regard to other subsequent demands, there are specific dates namely, 23.08.2015 and 26.09.2015 mentioned in Ex.P3. First demand of bribe by accused to PW1 can be taken as prior to 21.08.2015. Non mentioning of specific date as to when accused first demanded bribe in

Ex.P3 cannot be the ground to dis-believe the case of prosecution. One cannot deny that sometimes it will be difficult to remember the dates to be mentioned in report. As already stated, the factum of selection of PW1 as GDS-MC in Puspur Branch Post Office is an admitted one. Contents of Ex.P3 shows that on multiple occasions accused demanded bribe from PW1 to issue Provisional Order (Ex.P1) and when PW1 expressed his financial incapacity accused handed over Ex.P1 Provisional Order with a condition to pay bribe amount of Rs.25,000/- in installments and when PW1 did not pay bribe amount even after he joined as GDS-MC in Puspur accused intensified the demand of bribe and went to the extent of stating that he would cancel Ex.P1 Provisional Order if PW1 fails to pay bribe.

22. PW1 deposed about his selection as GDS-MC, Puspur. PW1 deposed that accused demanded Rs.50,000/- from his father; his father declined to pay Rs.50,000/- because of financial incapacity and agreed to pay Rs.25,000/-; accused informed father of PW1 that at any cost Rs.25,000/- has to be paid, failing which Provisional Order will not be given; on 23.08.2015 accused visited the house of PW1 with Provisional Order (Ex.P1) and demanded amount from PW1 and his father, who requested accused to give Provisional Order and in turn accused gave the Provisional Order by stating that at any cost amount has to be paid. PW1 also deposed that accused advised PW1 to join duty on 01.09.2015 while handing over Ex.P1 Provisional Order and that on 26.09.2015 PW1 received phone call from accused stating that he was required to pay first installment of Rs.10,000/- and instructed him to come to his house

on 27.09.2015 afternoon, besides instructing him to bring charge reports.

23. Learned counsel for accused contended that there is no corroboration between the evidence of PW1 and contents of Ex.P3, particularly with regard to alleged demand of bribe by accused and, therefore, the entire evidence of PW1 has to be disbelieved. On the other hand, learned Public Prosecutor contended that the evidence of PW1 is in consonance with the contents of Ex.P3 and there are no material contradictions and omissions in the evidence of PW1 and the court can safely rely on the evidence of PW1.

24. Non mentioning of date of interview (25.05.2015), passing of speaking order by accused on 25.05.2015 and display of selection of PW1 as GDS-MC on the notice board in Ex.P3 are not fatal to the case of prosecution because they are the admitted facts. Certain contents in Ex.P3 regarding visits of accused to the house of PW1 and demanding bribe have been reiterated by PW1 in his cross examination. Merely because PW1 did not lodge complaint against accused when he visited the house of PW1 for the first time and demanded bribe of Rs.50,000/- for issuing Provisional Order is not fatal to the case of prosecution. Since there are multiple demands of bribe by accused PW1 chose to approach CBI. One cannot deny that there would be some tolerance level restraining to immediately lodge complaint when demand of bribe is made, but when the demand of bribe is repeated multiple times one will have no alternative except to redress his grievance through law

enforcing agency like CBI. In this background, PW1 cannot be found fault for his silence to lodge complaint against accused when he first demanded bribe.

25. PW1 admitted in cross examination that he had not mentioned his address and phone number and the address and phone number of accused and PW1 in Ex.P3. PW1 also admitted that he had not mentioned in Ex.P3 as to from which phone number he received call from accused. PW1 deposed that he has neither mentioned in Ex.P3 nor stated before PW18 the date and time of receiving phone call from accused. However, in Ex.P3 the date of phone call is mentioned as 26.09.2015 though the time is not mentioned. Failure of PW1 to inform PW7 about his receiving phone call on 26.09.2015 is not fatal to the case of prosecution. PW1 has also not mentioned in Ex.P3 that accused has taken his original certificates and thereafter came to the house of PW1 in the month of June, 2015 and enquired about financial status. These aspects are not material to the case of prosecution and they relate to peripheral matters.

26. PW18 deposed in cross examination that PW1 has neither mentioned in Ex.P3 nor stated before him that accused has taken his original certificates and thereafter he came to his house in the month of June, 2015 and enquired about their financial status; accused has informed his father that in these days securing a government job is difficult and PW1 was successful in getting the government job and as a token of gratitude accused has demanded an amount of Rs.50,000/-

from his father; father of PW1 declined to pay Rs.50,000/- to accused on the premise that he has no financial capacity to pay such huge amount and agreed to pay an amount of Rs.25,000/- to accused; accused has informed his father that at any cost Rs.25,000/- has to be paid to him failing which provisional order will not be given to him; on 23.08.2015 accused came to his house with provisional order and demanded amount from him (PW1) and from his father; and that PW1 and his father requested the accused to give the provisional order, in turn accused stated that at present he is giving the provisional order and money has to be paid to him at any cost. Initially, PW18 stated that these aspects are reflected in Ex.P3 and the previous statement of PW1. However, when PW1 was questioned sentence after sentence they were admitted by PW18.

27. It is contended by learned counsel for accused that for the first time in evidence PW1 introduced his father, before whom accused alleged to have made demand of bribe, on which ground alone the entire case of prosecution has to be disbelieved, particularly as PW1 came out with false version. There is no mention either in Ex.P3 or in previous statement of PW1 that accused made demand of bribe in the presence of father of PW1. In Ex.P3 and previous statement of PW1 he has stated that on three occasions accused demanded bribe from PW1 only i.e., two times accused physically visited the house of PW1 and on one occasion over phone on 26.09.2015. According to the evidence of PW1, for the first time in June, 2005 accused demanded bribe of Rs.50,000/- from his

father, who expressed his incapacity to pay such huge amount and agreed to pay Rs.25,000/-. Evidence of PW1 shows that on 23.08.2015 by personally visiting the house of PW1 accused demanded Rs.25,000/- from PW1 and his father and that on 26.09.2015 on phone accused demanded PW1 to pay first installment of Rs.10,000/- at the house of accused on 27.09.2015 in Nizamabad. Even if the first demand of accused is totally eschewed from consideration, there is no discrepancy or contradiction between the contents of Ex.P3, previous statement of PW1 and the evidence of PW1 in respect of demand of bribe by accused from PW1 on 23.08.2015 and 26.09.2015 which makes out a case of demand of bribe by accused from PW1 on two occasions.

28. No true witness can escape from the malady of making discrepant statements here and there. PW1 is not an exception in that regard. On the other hand, an untrue witness would see that his evidence is full proof being devoid of omissions and contradictions. The above discrepancies in the evidence of PW1 are minor in nature and they cannot be taken to dub PW1 as an untrue witness. There is no enimity or ill-will between accused and PW1. There will be no reason for PW1 to depose false against accused. There will be no reason for PW1 to lodge false report as in Ex.P3 before CBI. It is an admitted fact that accused is appointing authority for the post of GDS-MC, Puspur, for which post PW1 was selected as he obtained highest marks in SSC.

29. Learned counsel for accused contended that if really the case of prosecution regarding demand of bribe is true and correct, accused

ought not to have issued Ex.P1 provisional order. Contents of Ex.P3 and the evidence of PW1 explain in so many terms as to how and under what circumstances accused handed over Ex.P1 provisional order to PW1 during his second visit to the house of PW1 on 23.08.2015. When PW1 expressed his inability to pay Rs.50,000/- accused brought down the amount to Rs.25,000/- and later he has given concession to PW1 to pay the same in installments. There is no hard and fast rule that accused should not hand over Ex.P1 provisional order to PW1 unless the demanded bribe amount is paid. Admittedly, accused was the controlling authority of PW1 at the relevant time. Since there was confidence in the mind of accused that PW1 would at any cost pay bribe amount of Rs.25,000/- or it can be obtained easily from PW1 as accused was his controlling authority accused had handed over Ex.P1 to PW1 before paying bribe amount. More over, act of accused handing over Ex.P1 to PW1 and demanding bribe amounts to reward which also constitutes the offences in question.

30. Learned counsel for accused contended that without complying the conditions of furnishing security in the shape of National Savings Certificate(NSC) worth Rs.10,000/- and without staying in Puspur as required by Rule 3A of Gramin Dak Sevaks(Conduct and Engagement) Rules, 2011 for short`the Rules', PW1 alleged to have joined duty in collusion with PW7, who was the then Branch Post Master at Puspur and when accused wanted to take action against them PW1 came forward with false report as in Ex.P3 and PW17 without verifying the genuineness

of contents of Ex.P1 proceeded to create a make believe trap. On the other hand, learned Public Prosecutor contended that the above Rules have not been violated by PW1.

31. It is mentioned in Ex.P3 that PW1 joined as GDS-MC Puspur on 01.09.2015. PW1 deposed that while handing over Ex.P1 Provisional Order accused advised him to join duty on 01.09.2015. The factum of joining duty as GDS-MC, Puspur by PW1 on 01.09.2015 is mentioned in Ex.P3. PW6 had drawn the salary of PW1 with effect from 01.09.2015. PW7 categorically deposed about PW1 joining duty as GDS-MC, Puspur on 01.09.2015. PW8 deposed about sending charge reports of PW1. PW9 and PW10 also deposed about discharge of duties by PW1 as GDS-MC in Puspur Branch Post Office.

32. PW1 deposed that he has not mentioned in Ex.P3 that he was discharging duties for 26 days by the date of lodging Ex.P3. From the date of joining of PW1 (01.09.2015) the period of 26 days can be counted by anyone and, therefore, failure of PW1 to mention the same in Ex.P3 is not fatal to the case of prosecution. All minute details need not be mentioned in FIR because FIR is not an encyclopedia to contain all the minute details. It is sufficient to mention the brief details of an incident in Ex.P3. All the required details find place in Ex.P3. Moreover, PW1 can explain the basic statements reflected in Ex.P3 during the course of evidence. Such explanation to the basic statements in Ex.P3 will not amount to omission or contradiction.

33. Learned counsel for accused contended that since there are varying versions deposed by PW1 his evidence can not be relied upon. In support of his contention, learned counsel for accused has placed reliance on the decision of the Hon'ble Supreme Court in **Rai Sandeep @ Deepu v. State of NCT of Delhi** reported in **(2012) 8 SCC 21,** wherein it was held that there should not be any prevarication in the version of a witness and the witness should be in a position to withstand the test of cross-examination. Facts of every case differ. Evidence of PW1 is devoid of material contradictions and omissions. He cannot be called as untrue witness. In the above decision, which is a gang rape case, the prosecutrix deposed in court altogether a contrary version and her evidence was full of contradictions, but it is not so in the evidence of PW1. There is a ring of truth in the evidence of PW1. Evidence of PW1 can be safely relied upon by court.

34. PWs.1, 4 and 5 deposed in cross examination that as per the notification there is a condition that the person selected to the post of GDS-MC should furnish the prescribed security either in the shape of National Saving Certificate (NSC) pledging to the Department in favour of the President of India or in the shape of Fidelity Guarantee Bond. PW18 denied the suggestion in this regard but admitted that in Ex.P1 it is mentioned that PW1 is governed by the Rules. Under the caption "Method of Recruitment" in the Service Rules of Postal Dak Sevaks by Swamy at Page No.110, which is filed by the learned counsel for

accused, it is mentioned that on engagement as GDS, the person so engaged shall be required to furnish security in such manner as may be prescribed from time to time. The existing security amount in case of GDS Branch Postmaster and other approved categories of GDS is Rs.25,000/- and Rs.10,000/- respectively. PW1 explained in cross examination that the said condition is optional and if the amount of Rs.650/- is taken under National Savings Certificate (NSC) it is sufficient. Rule 3A(vii) of the Rules requires that residence of GDS-MC in the village concerned is mandatory, failing which disciplinary action would follow under Rule 10 of the Rules.

35. There is no mention in Ex.P1 that before joining duty as GDS-MC, Puspur PW1 was required to comply those two conditions. Even if assuming for a moment for the sake of discussion that the above two conditions are violated by PW1, it is for the appointing authority to take appropriate action against PW1 under the above Rues. Admittedly, at the relevant time accused was the appointing authority of PW1 but no action was taken by accused against PW1 for the alleged violation of those two conditions. At any rate, violation of above two conditions, even if they are true and correct, cannot be the license in the hands of accused to demand bribe from PW1. Act of accused demanding bribe from PW1 and the act of accused taking disciplinary action against PW1 for violation of above two conditions are quite different and distinct and they operate in different fields.

36. Learned counsel for accused also contended that PW1 had not undergone required training after he joined as GDS-MC in Puspur. PW1 admitted that after joining the post of GDS-MC, Puspur he has to undergo training before Saianna (Mail Overseer-LW9-since died) and that no one had given him training. It is the duty of Postal Department to provide necessary training to PW1 soon after he joined duty as GDS-MC. Merely because necessary training was not given to PW1 by the date of trap (27.09.2015) PW1 cannot be found fault. It is not a case where certain complicated duties are involved while discharging duties as GDS-MC by PW1. PW7, PW9 and PW10 deposed about PW1 discharging duties as GDS-MC in Puspur of Bhainsa Sub Division. At any rate, failure of PW1 to undergo training as GDS-MC, Puspur prior to 27.09.2015 cannot be a ground to disbelieve the case of prosecution.

37. Certain suggestions were given by accused to PW1 in cross examination regarding National Savings Certificate (NSC) worth Rs.10,000/-. Though the suggestions put to PW1 in that regard were denied the said suggestions are very important because they disclose the plea of accused. Letter dt.21.08.2015 addressed to B.Saianna stated to have contained recitals that PW1 submitted his willingness to furnish security in the shape of National Savings Certificate worth Rs.10,000/- in connection with his new appointment and requested to grant permission for purchase of National Savings Certificate for security and the said request was also enclosed to letter dt.21.08.2015. These suggestions of accused also show that letter dt.21.08.2015 also contains

recitals that B.Saianna (Mail Overseer) was directed to visit Puspur Branch Post Office on 22.08.2015 for the joining of PW1 as GDS-MC, Puspur on his willingness as well as his request and join him in the vacant GDS-MC post at Puspur Branch Post Office in consultation with PW7 and obtain charge reports duly imparting prescribed training and submit the same for taking further necessary action, and that before joining as GDS-MC by PW1 B.Saianna was required to obtain security deposit of Rs.10,000/- in the shape of National Savings Certificate pledged to the Department in favour of President of India. Letter dt. 21.08.2015 alleged to have been addressed to B.Saianna was neither filed by prosecution nor by accused. In fact, by way of the said suggestions, it is the case of accused that PW1 gave his willingness in writing to provide security by taking National Savings Certificate for Rs.10,000/- and permission was sought, which means that there was no default to fulfill the said condition from the side of PW1. Since PW1 has submitted his willingness letter to furnish National Savings Certificate for Rs.10,000/- he was permitted to join duty as GDS-MC in Puspur on 01.09.2015.

38. Learned counsel for accused contended that neither accused nor any official in Postal Department had knowledge about PW1 joining the post of GDS-MC, Puspur on 01.09.2015. Admittedly, Ex.P1 Provisional Order was issued by accused himself. Even according to the suggestions given to PW1, PW1 had given willingness to furnish National Savings Certificate for Rs.10,000/- as a pre-condition to join the post of GDS-MC,

Puspur. PW7 is the Branch Post Master at Puspur at the relevant time. Accused was the Supervising Officer for PW1 and PW7 at the relevant time. PW7 deposed in cross examination that he had not sent his report to his higher officers namely, Inspector of Post Offices, Superintendent of Post Offices, Adilabad and Post Master of Head Post Office, Adilabad informing them about PW1 joining duty and PW7 handing over charge of GDS-MC to PW1. Ex.P2 consists of charge reports, which were unfilled. PW7 deposed that in August, 2015 he had received a call from accused confirming that PW1 was joining duty as GDS-MC, Puspur and instructed him to sign on charge reports (Ex.P2) and send them through PW1 and accordingly he had signed on Ex.P2 charge reports at the column of Relieved Officer and sent them to accused through PW1. PW7 also deposed that when he had signed on Ex.P2 reports, the column of 'Relieving Officer' was left blank. In view of the categoric evidence of PW7 that accused himself informed PW7 about joining of PW1 as GDS-MC, Puspur, it cannot be stated that accused has no knowledge about it. Since accused was the appointing authority of GDS-MC, Puspur he was required to ensure whether PW1 joined duty as GDS-MC, Puspur or not pursuant to provisional order under Ex.P1. Had it been a case where PW1 did not join duty as GDS-MC, Puspur, accused was required to issue provisional order to the next person in the panel of candidates selected for the said post. As already stated, PW1 stated in so many words that accused handed over Ex.P1 provisional Order to him on condition of paying bribe amount of Rs.25,000/-. All these circumstances compel the

Court to reject the contention of learned counsel for accused that accused had no knowledge of PW1 joining duty as GDS-MC Puspur.

39. PW8 was placed in Full Additional Charge of the post of Inspector of Posts, Bhainsa Sub Division after the accused was placed under suspension. PW8 deposed that after he took charge of the said post he found that charge reports(joining reports) of several GDS-MCs were pending since long and that he had prepared those charge reports and submitted them to the Superintendent of Post Offices, Adilabad. Charge reports of PW1(Ex.P18) were identified by PW8. PW8 also identified the charge reports of Ch.Anvesh Babu(PW12), S.Krishnaveni, K.Srinivas(PW14) and S.Pankaj Kumar (PW15) as in Exs.P21 to P24 respectively. Though PW8 was cross-examined at length nothing could be elicited by defence to dislodge his evidence. PW6, who was the then Drawing and Disbursing Officer, also deposed about Ex.P18 charge reports of PW1, about joining duty of PW1 on 01.09.2015 and drawing of salary of PW1 with effect from 01.09.2015. Merely because underneath the signatures of relieved officer and relieving officer in Ex.P18 charge reports there are no dates court can not disbelieve Ex.P18. The date of joining of PW1 as 01.09.2015 is clearly mentioned in Ex.P18. Unless PW1 complied all the conditions as required by the above Rules Ex.P18 ought not to have been issued and his salary ought not to have been drawn. From this angle also, court can not accept the contention of learned counsel for accused that PW1 illegally joined as GDS-MC in

Puspur and that when accused wanted to take action PW1 lodged false report with CBI.

40. With regard to laying trap, evidence of PW1 is in ‘pari materia’ to the contents of Exs.P5 and P6, which are the First Mediators Report and Second Mediators Report respectively. Under Ex.P5 PW17 had explained the grievance of PW1, as mentioned in Ex.P3, to PW2 and PW3 (mediators); PW17 introduced PW1 to PW2 and PW3; PW1 narrated the events leading to lodge Ex.P3 to PW2 and PW3; PW1 produced Ex.P2 charge reports brought by him duly signed by PW7 at the place of ‘Relieving Officer’, which were to be handed over to accused; about production of bribe amount of Rs.10,000/- by PW1 with denomination of Rs.500/- x 20; demonstration of phenolphthalein test and its significance before PW2 and PW3; keeping tainted currency notes in the left side shirt pocket of PW1; pre-arranged signal to be given by PW1; and other instructions before laying trap. In other words, Ex.P5 contains the details relating to pre-trap proceedings. Evidence of PW1 in respect of Ex.P5 is amply corroborated by the evidence of PW2, PW3 and PW17. There are no material contradictions or discrepancies in the evidence of PW1 to PW3 and PW17 in so far as it relates to Ex.P5.

41. Then comes laying of trap against accused by PW17 and his team. PW1 explained in his evidence the post-trap proceedings as in Ex.P6, to which PW2 and PW3 are the mediators. In Ex.P6 PW1 deposed about himself and PW2 going to the house of accused; PW1 introducing PW2 to accused as his uncle; accused asking PW1 as to whether he brought the

bribe amount, to which he gave affirmative answer; acceptance of bribe amount of Rs.10,000/- by accused from PW1; PW1 giving pre-arranged signal to PW17 and his team; rushing of PW17 and his team along PW3 into the house of accused in Nizamabad; seizure of tainted amount of Rs.10,000/- and Ex.P2 charge reports from the computer table in children's bed room of the house of accused on being pointed out by accused; conducting of phenolphthalein test and right hand wash and cotton swab of Ex.P2 becoming positive; and drafting of Ex.P6 Second Mediators Report at the spot. PW1 identified MO3 as the tainted currency notes of Rs.10,000/-, MO1 being the right hand wash of accused and MO2 being the cotton swab wash taken from Ex.P2 charge Reports. Evidence of PW1 in this regard is amply corroborated to the contents of Ex.P6.

42. PW2 was all along present with PW1 from the inception during the course of trap till the completion of entire process under Ex.P6. PW2 accompanied PW1 to the house of accused as instructed by PW17. In order to see that accused did not raise suspicion, PW1 introduced PW2 to accused as his uncle. The acts of demand and acceptance of bribe by accused were directly witnessed by PW2. It is true that PW3 and PW17 rushed to the house of accused only after PW1 delivering pre-arranged signal, thereby naturally they had no knowledge of the events took place in respect of demand and acceptance of bribe by accused from PW1. Evidence of PW3 and PW17 is relevant to the extent of seizure of bribe amount of Rs.10,000/- along with Ex.P2 charge reports from the

computer table in children's bed room of house of accused, on being pointed out by him and the phenolphthalein test being positive for right hand wash and swab wash of Ex.P2.

43. Though there are certain minor discrepancies in the evidence of PWs.1 to 3 and 17 in respect of Ex.P6 they are not material to reject their evidence. When a witness is examined in chief and cross examined at length, that too after long lapse of time, naturally there will be some discrepant statements here and there. Every discrepant statement is not capable of dislodging the evidence of a witness. Court has carefully perused the evidence of PWs. 1 to 3 and PW17 and the contents of Ex.P6 and found that their evidence is free from any major discrepancies and improvements. PWs.2 and 3 are independent witnesses who were working in State Bank of Hyderabad, Nizamabad at the relevant time. There is no material before the court to establish that PWs.2 and 3 are the stock witness of CBI. Merely because PWs.2 and 3, who were working in State Bank of Hyderabad, Niazamabad at the relevant time, fall under the jurisdiction of CBI, their evidence cannot be rejected. It is nowhere elicited that PWs.2 and 3 were set up by CBI for the purpose of this case. PW17 is an independent police officer of CBI who conducted trap. There will be no reason for PW17 to create a make believe trap. For these reasons, court can safely rely on the evidence of PWs.1 to 3 and PW17, who are the material witnesses in this case.

44. Learned counsel for accused contended that no photographs or video were taken in the house of accused when trap was laid. There is no necessity to take photographs and video in every trap case. One cannot deny that if the photos and video are taken at the time of laying trap, the trap will not become successful unless some secret recording is done through CC camera. No electronic evidence is required in every case. What PWs.1 to 3 and PW17 deposed in court is the substantive piece of evidence which can be relied upon by court.

45. Learned counsel for accused contended that according to the case of prosecution, accused wrapped MO3 currency notes in Ex.P2 charge reports, and if the said version is to be believed, accused could have wrapped MO3 in Ex.P2 with his both hands, in which case his right hand and left hand could have come in contact with MO3 tainted currency notes but in the present case left hand wash of accused became negative, which is sufficient to falsify the entire case of prosecution. Learned Public Prosecutor vehemently contended that merely because left hand wash of accused became negative for phenolphthalein test case of the prosecution cannot be disbelieved.

46. The meaning of ‘wrap’, as per Concise Oxford English Dictionary, Twelfth Edition of 2011 at Page No.1665, is to cover or enclose in paper or soft material or arrange (paper or soft material) round something, as a covering or for warmth or protection or place around so as to encircle. The case of prosecution is that accused wrapped Rs.10,000/- (MO3) with denomination of Rs.500/- x 20 in six charge reports (Ex.P2) containing

the signatures of PW7 and kept them on computer table in children's bedroom. PW7 signed on them and handed over to PW1, PW1 signed on them in the presence of accused and handed over them to accused.

47. Phenolphthalein powder was applied to 20 currency notes of Rs.500/- each (MO3) but not to charge reports (Ex.P2). When the tainted currency notes are wrapped in Ex.P2 charge reports there is every possibility of one hand coming in contact with outer surface of charge reports. When left hand of accused comes in contact with outer surface of charge reports, during the process of wrappig, naturally the result of phenolphthalein test would become negative. It is the specific case of PWs.1 and 2 that accused received tainted currency with his right hand, which means that immediately after receiving the tainted currency notes with his right hand, the traces of phenolphthalein powder would be left on his right hand and naturally the sodium carbonate test of right hand wash of accused became positive, which is evident from the evidence of PW19 and Ex.P33. From this angle, court cannot reject the case of prosecution that since the left hand wash of accused became negative, the entire case of prosecution has to be rejected. Whether accused wrapped the tainted currency notes or not, the fact remains that he had demanded and accepted the bribe amount of Rs.10,000/-, received the same and kept it on his computer table in children's bed room and it was recovered on being pointed out by accused.

48. A suggestion was put by accused to PW1 in cross examination that MO3 was planted for the purpose of this case along with Ex.P2 by wrapping amount in Ex.P2 without the knowledge of accused. By this suggestion accused is introducing a defence that he had received Ex.P2 charge reports without having knowledge that tainted currency notes were kept in Ex.P2 charge reports. The said suggestion was denied by PW1. This defence of accused also supports the case of prosecution that accused received MO3 currency notes along with Ex.P2 charge reports.

49. PWs.1 to 3 and PW17 admitted that in Exs.P5 and P6 there is no endorsement that PWs.1 to 3 and trap team members read over the contents and signed. In Page No.4 of Ex.P5, there is a mention that all the happenings between 10.15 Hours and 11.00 Hours were recorded correctly and its contents were read over and found correct. Similar recital also finds place in Page No.7 of Ex.P6. More importantly, PWs.1 to 3 and PW17 categorically deposed in one voice that the contents of Exs.P5 and P6 were read over and explained to PWs.1 to 3 and all the trap team members. There need not be any separate endorsement underneath Exs.P5 and P6 that their contents were read over and explained to PWs.1 to 3 and all the trap team members. Entire contents of Exs.P5 and P6 have to be taken into consideration in unison but not in isolation. Hence, court is unable to accept the contention of learned counsel for accused that the contents of Exs.P5 and P6 were not read over and explained to PWs.1 to 3 and trap team members.

50. PWs.1 to 3 and PW17 admitted in cross examination that there is no mention in Ex.P5 that it was typed on computer and printed on printer available with the trap team. PWs.1 to 3 and PW17 also deposed that Ex.P5 does not show that the trap team carried glass tumbler, sodium carbonate powder, glass bottles, metal seals of the office of Superintendent of Police, CBI, computer, printer and cotton swab. It is true that there is no mention in Exs.P5 and P6 that the above materials, computer/laptop and printer were carried by the trap team members. Unless these materials are carried to the spot, the question of conducting phenolphthalein test on the spot, typing of two mediators reports and taking out their prints at the respective places does not arise. On the spot itself a copy of Ex.P6 was served on accused. Without carrying these materials no trap can be laid. Mere non-mentioning of CBI trap team members carrying the above materials in Exs.P5 and P6 does not compel the court to come to a conclusion that the trap in question was a make believe one and Exs.P5 and P6 were fabricated with ante date in the office of CBI. Had it been a case where atleast one mediator deposed about the said aspects, court could have certainly believed these aspects. Every minute detail need not be mentioned in Exs.P5 and P6. All the material particulars have been correctly mentioned in Exs.P5 and P6 and they were reiterated by PWs.1 to 3 and PW17. Hence, the court cannot reject the case of prosecution on the basis of absence of above minute details in Exs.P5 and P6.

51. PWs.1 to 3 and PW17 admitted that Ex.P5 does not contain the name of the scribe. Ex.P5 is in typed mode. There is a recital in Ex.P5 that all the happenings between 10.15 Hours and 11.00 Hours were recorded correctly. PW17 deposed that the contents of Ex.P5 were read over to PWs.1 to 3 and other trap team members and they signed on it in token of its correctness. He has also deposed that Ex.P5 was prepared on the official laptop at Officers Rest House, Nizamabad Railway Station and its print out was taken in the presence of mediators (PW2 and PW3) and other trap team members. Because of these details deposed by PW17 non-mentioning of above minute details in Ex.P5 is not fatal to the case of prosecution.

52. As rightly contended by the learned counsel for accused, there is no documentary proof to show that there was telephonic conversation between accused and PW1 on 26.09.2015 because CDRs of mobile phone numbers of accused and PW1 were neither collected nor filed in court by PW18. No doubt, PW18 ought to have collected the CDRs but they were not collected. In the absence of CDRs court can rely on the oral testimony of PW1 because a fact can be proved not only by documentary evidence but also by oral evidence, which is admissible under Section 59 of the Evidence Act.

53. Learned counsel for accused contended that the date of trap (27.09.2015) was Sunday and, therefore, the question of securing PW2 and PW3 as mediators does not arise, particularly as no summons were issued to them. PW17 is not prohibited to lay trap on 27.09.2015

(Sunday). PW1 mentioned in Ex.P3 and deposed in his evidence that accused asked him to pay bribe amount of Rs.10,000/- as first installment at his house by 27.09.2015. Accused fixed the said date since it was Sunday, so that he would be available at his house. PW17 is not debarred from securing PWs.2 and 3 on Sunday as mediators. In case of exigencies mediators can be secured even on Sunday or any public holiday. Merely because there is no documentary evidence filed summoning PWs.2 and 3 it cannot be stated that they are the planted witnesses.

54. As rightly contended by learned counsel for accused, the address of accused as Gangsthan, Phase-II, Nizamabad is not mentioned in Ex.P3. The factum of accused staying in House No.609/1, Gangsthan, Phase-II, Nizamabad, which is mentioned in Ex.P6, is not in dispute. Hence, non-mentioning of address of accused in Ex.P3 is not fatal to the case of prosecution, particularly as PW1 along with PW2 went to the house of accused on 27.09.2015, followed by PW17 and his trap team members.

55. Learned counsel for accused contended that there is no mention in Ex.P3 as to how PW1 approached CBI. As already stated Ex.P3 is not the encyclopedia to mention all the minute details. PW1 narrated in Ex.P1 the circumstances which led him to lodge Ex.P3 before CBI and no further details are required.

56. Learned counsel for accused contended that non-mentioning of material or important facts in Ex.P3 is fatal to the case of prosecution. In

support of his contention, learned counsel for accused has placed reliance on the decision of the Hon'ble Supreme Court in **Ram Kumar Pande v. State of Madhya Pradesh** reported in **1975 LawSuit (SC) 61,** wherein it was held that non-mentioning of important facts in FIR would affect the case of prosecution. In the said case, which is a murder case, the important fact of accused stabbing deceased was not mentioned and on that ground accused was acquitted. However, in the present case all the material and important facts have been mentioned by PW1 in Ex.P3 though certain peripheral aspects were not mentioned, as discussed supra. Hence, the above decision is not applicable to the present case.

57. Delay in lodging Ex.P3 by PW1 is another contention raised by learned counsel for accused. In support of his contention, learned counsel for accused has placed reliance on the decisions of the Hon'ble Supreme Court in **Apren Joseph v. State of Kerala** reported in **1973 Crl.L.J. 185** and **Thulia Kali v. State of Tamil Nadu** reported in **1972 Crl.L.J. 1296,** in which inexplicable delay in lodging FIR in Police Station was held to be fatal to disbelieve the case of prosecution. In the present case PW1 lodged Ex.P3 before PW17 on 27.09.2015 while accused made demand of bribe for third time on 26.09.2015. Hence, there was no delay in lodging Ex.P3. The above decision is not applicable to the present case.

58. Learned counsel for accused contended that Ex.P4 Fax copy of report was not filed along with charge sheet. Court has perused Exs.P3

and P4 and found that they were received in court on 28.09.2015 with Inward No.648 of 2015. Charge sheet was admittedly filed on 23.12.2015. Hence, the said contention of learned counsel for accused holds no water.

59. Learned counsel for accused contended that Ex.P3 report is hit by Section 162 of Cr.P.C. Ex.P3 contains the grievance of PW1 regarding bribe demanded by accused on multiple occasions and it discloses the ingredients of cognizable offence. As per Section 154 of Cr.P.C on the direction of DIG, CBI, Hyderabad, PW18 registered FIR as in Ex.P31. The question of Ex.P3 being hit by Section 162 of Cr.P.C does not arise. FIR was registered in this case by following the legal principles laid down by the Hon'ble Supreme Court in ***Lalithakumari v. Government of U.P.*** *reported in* ***2014(1) ALD (Crl) 159 (SC)*** *and* ***P.Sirajuddin v. State of Madras*** *reported in* ***AIR 1971 SC 520,*** *which are relied upon by learned counsel for accused.*

60. Learned counsel for accused contended that in Ex.P3 there is no mention about Ex.P2 charge reports and, hence, it has to be taken that Ex.P2 was introduced later for the purpose of this case. It is true that there is no mention of Ex.P2 charge reports in Ex.P3. However, there is a clear mention of Ex.P2 charge reports in Exs.P5 and P6. Mere non-mentioning of Ex.P2 charge reports in Ex.P3 is not sufficient to come to a conclusion that Ex.P2 charge reports were set up at a later stage.

61. Learned counsel for accused contended that Ex.P2 is hit by Section 162 of Cr.P.C. In support of his contention, learned counsel for accused

has placed reliance on the decision of Hon'ble High Court of A.P. in **D.V.Narasimham v. State** reported in **1967 LawSuit (AP) 102,** wherein it was held that Section 162 of Cr.P.C. is attracted when the statement was made in the course of investigation and it is not applicable when it was not made in the course of such investigation. The facts of the said case are quite different from the facts of the case on hand and it is not applicable to this case. As already stated, on the direction of accused PW7 signed on blank charge reports (Ex.P2) and handed over to PW1, who carried them to accused, signed on them at the place of Relieving Officer and handed over them to accused along with bribe amount. By no stretch of imagination it can be stated that Ex.P2 is hit by Section 162 of Cr.P.C. Ex.P2 has to be taken taken as corroborative documentary evidence to the effect that the accused demanded and accepted bribe and sent charge reports. Since accused was trapped no further action could be taken by accused on Ex.P2 and the successor of accused (PW8) later submitted charge reports of PW1 as in Ex.P18.

62. Learned counsel for accused contended that there is no documentary evidence to show that PW17 and his team were camping in Nizamabad and, therefore, it is unbelievable that PW1 and his team were present in Nizamabad on 27.09.2015. It is true that tour programme of PW17 and his team members is neither collected nor filed by PW18. PW17 deposed that on 27.09.2015 he was camping at Officers Rest House, Nizamabad Railway Station discharging secret duty and PW1

approached him at about 8.30 A.M. and presented Ex.P3 report. It is not uncommon that the police officers go on secret duty to different places of their jurisdiction and if the tour programme is revealed in advance there will be likelihood of leakage of information. Be that as it may, non-filing of documentary evidence regarding camping of PW17 and his team in Nizamabad cannot be the ground to disbelieve the presence of PW17. In the absence of documentary evidence, oral evidence of PWs.1 to 3 and PW17 can be taken into consideration.

63. Ex.D1 was elicited in cross-examination of PW3. PW3 denied to have stated before PW18 as in Ex.D1. In Ex.D1 PW3 stated before PW18 that on 27.07.2014 PW3 reported at 10.00 Hours before PW17 as directed by the officer of PW3 and requisitioned by CBI. PW3 denied to have stated before PW18 as in Ex.D1. Ex.D1 was not confronted to PW18. Unless Ex.D1 is confronted to PW18 Ex.D1 cannot be legally proved. Strictly speaking, Ex.D1 can be ignored as it was not legally proved by defence. Even if assuming for a moment for the sake of discussion that Ex.D1 is duly proved, it is not a material contradiction to dislodge the evidence of PW3. PW3 deposed that on 27.09.2015 PW17 telephoned to him at about 10 AM and asked him to come to Railway Station Guest House, Nizamabad and accordingly at about 10.30 AM he went there. The factum of PW17 calling PW3 on 27.09.2015 has been categorically deposed. It appears that while typing the date instead of typing 27.09.2015, the date 27.07.2014 was typed in the statement of PW3 recorded by PW8. Basing on said typographical mistake court

cannot reject the evidence of PW3. Had it been a case where Ex.D1 is confronted to PW18 he could have got opportunity to explain the said typographical mistake.

64. Learned counsel for accused contended that the alleged statements of accused mentioned in Ex.P6, which were not really stated by accused, are hit by Section 25 of the Evidence Act. In support of his contention, learned counsel for accused has placed reliance on the decisions of the Hon'ble Supreme Court in ***Zwinglee Ariel v. State of Madhya Pradesh*** *reported in* ***AIR 1954 SC 15*** *and* ***Sat Paul v. Delhi Administration*** *reported in* ***AIR 1976 SC 294,*** *wherein it was held that* confession of accused made before the Police Officer is hit by Section 25 of the Evidence Act. Section 27 of the Evidence Act is an exception. Information given by accused leading to recovery is admissible under Section 27 of the Evidence Act.

65. In the deposition of PW17 objection was raised by learned counsel for accused stating that the conduct of accused when questioned by PW17 and other details stated to have been revealed by accused are hit by Section 25 of the Evidence Act. Certainly confession made by accused before PW17 is hit by Section 25 of the Evidence Act. However, the act of accused pointing towards computer table in children's bed room where he kept MO3 tainted currency notes is admissible under Section 27 of the Evidence Act because basing on the said information given by accused tainted currency notes (MO3) were recovered in the

presence of PWs.1 to 3 and that portion of Ex.P6 can be relied upon by court.

66. Learned counsel for accused contended that the version of PW2 regarding receipt of bribe amount along with Ex.P2 is contrary to Ex.P6. PW2 deposed that accused received bribe amount (MO3) along with Ex.P2 charge reports and kept the same on the table which is adjacent to the hall. In Ex.P6, which contained the narration of PW2, it is mentioned that accused asked PW1 in Telugu “Dabbulu Thechinava” for which PW1 informed “padi velu thechanu sir” and hearing the same accused stated in high voice as “Nenu Padehenu Velu Theesuku Rammani Cheppithe, Nuvvu Padi Vele Thechinava” and then accused turned towards PW1 and instructed him to pay balance bribe amount in a day or two and thereafter accused took PW1 inside the children’s bed room where accused received bribe amount of Rs.10,000/- with his right hand and PW2 had also seen PW1 signing charge report forms at the instance of accused and handing over them to accused. Except deposing “children’s bed room all other details were deposed by PW2 in his evidence. According to PW2’s evidence, the table was at a place which is adjacent to the hall. There is no material contradiction between the contents of Ex.P6 and the evidence of PW2.

67. Learned counsel for accused contended that in Ex.P9 at Serial Nos. 4 to 7 names of persons are not mentioned. Ex.P9 is the rough sketch of scene of offence drawn by PW17 at the house of accused depicting the places where the trap team members, accused, PW1, PW2 and PW3

were present, including the physical features of house of accused. The place where accused, PW1 and PW2 were present are clearly mentioned in Ex.P9. However, in respect of places at Serial Nos.4 to 7, it is mentioned that at those places trap members took positions at the time of demand and acceptance of bribe by accused. The names of trap team members positioned at Serial Nos.4 to 7 are not mentioned in Ex.P9. Failure of PW17 to mention those details in Ex.P9 is not fatal to the case of prosecution since it is not a material one.

68. Learned counsel for accused contended that father and family members of PW1 were not examined to prove the visits of accused to the house of PW1 prior to 23.08.2015 and on 23.08.2015. It is true that father and family members of PW1 were not examined. Sole testimony of PW1 can be relied upon by court with regard to visits of accused to the house of PW1. Section 134 of the Evidence Act does not prescribe particular number of witnesses to prove a fact. Even the sole testimony of a witness can be relied upon by court, provided it is cogent, trustworthy and inspires confidence in the mind of court. Court has given reasons in the preceding paragraphs for relying on the evidence of PW1.

69. Learned counsel for accused also contended that tenants of accused were not examined, which is fatal to the case of prosecution. It is true that tenants were residing in the house of accused in Nizamabad at the relevant time and they were not examined. PW2 deposed that none of the tenants came to scene of offence after giving pre-arranged signal. It means, tenants had no opportunity to see what had happened.

That apart, this is not a murder case so as to say that tenants would be the eye witnesses. In these circumstances, non-examination of tenants of accused is not fatal to the case of prosecution.

70. Learned counsel for accused contended that Ex.P5 does not show that PW17 already instructed PW1 to bring Rs.10,000/- and it is not known how PW1 brought the said amount. It is true that there is no mention in Ex.P5 that PW17 instructed PW1 to bring Rs.10,000/-. It is mentioned in Ex.P5 that when PW17 asked PW1 as to whether he brought Rs.10,000/- he gave affirmative answer and produced Rs.10,000/- with denomination of Rs.500 x 20 and currency note numbers were noted down. The said currency note numbers found tallied with the currency notes seized under Ex.P6. Without there being any prior instructions from PW17 PW1 can bring the bribe amount of Rs.10,000/-. It is not a huge amount so as to give prior instructions to PW1 to pool up the money. Rs.10,000/- is a petty amount which can be carried by PW1. Hence, the above contention of learned counsel for accused also holds no water.

71. Learned counsel for accused contended that there is no mention in Ex.P6 that accused wrapped MO3 currency notes in Ex.P2 charge reports and the alleged wrapping was introduced for the purpose of this case. In Para No.1 of Page No.6 of Ex.P6, in the narration of PW2, it is clearly mentioned that accused took signed forms (Ex.P2) from PW1, lifted the entire bribe amount from the said table and wrapped the same in Ex.P2 forms and kept it on computer table and accused reiterated that PW1

should arrange the balance bribe amount immediately so that he would clear charge reports. In view of the said recital in Ex.P6 court can not accept the above contention of learned counsel for accused.

72. Learned counsel for accused contended that left hand wash of accused ought to have been produced in court and it is fatal to the case of prosecution. It is true that left hand wash of accused, which became negative for phenolphthalein test, was thrown out and it was not preserved, which is evident from Ex.P6. When the phenolphthalein test for left hand wash of accused became negative there is no necessity to preserve the same and it need not be produced in court. It will be a futile exercise to preserve the same because it can not subjected to analysis in CFSL.

73. Learned counsel for accused contended that signature of PW2 is not at proper place in Ex.P6. PW2 deposed in cross-examination that his signatures and the signatures of other signatories in Exs.P5 and P6 are at the same places. Court finds no wrong in it. When several persons sign on bottom place of typed document there will be dearth of place and sufficient gap may not be maintained. There is no hard and fast rule that PW2 should not sign at same place in Exs.P5 and P6. It is nowhere elicited by accused that PW2 signed at a later stage with ante date on Exs.P5 and P6. Hence, the above contention of learned counsel for accused also can not be accepted as true and correct.

74. Learned counsel for accused contended that there is no evidence as to who drafted and typed the contents of Ex.P6 and, hence, it has to

be taken that it was created in the office of CBI. It is mentioned in last page of Ex.P6 that it was prepared on the official laptop and the print out of the same was taken in the official printer at the spot and the copy of it was given to accused under acknowledgment. It is true that PWs.1 to 3 and PW17 did not state the name of the person who typed Ex.P6. Non-mentioning of the person who typed Ex.P6 is not fatal to the case of prosecution. A perusal of entire contents of Ex.P6 goes to show that it was typed on the official laptop of CBI and print out was taken in the official printer at the house of accused and a copy of it was served on accused. Hence, it can not be stated that Ex.P6 was prepared at a later stage in the office of CBI.

75. Learned counsel for accused contended that no witness stated that accused has to send charge reports. The fact that accused being the then Inspector of Posts at Bhainsa Sub Division and appointing authority for the post of GDS-MC, Puspur is not in dispute. Ex.P6 shows that accused wanted to clear charge reports only after PW1 gives balance amount of bribe of Rs.5000/-. PW6 deposed that additional charge Inspector of Posts, Bhainsa Sub Division sent the charge reports (Ex.P18) of PW1. As already stated, PW8 deposed that he had cleared all the charge reports, including that of PW1, which were pending. Ex.P18 and Exs.P21 to P24 are the charge reports of PW1, PW12, S.Krishnaveni, PW14 and PW15 respectively, which were cleared by PW8, who was the successor of accused. They were kept pending for quite a long time by accused because he did not receive the demanded bribe amounts.

Evidence of PW8 shows that accused was required to send charge reports of PW1 but he did not do so as PW1 had not given the entire demanded bribe amount.

76. PW11 to PW15 are one set of witnesses, who were working in postal department in Adilabad district, and joined during the period while accused was working as Inspector of Posts in Bhainsa Sub Division. These witnesses deposed about demand of amout by accused and their giving amount to accused. Court proceeds to examine the evidence of these witnesses.

77. PW11 is working as Branch Post Master at Kowtla Branch Post Office, Sarangapur Mandal, Nirmal District since 31.07.2015. Ex.P21 is the charge report of PW11, which shows that he joined duty on 18.11.2015. PW12, who is brother of PW11, worked as Assistant Branch Post Master at Bolsa, Bhainsa Mandal from 18.11.2015 to 03.01.2021. Charge report of PW12 is not filed. PW13 joined on 01.09.2015 as Assistant Post Master at Boregoan and working there since then. His joining report also is not filed. PW14 worked as GDS-MC at Kolur Branch Post Office under Mudhole Sub-Post Office of Nirmal District from 01.08.2015 to 31.08.2021. Ex.P23 is the charge report of PW14 which shows that he joined on 31.07.2015. PW15 worked as GDS-MC in Elegaon Branch Post Office under Mudhole Sub-Post Office of Adilabad Division from 01.08.2015 to 31.07.2021. Ex.P24 is the charge report of PW15 which shows that he joined in the said post on 01.08.2015. These witnesses deposed that they knew accused while he was working as

Inspector of Posts in Bhainsa Sub-Division. The factum of PW11 to PW15 working in postal department at above places at the relevant time is not in dispute.

78. PW11 deposed that accused visited his house in Nirmal and informed his father Ch.Bhojanna(since died) that PW11 and PW12 were selected and they should pay him Rs.50,000/- each, total amount being Rs.1,00,000/-, so that accused would allow them to join in postal department and accordingly his father paid Rs.10,000/-. However, PW11 was not present when the amount was given by his father. As rightly contended by learned counsel for accused, evidence of PW11 is hit by Section 60 of the Evidence Act as it is hearsay in nature. His evidence is of no value to the prosecution with regard to demand and acceptance of bribe of Rs.10,000/- to accused by the father of PW11.

79. PW12 deposed that in the last week of August, 2015 he went to the office of accused and took him to his house on his vehicle; accused informed that PW11 and PW12 have to pay Rs.50,000/- each towards bond amount; accused went away; and that after 2/3 days later PW12 and his father went to the office of accused and paid him Rs.10,000/-. He was cross-examined by prosecution. The only discrepancy in his evidence is that he has used the word ‘bond’ instead of bribe. The factum of demand and acceptance of money by accused has been categorically deposed by PW12 though he could not depose the specific dates of visit of accused to the house of PW12 and payment of money of Rs.10,000/- to accused.

80. PW13 deposed that accused gave him application in May, 2015 for the post of GDS-MC, he has filled and handed over to accused, he waited for 3 months for posting orders, approached accused later, and accused asked PW13 to pay Rs.50,000/- towards bond amount to give posting order. PW13 also deposed that he has paid Rs.20,000/- to accused and agreed to pay remaining amount of Rs.30,000/- after receiving posting orders. In August, 2015 PW13 received posting orders and joined duty on 01.09.2015. Though PW13 was cross-examined by defence nothing could be elicited with regard to demand and acceptance of amount of Rs.20,000/-. The only discrepancy is that PW13 used the word 'bond' instead of bribe.

81. PW14 deposed that after he was selected for the post of GDS-MC accused demanded Rs.1,00,000/- towards bond; he had agreed to pay Rs.60,000/-; he had paid Rs.20,000/- initially in May, 2015 in the presence of his father, on which accused issued charge report; and that later he had paid Rs.20,000/- in August, 2015. Though the word 'bribe' is not used by PW14 the factum of demand and acceptance of amount of Rs.40,000/- by accused has been reiterated by PW14.

82. PW15 deposed that accused informed him at the house of PW15 in Mudhole that there will be some procedure for which expenditure of Rs.50,000/- has to be met by PW15 and after pooling up money they paid Rs.20,000/- to accused and agreed to pay remaining amount on his joining or from his first salary. PW15 did not get salary though he joined duty on 01.08.2015. Though PW15 did not state before PW18 about the

visit of accused to the house of PW15 the other incriminating details were stated.

83. Exs.D3 to D5 were got marked by defence in cross-examination of PW15. PW15 denied to have stated before PW18 that he had given money of Rs.20,000/- in cash in the presence of his uncle R.Narayana(Ex.D3) but in evidence he deposed that it was paid in the presence of his father. PW15 also denied to have stated before PW18 that accused instructed him to report at Boregaon Branch as GDS-MC/MD and he reported there on 01.09.2015 (Ex.D4). Instead of deposing the place of joining as Elegaon PW15 stated before PW18 as Boregaon and this is the only discrepancy in Ex.D4. PW15 denied to have stated before PW18 that when he enquired to his Branch Sub Post Master he then enquired about the procedure and forwarded his charge reports to H.O., Adilabad (Ex.D5). In fact Exs.D3 to D5 are not material contradictions so as to dislodge the evidence of PW15. That apart, defence has not confronted Exs.D3 to D5 to PW18. Unless Exs.D3 to D5 are confronted to PW18(Investigating Officer) they can not be legally proved. Strictly speaking, Exs.D3 to D5 need not be considered by court since they are not legally proved by defence.

84. Learned counsel for accused contended that PW11 to PW15 are planted witnesses by PW18 to cause prejudice to accused and the evidence of PW11 to PW15 has no nexus to the present case. On the other hand, learned Public Prosecutor contended that since PW11 to PW15 were the victims in the hands of accused they were examined by

PW18 during the course of investigation and their evidence can be relied upon by court. There will be no reason for PW18 to set up PW11 to PW15 as witnesses in this case. Since PW11 to PW15 are the victims in the hands of accused they came forward and gave statements before PW18 and deposed evidence in court. Merely because PW11 to PW15 did not give complaint either to CBI or officials of postal department against accused court can not reject their evidence. There will be no reason for PW11 to PW15 to depose false evidence. Evidence of PW11 to PW15 establishes that accused was in the habit of collecting money from the candidates who were selected in postal department for various posts. Evidence of PWs.11 to 15 certainly goes in favour of prosecution as additional piece of evidence compelling the court to strongly believe the case of prosecution, particularly the evidence of PWs.1 to 3 and PW17. Court is unable to accept the contention of learned counsel for accused that PW11 to PW15 are planted witnesses.

85. Learned counsel for accused contended that there is no evidence before the court to establish that accused was the appointing authority for PW11 to PW15. It is true that Exs.P15 and P16 relate to the post of GDS-MC, Puspur, for which post PW1 was selected. Ex.P13 shows that GDSMC/MD, Elegaon, GDSMC/MD, Tanur and GDSMC/MD, Kolur were under the jurisdiction of accused, who was working as Inspector of Posts, Bhainsa Sub-Division, Bhainsa. Ex.P32 reflected the names of PWs.11 to 15 in the names of selected candidates and they joined in their respective posts on different dates. Except PWs.12 and 13, other

witnesses were working under Bhainsa Sub-Division. Though PW11 joined on 18.11.2015 as GDS-MC, Bholsa in Bhainsa Sub-Division he was selected on 26.05.2015. Ex.P32 also shows that PWs.11 to 15 were selected in March, 2015 and May, 2015 though they joined later in their respective posts. Hence, the contention of learned counsel for accused that there is no material before the court that some of these witnesses were working under accused at the relevant time cannot be accepted as true and correct.

86. Learned counsel for accused contended that giving or attempting to give bribe to a public servant is an offence and that PW18 has not registered any case against PW11 to PW15 though Section 12 of the Act is attracted against them. PW18 admitted that giving or attempting to give bribe to a public servant is an offence and that he did not register any case against PW11 to PW15 though they alleged before him that they paid bribe to accused for their appointment in Postal Department. Merely because PW18 has not registered the case against PW11 to PW15 court cannot disbelieve their evidence.

87. PW18 deposed in cross-examination that except the statements of PWs.11 to 15 he has not collected any evidence to establish that accused demanded and accepted bribe from them. As already stated, a fact can be proved not only by documentary evidence but also by oral evidence, which is admissible under Section 59 of the Evidence Act. There can be hardly any documentary evidence with regard to demand and acceptance of bribe. What PWs.11 to 15 deposed in court is the

substantive evidence, which can be relied upon by court. Merely because charge sheet does not disclose anything about the allegations made by PWs.11 to 15 against the accused, court cannot disbelieve their evidence, particularly as they were examined by PW18 during the course of investigation and as their statements were recorded by PW18.

88. PW18 admitted that he has not mentioned the time and place of examination of PW6 and PW11 to PW15 in their respective statements. He has also admitted that he has not issued summons to PW6 and PW11 to PW15 to examine them. Non-issuance of summons in writing to these witnesses by PW18 is not illegality though it may be an irregularity. These are the minor discrepancies which are not capable of disbelieving the evidence of PW6 and PW11 to PW15.

89. PW18 deposed in cross-examination that Para Nos. 2 and 3 of the statements of PW13 and PW15 are one and the same, except with regard to the date of interview and place of posting. As already stated, PW13 and PW15 were selected and joined in Postal Department in Adilabad District after an interview and they joined at their respective places. Certain facts will be similar in respect of PW13 and PW15 and naturally certain paragraphs in the statements of these witnesses are one and the same, except with regard to date of interview and place of posting. Hence, the said statement deposed by PW18 cannot enure to the benefit of accused. Even if the entire evidence of PW11 to PW15 is totally eschewed from consideration, the other evidence is sufficient to

establish guilt of accused, particularly the evidence of PW1 to PW3 and PW17.

90. Ex.D2 was got marked by defence in cross-examination of PW7, who was the Branch Post Master in Puspur Branch Post Office at the relevant time. Ex.D2 is the relevant endorsement in Ex.P20 made by Mail Overseer Sainna on 22.08.2015. Ex.P20 is the register of branch office daily account/B.O. General of Puspur Branch Post Office containing transaction details in respect of deposits and deliverables. Ex.D2 endorsement shows that during the inspection Sainna found everything to be in order and there was no adverse remark against PW7. PW1 joined as GDS-MC in Puspur only on 01.09.2015. Hence, Ex.D2 is of no value to accused. It can not even discredit the evidence of PW7.

91. Learned counsel for accused contended that it is the constitutional right of accused to have fair investigation and not only fair trial, but in the present case, no fair investigation was conducted by PW18. In support of his contention, learned counsel for accused has placed reliance on the decisions of the Hon’ble Supreme Court in ***Mohanlal v. State of Punjab*** *reported in* ***2019(1) ALD (Crl) 696 (SC), Babubhai v. State of Gujarat*** *reported in* ***2010(2) ALD (Crl) 866 (SC)*** *and* ***Shaik Abdullah Shareef and Ors. v. Govt. of A.P*** *reported in* ***2010(2) ALD (Crl) 789 (AP),*** wherein it was held that fair investigation is as much a part of constitutional scheme as fair trial embedded in Article 21 of the Constitution of India and it is the duty of Investigating Officer to be fair and conscious so as to rule out any possibility of

fabrication of evidence and his impartial conduct must dispel any suspicion as to its genuineness. It was also held in these decisions that the obligation of proof beyond all reasonable doubt will take within its ambit a fair investigation, in the absence of which there can be no fair trial. There cannot be any two opinions in respect of the legal principles reiterated in these decisions. However, the facts in the above decisions are quite different from the facts of the case on hand. PW18 conducted proper investigation in this case and no malafides can be attributed to him.

92. While marking Ex.P27 through PW17 accused raised objection on the ground that it does not bear either the signature or initial of PW17. Learned Public Prosecutor submits that there is a mention in Ex.P3 that PW1 has enclosed copy of provisional order dt.21.08.2015 and the mediators signed on the copy of provisional order. Subject to the said objection Ex.P27 was marked by court. It may be mentioned that Ex.P27 is the true replica of Ex.P1. The factum of enclosing Ex.P27 to Ex.P3 is reflected in Ex.P3. There is an initial of PW17 on Ex.P27 with date 27.09.2015. Hence, the objection raised by accused in respect of Ex.P27 holds no water. That apart, accused is not disputing the issuance of Ex.P1/Ex.P27 provisional order in favour of PW1.

93. Learned counsel for accused contended that without conducting preliminary enquiry FIR was registered in this case and PW17 proceeded to lay trap, which is violative of the guidelines issued by the Hon’ble Supreme Court in ***Lalitha Kumari v. Govt. of U.P.*** reported in

2014(1)ALD (Crl) 159 (SC) and ***P.Sirajuddin v. State of Madras*** reported in ***AIR 1971 SC 520.*** In ***Lalitha Kumari's case*** the Hon'ble Supreme Court gave certain category of cases by way of illustrations where preliminary enquiry may be made before registering FIR, in which corruption cases are also mentioned. The present case is a corruption case. PW1 approached PW17 on 27.09.2015 at 8.30 AM and lodged Ex.P3 report. PW17 deposed that Ex.P3 shows demand of illegal gratification by accused disclosing ingredients of cognizable offence and accordingly he has faxed Ex.P3 to DIG, CBI, Hyderabad after informing him over phone and DIG, CBI, Hyderabad informed PW17 to proceed as per law and registration of the case would be done at the Branch. Ex.P4, P28 and P29 support the said evidence of PW17. PW17 also deposed that he has verified the genuineness of the allegations made in Ex.P3 and proceeded further. At about 10 AM on 27.09.2015 PW1 secured the presence of PW2 and PW3. PW17 need not conduct thorough enquiry at that stage. In **Lalitha Kumari's case**, it is laid down that the scope of preliminary enquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence. To undertake the said exercise no considerable time is required, particularly in a trap case. A reading of contents of Ex.P3 by PW17 revealed cognizable offence and he proceeded further. Court is of the considered opinion that PW17 has not violated the said guidelines of the Hon'ble Supreme Court in the above decisions relied upon by learned counsel for accused. Since Ex.P3 revealed cognizable offence FIR was registered as required under

Section 154 of Cr.P.C and proceeded further. There need not be any endorsement in Ex.P3 about preliminary enquiry made by PW17, as contended by learned counsel for accused.

94. Learned counsel for accused contended that PW17 has not taken independent witnesses as mediators to the alleged trap and PW2 and PW3 are set up witnesses. In support of his contention, learned counsel for accused has placed reliance on the decisions of the Hon'ble Supreme Court in **Raghbir Singh v. State of Punjab** reported in **(1976) 1 SCC 145** and **State of Gujarat v. Gunavantlal H.Shah** reported in **2006 Crl.L.J. 394.** In these decisions, evidence of panch witnesses was found to be not credible and ultimately their evidence was not relied upon. In the first decision, the Hon'ble Apex Court expressed the necessity to secure independent panch witnesses. In the present case PW2 and PW3 are the independent mediators taken by PW17 and they were working as officers in State Bank of Hyderabad, Nizamabad at the relevant time. They are not the stock witnesses. For the first time they were taken as mediators in this case. Hence, the above decisions are not applicable to the present case.

95. Learned counsel for accused contended that mere recovery of tainted currency notes is not sufficient to prove the guilt of accused. In support of his contention, learned counsel for accused has placed reliance on the decisions of the Hon'ble Apex Court in **N.Sunkanna v. State of Andhra Pradesh** reported in **2016 (1) ALD (Crl.) 230 (SC)**, **P.Satyanarayana Murthy v. District Inspector of Police and**

Another reported in **(2015) 10 SCC 152, C.Sukumaran v. State of Kerala** reported in **2015 (1) ALD (Crl.) 717 (SC)** and **State of Kerala and Another v. C.P.Rao** reported in **(2011) 2 SCC (Crl.) 1010**, wherein it was held that mere possession and recovery of currency notes from the accused without proof of demand will not bring home guilt of accused. In the present case, as discussed supra, prosecution clinchingly established the factum of demand and acceptance of bribe by accused from PW1 and recovery of the same. Facts of each case differ. In the above decisions the ingredients of demand and acceptance of bribe were not established and thereby accused thereon were acquitted but it is not so in the present case.

96. Learned counsel for accused contended that unless foundational facts for demand and acceptance of bribe are established by prosecution by cogent and trustworthy evidence court cannot draw presumption under Section 20 of the Act, particularly as in the present case the said ingredients are not established by prosecution. In support of his contention, learned counsel for accused has placed reliance on the decisions of the Hon'ble Supreme Court in ***State of Maharashtra v. Dyaneshwar Laxman Rao Wankhede*** *reported in* ***(2010) 2 SCC (Crl) 385, C.M.Girish Babu v. CBI*** *reported in* ***(2009) 2 SCC (Crl) 1*** and ***Suraj Mal v. State (Delhi Administration)*** *reported in* ***AIR 1979 SC 1408.*** *It* was held in the first two decisions that presumption to be drawn under Section 20 of the Act is not an inviolable one and that before the accused is called upon to explain as to how the amount in

question was found in his possession, the foundational facts namely, demand and acceptance of bribe and recovery of money have to be established by prosecution. As discussed supra, by clinching evidence prosecution established the demand of bribe by accused from PW1 on multiple occasions, including on 27.09.2015(date of trap), acceptance of bribe of Rs.10,000/- for clearing charge reports of PW1 and the recovery of the said amount from the computer table in children's bed room in the house of accused, on being pointed by him.

97. In order to appreciate the above contention of learned counsel for accused, it is just and necessary to extract Section 20 of the Act which reads as follows:

> **"Presumption where public servant accepts any undue advantage:-**
>
> "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."

Since the prosecution proved the factum of demand and acceptance of bribe by accused from PW1 and recovery of bribe amount of Rs.10,000/-

court can draw presumption under Section 20 of the Act to the effect that accused has accepted undue advantage as a motive or reward under Section 7 of the Act for performing a public duty i.e., to clear the charge reports of PW1, who was working as GDS-MC in Puspur Branch Post Office while accused was working as Inspector of Posts in Bhainsa Sub-Division.

98. Presumption under Section 20 of the Act is no doubt a rebuttable presumption. It is also true that accused can rebut the said presumption by preponderance of probabilities and not by proof beyond all reasonable doubt. There is no explanation from accused in this regard. Except some minor discrepancies elicited in cross-examination of some of the prosecution witnesses nothing could be elicited by accused. As already stated, the defence of accused that PW1 and PW7 colluded each other and filed false case against him cannot be accepted as true and correct. Ultimately, accused failed to rebut the presumption under Section 20 of the Act. Even without the help of presumption under Section 20 of the Act, prosecution independently established the necessary ingredients of demand and acceptance of bribe by accused from PW1 and recovery of bribe amount.

99. Learned counsel for accused contended that PW16 has mechanically issued sanction order in Ex.P25 to prosecute accused without applying his mind and, hence, it has to be rejected by court. On the other hand, learned Public Prosecutor contended that by perusing the entire material placed before him PW16 issued Ex.P25 and it can be

relied upon by court. PW16 deposed that he has gone through the contents of FIR, report of PW1, Ex.P5, Ex.P6, statements of witnesses recorded by PW18 under Section 161 of Cr.P.C and other related documents and satisfied that there was prima-facie material against accused and recorded the same in the Note Sheet and thereafter accorded sanction to prosecute accused. PW16 also issued Ex.P26 placing accused under suspension. It is true that note file is not produced in court. There is no necessity to file note file in court.

100. In Para No.10 of Ex.P25 PW16 has mentioned the details of material perused by him before issuing it. PW16 admitted in cross-examination that Ex.P25 does not show that he has perused Ex.P2 charge reports and report of PW1(Ex.P3). Ex.P25 also does not show specifically the statements of PW11 to PW15 but it is mentioned that PW16 perused the statements recorded by PW18, which includes their statements also. The words ‘copies of relevant files’ mentioned in Ex.P25 takes into its fold the entire material, which was perused by PW16. PW16 deposed that he has signed on Ex.P25 at the places where ‘x’ marks were put with pencil in Page Nos.1 and 2. Putting ‘x’ marks in Ex.P25, where PW16 signed, does not mean that he had not applied his mind. PW16 denied the suggestion in this regard. On an overall perusal of evidence of PW16 and contents of Ex.P25, court is of the considered opinion that PW16 applied his mind to the material placed before him and issued sanction order as in Ex.P25. I hold that PW16, who is the

competent authority, issued Ex.P25 sanction order to prosecute accused, as required under Section 19 of the Act.

101. Learned counsel for accused contended that PW18 is not the Police Officer within the meaning of Section 8 of the Police Act, particularly as PW18 was admittedly deputed to CBI from a Nationalised Bank, where he was working as Senior Manager. CBI was established under the Delhi Special Police Establishment Act, 1946 and the officers working in CBI are governed by the said Act. There is non-obstante clause in Section 2 of the Delhi Special Police Establishment Act overriding the provisions of the Police Act. Hence, the provisions of the Police Act, which is relied upon by learned counsel for accused, are not applicable to the officers working in CBI. Police Officers working in CBI, either in permanent cadre or on deputation, are governed by the provisions of the Delhi Special Police Establishment Act only. CBI has power to investigate the cases under the Prevention of Corruption Act against central government employees. Admittedly, accused is a central government employee working in postal department. Hence, it cannot be stated that CBI has no jurisdiction against accused.

102. PW18, who is Investigating Officer in this case, deposed that he is working as Inspector of Police, CBI, ACB, Hyderabad since February, 2013, which means that while he was conducting investigation in this case also he is the Inspector of Police in CBI. He is on deputation to CBI. His parent department is Union Bank of India, his designation being Senior Manager. He is working as Inspector in CBI on deputation. PW18

deposed that basically he is not the police officer. PW18 deposed that he is not aware that a certificate is issued under Section 8 of the Indian Police Act to a police officer and that a person who was issued with such certificate alone is called as police officer. As already stated, provisions of the Police Act, much less Section 8, are not applicable to the officers working in CBI. Hence, the question of issuance of certificate to PW18 does not arise.

103. PW18 deposed that the purpose of his deputation is mentioned in his order of appointment to CBI. No doubt, prosecution has not filed the appointment order of PW18 either along with charge sheet or during the course of trial. In order to arrive at just conclusion in the case, with the consent of both sides court has summoned the notification under which PW18 was taken to CBI on deputation and his deputation order, by docket order dt.14.12.2022. Accordingly, CBI filed Notification No.1122/A-35018/03/2012/PERS.II Section, dt.05.06.2012 of CBI, New Delhi calling for applications from the Bank Officers from Public Sector Undertaking Banks in CBI as Inspector of Police on deputation basis. Pursuant to the said notification PW18 was selected as Inspector of Police to work in CBI on deputation for a period of 3 years, by order dt.05.02.2013 issued by the Deputy Director (Admn.), CBI, HO, New Delhi. PW18 joined in CBI as Inspector of Police and working since then as his deputation period is being extended from time to time. As per GSR 467 (E), dt.04.07.2013 of the Ministry of Personnel, Public Grievances and Persons, Department of Personnel and Training, New

Delhi, which is filed in court, a person can be taken on deputation to CBI as Inspector of Police.

104. In Notification dated 05.06.2012 of CBI, which was communicated to the Chairmen-cum-Managing Directors of all Public Sector Banks, in Para No.9 it is mentioned as follows:

> **“9. Selection, training and posting as Investigating Officers:**
>
> Eligible and willing Bank Officers, would be selected based on their work experience and performance in an interview conducted by Central Bureau of Investigation. Bank Officers on selection as Inspector of Police for deputation in Central Bureau of Investigation shall be given training in Central Bureau of Investigation Academy, Ghaziabad for the purpose of conducting investigation work so that their services can be utilized in Central Bureau of Investigation as an Investigating Officer for investigation and detection of cases related to Economic Offences, Bank Fraud cases, etc. investigated by Central Bureau of Investigation.”

The above recitals in the notification clearly show that PW18 was taken as Inspector of Police in CBI for conducting investigation and detection of cases of economic offences, bank fraud cases, etc. Hence, there cannot be any doubt to hold that PW18 is competent to investigate the present case. The word “etc.” covers corruption cases as well.

105. Learned counsel for accused contended that the above document filed by CBI is only a letter addressed to Nationalized Banks and it can not be called as notification. Court is unable to accept the said

contention because it contained all the details of a notification calling for applications from the Bank Officers to work on deputation in CBI as Inspectors of Police to conduct investigation of cases dealt with by CBI. The above document is a notification issued by CBI.

106. Learned counsel for accused contended that there is no statutory force to the above notification and it cannot be relied upon by court. As already stated, CBI is governed by the provisions of the Delhi Special Police Establishment Act, which is the main source of power. Competent authority issued the above notification. Hence, it cannot be stated that it has no statutory backing. The above contention of learned counsel for accused is devoid of any merit.

107. Learned counsel for accused, during the course of arguments on 14.12.2022, has filed Vacancy Circular issued by CBI, New Delhi dated 19.09.2022 for filling up the posts of Deputy Advisor(Banking) on deputation basis in CBI and contended that as per the said Circular the officers deputed to CBI from the Banks are expected to give assistance during the course of investigation of cases and the Bank Officers, who are deputed to CBI as Inspectors of Police, cannot independently conduct investigation. The said Vacancy Circular does not relate to the post of Inspector of Police in CBI. It only relates to the post of Deputy Advisor(Banking). Hence, the said Vacancy Circular is not applicable in respect of PW18. The above Notification dt.05.06.2012 filed by CBI is relevant in this case.

108. Learned counsel for accused also contended that there was no authorization given by DIG, CBI, Hyderabad to PW18 to conduct investigation in this case and consequently the very report filed by PW18 under Section 173 (2) of Cr.P.C. is illegal and the entire trial is vitiated by law. In support of his contention, learned counsel for accused has placed reliance on the decision of the Hon'ble Supreme Court in **State, Inspector of Police, Visakhapatnam v. Surya Sankaram Karri** reported in **2006 LawSuit(SC) 676,** wherein it was held that authorization by a Superintendent of Police in favour of an officer so as to enable him to carry out investigation in terms of Section 17 of the Act is a statutory one. Section 17 of the Act is an overriding provision to the Code of Criminal Procedure. Section 17 of the Act lays down that in the case of the Delhi Special Police Establishment Inspector of Police shall investigate into the offences under the Act. It has to be seen whether there was authorization to PW18 to conduct investigation in this case.

109. PW18 deposed in cross-examination that there is no endorsement of DIG (Head of the Branch), CBI, ACB, Hyderabad on EX.P31 (FIR) and Ex.P4 (fax copy of report of PW1). Basing on these sentences deposed by PW18, learned counsel for accused contended that PW18 was not authorized to conduct investigation in this case. Endorsement of DIG in Ex.P4 is important. It reads as "Complaint reveals offence under Section 7 of PC Act. Shekar Dorababu (PW18) to register the case and B.Satish Prabhu (PW17) to lay the trap and proceed legally". This endorsement on Ex.P4 shows that PW18 was authorized to register FIR and proceed

legally, which means to conduct investigation also. Without properly following the said endorsement PW18 gave the above answer in cross-examination as the specific words “to conduct investigation” are absent. After completion of investigation by PW18 DIG under his signature forwarded report under Section 173(2) of Cr.P.C to court, pursuant to which court took cognizance of offences under Sections 7 and 13(2) r/w 13(1)(d) of the Act. Court cannot be simply carried away by the answer given by PW18 in cross-examination. In view of the words “to proceed legally” mentioned by DIG, CBI, ACB, Hyderabad in the endorsement on Ex.P4, I hold that PW18 was authorized to conduct investigation in this case. Had it been a case where the words “to proceed legally” are absent in the endorsement on Ex.P4 the court could have certainly accepted the contention of learned counsel for accused.

110. As already stated, in the notification, under which PW18 was taken on deputation to CBI as Inspector of Police, it is mentioned that he has to conduct investigation of cases dealt with CBI. PW18 conducted proper investigation and filed report under Section 173(2) of Cr.P.C., which is on proper lines. Court conducted trial as per law by giving fair and full opportunity to accused and he has cross-examined all the witnesses examined by prosecution. In these circumstances, court cannot accept the contention of learned counsel for accused that report of PW18 filed under Section 173(2) of Cr.P.C. is illegal and the trial is vitiated by law.

111. Learned counsel for accused contended that court has to presume that accused is innocent and the burden heavily lies on prosecution to

bring home the guilt of accused beyond all reasonable doubt. He has also contended that it is the duty of the court to protect the rights of citizen. In support of his contention, learned counsel for accused has placed reliance on the decisions of the Hon'ble Supreme Court in **Rabindra Kumar Dey v. State of Orissa** reported in **AIR 1977 SC 170**, **Babu v. State of Kerala** reported in **(2010) 9 SCC 189** and **Union of India v. Anglo Afghan Agencies and Others** reported in **AIR 1968 SC 718.** In these decisions cardinal principles of criminal jurisprudence namely, proof beyond all reasonable doubt, presumption of innocence of accused in a criminal case and duty of court to protect the rights of citizens have been reiterated. There cannot be any two opinions in respect of these legal principles laid down by the Hon'ble Apex Court. However, facts in each case differ. These legal principles have to be applied to the facts of each case. In the present case, as already stated, there is clinching and trustworthy evidence establishing guilt of accused for the offences with which he was charged.

112. Learned counsel for accused contended that when two views are possible the view that goes to the benefit of accused has to be preferred by court. In support of his contention, learned counsel for accused has placed reliance on the decision of the Hon'ble Supreme Court in **Kaliram v. State of Himachal Pradesh** reported in **(1973) SCC (Crl.) 1048**, wherein it was held that if two views are possible on the evidence adduced in the case: one pointing to the guilt of accused and the other to his innocence, the view which is favourable to accused should be

adopted. It was also held that accused must have the benefit of doubt in case the court entertains a reasonable doubt regarding the guilt of accused. In this case, there is no possibility for two views and there is no evidence pointing to the innocence of accused. Similarly, there are no circumstances in this case leading the court to raise a reasonable doubt. The facts of the case relied upon by learned counsel for accused are quite different from the facts of the case on hand.

113. Charges framed against accused are under Sections 7 and 13 (2) r/w 13 (1) (d) of the Act. Section 7 of the Act is a punitive section when public servant takes gratification other than legal remuneration in respect of an official act. If a public servant accepts or obtains or agrees to accept or attempts to obtain from any person any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act in the exercise of his official functions shall be made punishable under Section 7 of the Act. As discussed supra, evidence on record clinchingly establishes that on multiple occasions accused demanded bribe, including on 27.09.2015, from PW1 and accepted bribe amount of Rs.10,000/- and it was recovered from the computer table in children’s bed room in the house of accused, on being pointed out by accused, and thereby prosecution established the guilt of accused for offence under Section 7 of the Act.

114. Section 13 of the Act deals with criminal misconduct by a public servant. Relevant portions of Section 13 of the Act read as follows:

“13. Criminal misconduct by a public servant:-

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

* * * *

(d) if he, -

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

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

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

* * * *

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.

Section 13 of the Act in general lays down that if a public servant, by corrupt or illegal means or otherwise abusing his position as a public servant obtained for himself or for any other person any valuable thing or pecuniary advantage he would be guilty of “criminal misconduct”. Sub-section 2 thereof, speaks of the punishment for such misconduct. Evidence on record established that accused, being the then Inspector of Posts, Bhainsa Sub-Division, Bhainsa, demanded bribe from PW1 for having issued Ex.P1 provisional order appointing GDS-MC, Puspur Branch Post Office and to clear charge reports(Ex.P2) and accepted bribe amount of Rs.10,000/- on 27.09.2015 at his house in Nizamabad and the said amount was recovered. By abusing the official position as Inspector of Posts, Bhainsa Sub-Division, Bhainsa accused obtained pecuniary advantage for himself for having issued Ex.P1 provisional order and to clear charge reports of PW1, thereby becoming liable for punishment for offence under Section 13(2) r/w 13(1)(d) of the Act.

115. Above discussion leads me to conclude that prosecution brought home guilt of accused beyond all reasonable doubt for offences under Sections 7 and 13(2) r/w 13(1)(d) of the Act. Point is accordingly answered in favour of prosecution.

Finding:

116. In the result, accused is found guilty for offences under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act and he is liable to be convicted under Section 248(2) of Cr.P.C. for the said offences.

Dictated to Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 30th day of December, 2022.

Sd/-
I ADDITIONAL SPECIAL JUDGE
FOR CBI CASES, HYDERABAD.

117. Accused is questioned on the quantum of sentence to be imposed. Accused submits that he has to look after his mother, who is suffering from ill-health, and his two children who are depending on him and that still he has 13 years of service. Thus submitting, accused prayed the court to take lenient view. Learned counsel for accused, reiterating the above circumstances stated by accused, also prayed the court to take lenient view.

118. Maximum sentence of imprisonment provided by Section 7 and Section 13(2) r/w 13(1)(d) of the Act is 5 years and 7 years respectively and fine. There is no record before the court that accused has any other criminal cases, pending or proved. This is the first offence proved against accused. In a case of this nature provisions of either Section 360 of Cr.P.C. or the provisions of the Probation of Offenders Act cannot be invoked. Taking into consideration the gravity of the offences proved against accused and the mitigating circumstances submitted by accused, court is inclined to impose Rigorous Imprisonment of 3 years and fine of Rs.50,000/- on each count for offences under Sections 7 and 13(2) r/w 13(1)(d) of the Act, which would meet the ends of justice, and I accordingly do so.

119. **In the result,** accused is convicted under Section 248(2) of Cr.P.C for offence under Section 7 of the Act and sentenced to undergo Rigorous Imprisonment for a period of **THREE YEARS** and pay fine of Rs.50,000/- (Rupees fifty thousand only) and in default of payment of fine he shall suffer Simple Imprisonment for **SIX MONTHS.** Accused is also convicted under Section 248(2) of Cr.P.C for offence under Section 13(2) r/w Section 13(1)(d) of the Act and sentenced to undergo Rigorous Imprisonment for a period of **THREE YEARS** and pay fine of Rs.50,000/- (Rupees fifty thousand only) and in default of payment of fine he shall suffer Simple Imprisonment for **SIX MONTHS**. Both the substantive sentences of Imprisonment imposed against Accused shall run concurrently. Accused is entitled for set off

under Section 428 of Cr.P.C. for the remand period from 28.09.2015 to 09.10.2015 (12 days). Bail bonds of accused shall stand cancelled forthwith. MOs.1 and 2 shall be destroyed and MO3 shall be returned to A.Sanjeev Kumar(PW1) after expiry of appeal time.

Dictated to Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 30th day of December, 2022.

Sd/-
I ADDITIONAL SPECIAL JUDGE
FOR CBI CASES, HYDERABAD.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

ON BEHALF OF PROSECUTION:

PW1	:	A.Sanjeev Kumar, Grameen Dak Sevak Mail Carrier(GDS-MC), Postal Department (Defacto complainant).
PW2	:	B.Naresh Chandra, Former Assistant Manager, State Bank of Hyderabad, Pragathi Bhavan Branch, Nizamabad (Mediator to the trap).
PW3	:	Amarwaj Prathap, Former Manager, State Bank of Hyderabad, Subash Nagar, Nizamabad, (Mediator to the trap).
PW4	:	P.Parishudda Rao, Former Superintendent of Post Offices, Adilabad Division, Adilabad.
PW5	:	A.Venkat Reddy, Former Superintendent of Post Offices, Adilabad Division, Adilabad.
PW6	:	K.Parameshwar, Former Post Master, Head Post Office, Adilabad.
PW7	:	R.Balaji, Grameen Dak Sevak, Branch Post Master, Puspur.
PW8	:	Suvamoy Nag, Former Inspector of Posts, Nirmal Sub Division, Adilabad Division.

PW9	:	K.Bojanna, Branch Post Master, Dehgaon, Nirmal District, Telangana.
PW10	:	S.Gangadhar, Branch Post Master, Kamol, Bhainsa Mandal, Nirmal District, Telangana.
PW11	:	Ch.Akhilesh Babu, Branch Post Master, Kowtla, Sarangapur Mandal, Nirmal District, Telangana.
PW12	:	Ch.Anvesh Babu, Assistant Branch Post Master, Bansapalli, Dilawarpur Mandal, Nirmal District, Telangana.
PW13	:	Bodavath Krishna, Assistant Branch Post Master, Boregaon, Nirmal District.
PW14	:	Kalleda Srinivas, Assistant Branch Post Master, Brahmangoan, Basar Sub-Office, Nirmal District.
PW15	:	S.Pankaj Kumar, Former Grameen Dak Sevak and Mail Carrier/Mail Deliver (GDS-MC/MD), Elegaon Branch Post Office under Mudhole Sub-Post Office, Adilabad District.
PW16	:	Dr.Vennam Upender, the then Director of Postal Services in the Office of the Post Master General, Hyderabad Region, Hyderabad.
PW17	:	B.Satish Prabhu, the then Inspector of Police, CBI, Hyderabad(Trap Laying Officer).
PW18	:	V.Sekhar Dorababu, Inspector of Police, CBI, ACB, Hyderabad (Investigating Officer).
PW19	:	S.N.Rasool, Assistant Director, Central Forensic Science Laboratory, Hyderabad.

ON BEHALF OF THE DEFENCE: - NIL -

DOCUMENTS MARKED

ON BEHALF OF PROSECUTION :

Ex.P1	:	Original Provisional Order No.PF/GDSMC/Puspur BO/15 dt.21.08.2015 issued by the then Inspector of Police, Bhainsa Sub-Division, Bhainsa(Accused).

Ex.P2	:	Original unfilled charge reports in A.C.G 61 Form of Department of Posts, Government of India bearing the signatures of Sri.R.Balaji, the then Branch Post Master, Puspur(PW7) and Sri.A.Sanjeev Kumar, GDSMC(PW1) (6 Sheets).
Ex.P3	:	Original report dt.27.09.2015 of A.Sanjeev Kumar, GDSMC, Puspur(PW1) addressed to DIG, CBI, Hyderabad (2 Sheets).
Ex.P4	:	Fax copy of report dt.27.09.2015 of A.Sanjeev Kumar, GDSMC, Puspur(PW1) addressed to DIG, CBI, Hyderabad containing the endorsement of DIG, CBI, Hyderabad (3 Sheets).
Ex.P5	:	First Mediators Report dt.27.09.2015 held at Room No.2, Officers Rest House, Railway Station, Nizamabad(4 Sheets).
Ex.P6	:	Second Mediators Report dt.27.09.2015 held at the residence of accused situated in First Floor with H.No.6-9/1, Gangsthan, Phase-II, Nizamabad, Telangana(7 Sheets).
Ex.P7	:	Attested copy of Selection Proceedings dt.25.05.2015 in respect of Puspur Branch Office, Mudhole Sub-Office under Adilabad Head Office for the post of GDSMC, along with attested copy of speaking order of Sri.A.Sanjeev Kumar with Annexure and attested copy of Provisional order dt.21.08.2015 (5 Sheets).
Ex.P8	:	Search list with Inventory dt.27.09.2015.
Ex.P9	:	Rough sketch of scene of offence dt.27.09.2015.
Ex.P10	:	Specimen seal impressions used to seal the material objects.
Ex.P11	:	Attested copy of Circular No.ST/GDS/CMC/2002 dt.08.07.2003 issued by Assistant Post Master General (S&V), Office of the Chief Postmaster General, A.P.Circle, Hyderabad-500 001 containing instructions regarding procedure to be adopted in respect of appointment to the cadre of GDS BPMs/SPMs and other GDS Agents.
Ex.P12	:	Attested copy of Approval in Letter No.EST/HYD/DS/Adilabad Dn/2012, dt.25.03.2015 of Assistant Director (Establishment), Office of the Chief Postmaster General, A.P. Circle, Hyderabad–500 001 giving permission to fill up the

vacant GDS posts in Adilabad Division.

Ex.P13 : Original Letter No.B2-GDS/NTF-2015, dt.26.03.2015 issued by the then Superintendent of Post Offices, Adilabad Division instructing the Inspector of Posts, Bhainsa Sub-division, Bhainsa to verify the record and issue notification and complete the entire process within 60 days from the date of notification and intimate the particulars of selected/engaged candidate to the said office.

Ex.P14 : Original Letter No.B2-GDS/Vacancies/NTF/2015, dt.28.04.2015 addressed by the Superintendent of Post Offices, Adilabad Division to the Assistant Superintendent of Posts, Mancherial Sub-Division and the Inspectors of Post Offices of Adilabad, Nirmal, Bhainsa, Bellampalli and S.K.Nagar Sub-Divisions communicating the list of identified members to attend the selection process.

Ex.P15 : Attested copy of Notification vide Memo No.PF/GDS/GDSMC/Puspur BO/Mudhole SO/15, dt.26.03.2015 issued by the Inspector of Posts, Bhainsa Sub-Division, Bhainsa(Accused) (4 Sheets).

Ex.P16 : Attested copy of Corrigendum vide Memo No.PF/GDS/GDSMC/Puspur BO/Mudhole SO/15, dt.24.04.2015 issued by the Inspector of Posts, Bhainsa Sub-Division, Bhainsa(Accused).

Ex.P17 : File pertaining to A.Sanjeev Kumar, GDS-MC, Puspur Branch(PW2) (42 Sheets).

Ex.P18 : Two charge reports dt.01.09.2015 in ACG-61 Form regarding assumption of charge by PW1 as GDS-MC, Puspur(2 Sheets).

Ex.P19 : Attested copy of Mail dt.14.05.2015 of Superintendent of Post Offices, Adilabad Division, Adilabad sent to Mail of Accused and others nominating accused and one V.Venkateswarlu, Inspector of Posts, Bellampalli in the selection committee for the post of GDS-MC.

Ex.P20 : Original Financial Handbook in Volume-II of Puspur Branch Post Office for the months from March,2013 to September, 2015, which contains the transaction details in respect of deposits and deliverables.

Ex.P21 : Charge report dt.18.11.2015 of Ch.Anvesh Babu(PW12) in ACG 61 Form assuming charge as GDSMC in Bholsa Branch Post Office, Bhainsa Sub-Office.

Ex.P22 : Charge report dt.29.08.2015 of S.Krishnaveni in ACG 61 Form assuming charge as GDSMC in Bhosi Branch Post Office, Bhainsa Sub-Office.

Ex.P23 : Charge report dt.31.07.2015 of K.Srinivas in ACG 61 Form assuming charge as GDSMC in Kolur Branch Post Office under Mudhole Sub-Office.

Ex.P24 : Charge report dt.01.08.2015 of S.Pankaj Kumar in ACG 61 Form assuming charge as GDSMC in Elegaon Branch Post Office.

Ex.P25 : Sanction Order bearing DO No.PMG(H)/Vig/ADB/3/2015, dt.23.12.2015 along with Gazette dt.12.12.2006, covering letter dt.08.02.2007 of Ministry of Communications and I.T., Department of Posts, Government of India and covering letter No.PMG(H)/Vig/ADB/3/2015, dt.23.12.2015 of Assistant Director (S&V), Office of the Post Master General, Hyderabad (5 Sheets).

Ex.P26 : Suspension Order of accused dt.06.10.2015 issued by the Director of Postal Services, Hyderabad Region, Hyderabad.

Ex.P27 : Copy of Provisional Order dt.21.08.2015 issued by Inspector of Posts, Bhainsa Sub-Division, Bhainsa(Accused), which was handed over to PW17 by PW1 along with Ex.P3 report.

Ex.P28 : Bill dt.27.09.2015 of GVR Internet Cafe, Nizamabad for Rs.31/- which was paid by PW17 towards fax charges.

Ex.P29 : Fax copy of original order dt.21.08.2015 sent by PW17 to CBI Office, Hyderabad.

Ex.P30 : Xerox copy of charge report in ACG-61 Form, on which PW17 took the signatures of PW2 and PW3.

Ex.P31 : Original FIR in R.C.No.19(A)/2015, CBI, Hyderabad.

Ex.P32 : Letter dt.23.11.2015 of Superintendent of Post Offices, Adilabad Division, Adilabad, under which PW18 received the documents.

Ex.P33 : CFSL Examination Report dt.05.11.2015 of PW19, along with covering letter dt.20.11.2015.

Ex.P34 : Register labeled "Puspur B.O., GDS OT BPM Selection Register, Bhainsa Sub-Division."

ON BEHALF OF DEFENCE:

Ex.D1 : Marked portion in the statement of PW3 recorded under Section 161 of Cr.P.C (marked in cross-examination of PW3).

Ex.D2 : Relevant endorsement in Ex.P20 at Page No.31 in respect of month of August,2015.

Ex.D3 : Marked portion of statement of PW15 recorded under Section 161 of Cr.P.C.

Ex.D4 : Marked portion of statement of PW15 recorded under Section 161 of Cr.P.C.

Ex.D5 : Marked portion of statement of PW15 recorded under Section 161 of Cr.P.C.

MATERIAL OBJECTS MARKED

MO1 : Right hand wash of accused.

MO2 : Cotton swab wash of Ex.P2.

MO3 : Tainted currency notes of Rs.10,000/- with denomination of Rs.500/- x 20.

Sd/-
I ADDITIONAL SPECIAL JUDGE
FOR CBI CASES, HYDERABAD.