



his son, he will pay Rs.500/-, otherwise he (the accused) will not treat his son and also told to come with cash. Thereafter, the complainant wrote a complaint to the SP, CBI, Bhubaneswar basing on which, the present case was registered. On 4.3.2011 a trap party including two independent witnesses was formed and solution of sodium carbonate was prepared in a clean glass bowl. The complainant produced one number of five hundred rupee note which was treated with phenolphthalein powder and then Sri S.N.Rath, CBI Inspector advised the complainant to hand over the money to the accused on his demand. A pre-trap memorandum was prepared at the spot in which all who were present there, have signed. The trap party members went to Central Hospital, MCL, Brajarajnagar and the complainant entered the chamber of the accused and the accompanying witness Abdul Hannan followed the complainant inside the chamber and waited near the entrance door and others waited outside. There the accused demanded and accepted the bribe money from the complainant and kept it in his left hand side shirt pocket. Getting pre-arranged signal, Sri S.N.Rath, CBI Inspector along with the team members rushed to the spot and Sri Rath gave his identity and asked for his identity and the accused identified himself as Dr. P.Gopal Rao, Chief Medical Officer, Central Hospital, MCL, Brajarajnagar. When Sri Rath challenged as to why he demanded and accepted the bribe from the complainant, the accused became nervous and fumbled. His both hand washes were taken in sodium carbonate solution which turned pink. As per the instruction, the accused took out some of GC notes from his left side shirt pocket. Being directed by Sri Rath, Inspector, witness J.K.Mohanty checked the note and found

the GC note of Rs.500/- produced by the complainant and the said GC note was kept in a sealed envelope. The shirt of the accused was also put off and the pocket wash was taken which turned pink and the said solution was kept in a sealed bottle marked "P" and all the witnesses have signed on the paper seal. A post trap memorandum was prepared at the spot in which all the witnesses present, have signed. After completion of investigation and obtaining sanction order, charge-sheet was submitted against the accused. Charge for the offences, as earlier mentioned was framed against him.

3. Defence plea is one of complete denial. It is the specific plea of the defence that the complainant has falsely foisted this case against the accused.

4. The prosecution has examined 9(nine) witnesses. Out of them, PW-8 is the complainant and PW-9 is the Trap Laying Officer. PW-5 is the accompanying witness, PW-6 is the magisterial witness who verified the numbers of the GC notes, PW-7 is the independent witness, PWs-1 and 2 are the seizure witnesses, PW-3 is the sanctioning authority, PW-4 is the Scientific Officer, CFSL, Kolkata. On the other hand, the accused has examined himself as DW-1.

5. Points for determination in this case are:-

- (i) Whether on 4.3.2011 the accused being a public servant functioning as Chief Medical Officer (Child Specialist), Central Hospital, Mahanadi Coalfields Limited, Brajarajnagar by corrupt or illegal means or otherwise abusing his position as a public servant obtained for himself pecuniary advantage of Rs.500/- from the complainant for treatment of his son?
- (ii) Whether on the aforesaid date and place the accused accepted Rs.500/- as gratification for himself other than legal remuneration as a

motive or reward from the complainant for treatment of his son?

6. The evidence of P.W.1 Bibhabasu Mishra, Senior Manager, Personal, MCL, Burla and P.W.2 Rabi Narayan Senapati, Office Superintendent-cum- Section Officer, Central Hospital, MCL, Brajarajnagar and P.W.7 Chandra Sekhar Sharma, Chief of Medical Services in MCL at Central Hospital, IB-Valley, Brajaraj Nagar goes without any challenge and unequivocally prove that on 4.3.2011 the accused was continuing as Specialist in Pediatrics at Central Hospital, Brajarajnagar. This evidence gets corroboration from the appointment letter of accused Ext.2, personal file of accused Ext.4, posting and transfer order of accused Ext.2/3, office order of posting of accused Ext.2/6, attendance register of Central Hospital MCL, Brajarajnagar Ext.12. So from the evidence of above witnesses and from the documents, it is forthcoming that that on the date of occurrence the accused was working as Specialist in Pediatrics at Central Hospital, Brajarajnagar.

7. Now it is to be seen how far the prosecution has been able to prove the factum of demand and acceptance of bribe by the accused from the complainant. In a case of trap, demand and acceptance of illegal gratification by a public servant with a motive to do any official act in favour of a person is vital. Before scanning the evidence adduced by the prosecution witnesses, it may be noted here that, in the case of **Subas Prabat Sanvane- Vrs.- State of Gujarat reported in (2002) 22 OCR (Supreme Court) at page 817**, Their Lordships of the Honourable Apex Court have held that, mere acceptance of money by a public servant, without there being any other evidence that it was demanded as illegal

gratification, would not be sufficient for convicting the accused U/s.13(1)(d) of the P.C.Act, 1988. Further in the case of **Narendra Campaklal Trivedy-Vrs.- State of Gujarat, AIR 2012 (Supreme Court) 2259**, the Hon'ble Supreme Court have held that mere recovery of tainted money is not sufficient to record a conviction unless there is evidence that the bribe has been demanded or money was paid voluntarily as bribe. In the case of **State of Punjab-Vrs.- Madan Mohan Lal Verma (2013) 56 OCR (SC)- 425**, it has been held that demand of illegal gratification is sine qua non for constituting an offence under the Act, 1988. Mere recovery of the tainted money is not sufficient to convict the accused, when substantive evidence in the case is not reliable, unless there is evidence to prove payment of bribe or to show that the money was taken voluntarily as bribe.

8. Mere receipt of the amount by the accused is not sufficient to fasten guilt, in the absence of any evidence with regard to demand and acceptance of the amount as illegal gratification. However, before the accused is called upon to explain how the amount in question was found in his possession, the fundamental facts must be established by the prosecution. Only thereafter the accused is to displace the statutory presumption raised under Section 20 of the Act, 1988 by bringing on record evidence, either direct or circumstantial, to establish with reasonable probability, that the money was accepted by him, other than as a motive or reward as referred to in Section 7 of the Act, 1988. While invoking the provision of Section 20 of the Act, the Court is required to consider the explanation offered by the accused, if any,

only on the touchstone of preponderance of probability and not on the touchstone of proof beyond all reasonable doubt.

9. It is a settled position of law that the complainant is an interested and partisan witness concerned with the success of the trap and his evidence must be tested in the same way as that of any other interested witness. It has been held by the Honourable Supreme Court in the case of **State of U.P.-Vrs.- Dr. G.K.Ghose reported in AIR 1984 S.C. 1453** that the trap laying party is interested to the extent of the success of the trap and therefore, for taking up such measures, no blame should be given to the prosecution that phenolphthalein was applied to the GC notes in question to grind the accused in a false case. In the light of the aforesaid settled legal position, this Court has to examine how far the prosecution has been able to establish by reliable evidence about such demand and acceptance of bribe by the accused from the complainant.

10. PW-8 the complainant has stated that about two to three years back, one day he had taken his son Kanha to MCL Central Hospital, Brajaraj Nagar and also taken one OPD ticket dated 1.3.2011 vide Ext.7 for that purpose. He has also stated that the accused had prescribed some medicines and supplied the said medicines to him. Since P.W.8 being the vital witness does not support the prosecution case, he has been declared hostile by the prosecution. During cross-examination PW-8 has deposed that he does not know the contents of the paper on which he has signed vide Ext.9. He has also deposed that he had not lodged any written complaint/FIR before

the CBI and the accused had never demanded any money from him and he has never given any money to the accused. The accused without writing any prescription, gave some medicines to him for treatment of his son. None else had accompanied him (PW-8) to the said hospital. The room, in which the accused was sitting, was not visible from outside. He had not accompanied to any CBI team to the said hospital on any occasion and no money was recovered from the possession of the accused in his (PW-8) presence. PW-8 has further deposed that his signatures vide Exts.17/2, 19/2, 20/2, 22/2, 23/2, 21/3, 18/3, 24/3,26/3 and 30 were taken by the CBI staff on blank papers and blank forms at one temple, which was about 10 kilometres away from the hospital in one evening.

11. PW-1 has stated that DSP, CBI Sri D.K.Kabi seized personal file vide Ext.2 and IPR file vide Ext.3 of the accused from his (PW-1) custody and after seizure, he prepared the seizure list vide Ext.1. As per personal file, the accused joined in Coal India Limited as Specialist, Grade-III at CCL, Darbhanga, Ranchi. Ext. 2/1 is the appointment letter of the accused. As per the personal file, the accused promoted to E 4 grade i.e. Senior Specialist vide promotion order Ext.2/2 and thereafter he was directed to join at Kargali under CCL. Ext.2/3 is the posting and transfer order. On 29.8.1996 he joined at MCL, Burla as Medical Superintendent as per office order vide Ext.2/4. On 3.9.1996 he joined at Brajarajnar Central Hospital, MCL as Deputy Chief Medical Officer as per office order vide Ext.2/5. Up-to 4.3.2011 the accused continued at Central Hospital, Brajarajnar as per office order vide Ext.2/6. During cross-examination, PW-1 has stated that the accused was suspended from service after remand to jail

custody in this case on 4.3.2011 and was attached to Headquarter at Burla.

12. PW-2 in his evidence has stated that their employees, their family members as well as outsiders are being treated in Central Hospital, MCL, Brajarajnagar. The employees are treated free of cost and the outsiders are treated with payment. The prescribed fees of Rs.100/- is being paid by an outsider. PW-2 has also stated that the CBI Officer seized two OPD registers and prepared seizure list vide Ext.4. Ext.5 is the OPD Register (New) and Ext.6 is the OPD Register (Old). New register is meant for new patients while old register is for old patients. PW-2 has further stated that on 1.3.2011 under registration No.6764 one Kanha was referred to pediatric doctor for treatment and he is an outsider. The entry vide Ext.5/1 has been made by Kuni Das. Ext.7 is the OPD ticket in respect of registration of patient Kanha and Ext.8 is the money receipt issued by Kuni Das. On 18.4.2011 CBI Officer seized attendance register (Ext.12), office copy of the cash receipt-cum-bill book No.3 of Central Hospital, MCL, Brajarajnagar(Ext.10), duty sheet of doctors, Central Hospital, Brajaranagar as per Ext.9. Ext.10/1 is Bill No.5109 dated 1.3.2011 showing to issue in the name of Kanha. On 4.3.2011 the OPD ticket No.6764 reflected in the OPD register old marked as Ext.6/1 and another ticket was issued in the name of Kanha marked as Ext.11 written by the accused. On 1.3.2011 and 4.3.2011 the accused was present and signed in the register. Exts.12/1 and 12/2 are his signatures. Ext.13 is the causality duty sheet. The seized documents were kept in his (PW-2) zima by the CBI Officer as per zimanama vide Ext.14. PW-2 has also stated that he produced those documents before the CBI during

investigation. His cross-examination has been declined by the defence.

13. PW-3 has stated that in this case after going through the relevant papers, he sanctioned prosecution of the accused as per sanction order vide Ext.15 and at that time he was the competent authority to terminate the service of the accused. During cross-examination, PW-3 has stated that the Chief Vigilance Officer of Coal India Limited produced the relevant papers before him for obtaining sanction for prosecution of the accused.

14. PW-4 has stated that on 14.3.2011 office of the Director, CFSL, Kolkata received four sealed glass bottles from the SP I/C, CBI, Bhubaneswar vide Memo NO.1845/04(A)/2011-BBS dated 10<sup>th</sup> of March, 2011 against the case NO.R.C.0152011A0004 of CBI Bhubaneswar through messenger. The condition of the seals of the bottles were intact and tallied with the specimen seal forwarded by the authority. On 6.4.2011 he (PW-4) has analyzed the contents of the four sealed bottles by breaking the seals. PW-4 has also stated that the detail of the description of the exhibits, its marking in the laboratory have been mentioned in his report No.CFSL (K)/EE/2011(G/I-330) dated 6.4.2011 vide Ext.16. CBI had marked the four bottles as R,L, D and P. After receipt of the bottles, the bottles R having marking as Chem117/11/A, L is marked as Chem117/11/B, D is marked as Chem117/11/C and P is marked as Chem117/11/D. After opening of those bottles, he (PW-4) examined the contents in CFSL Laboratory, Kolkata and phenolphthalein, sodium carbonate and water were detected in the contents of each of the exhibits marked as CHEM117/11/A, CHEM117/11/C and CHEM117/11/D. No

phenolphthalein was detected in the contents of the exhibit marked in CFSL, Kolkata as CHEM117/11/B. During cross-examination, PW-4 has stated that those bottles were received by the office of CFSL, Kolkata, but not directly by me. He has further stated that on the authorization of the Director of CFSL, he (PW-4) conducted the examination.

15. PWs-5, 6 and 9 have stated that on 4.3.2011 as per the instruction of Area Manager, Food Corporation of India, Sambalpur, PW-5 met the CBI Inspector S.N.Rath (PW-9) at Officers Guest House of Railway, Jharsuguda and Sri Rath introduced him (PW-5) to Jayanta Kumar Mohanty (PW-6) and the CBI Inspector Sri S.B.Mishra, SI Barik, Constables A.K.Pradhan, B.K.Nayak, B.K.Palai and J.Singh and the complainant Ashok Singh (PW-8) who told him (PW-5) that he took his son to Doctor P.Gopal Rao (accused), M.C.L. Hospital, Brajarajnagar for treatment, but the doctor demanded bribe of Rs.500/- for treatment. So, it was decided to trap that doctor. PW-5 went through the written complaint. Constable A.K.Pradhan prepared chemicals and Ashok Singh gave a five hundred rupee note to Inspector Rath (PW-9). PW-6 noted down the number of that currency note. A.K.Pradhan applied some powder to that currency note and then it was given to PW-6. PW-8 then kept that note in his pocket and he was given instruction to give that note to the accused on his demand. On the instruction of the Inspector (PW-9), PW-6 put his hands inside that solution, as a result, the solution became pink and that pink solution was kept inside a bottle and was sealed and they signed on that bottle vide M.O.-I. CBI Inspector prepared the pre-trap memorandum vide Ext.18 on which they signed.

16. Then as per the instruction of Inspector (PW-9), he (PW-5) accompanied PW-8 on his motor cycle to his house at Thakurpada, Brajaraj Nagar. Then they picked up his son from his house and went to MCL Hospital. At 11 AM they reached the hospital and entered inside the chamber of the accused. PW-8 showed the previous medical ticket for treatment of his son. Then the accused demanded Rs.500/- and PW-8 brought out Rs.500/- note from his left hip side pant pocket and gave the same to the accused who received the same in his right hand and kept it in his left chest pocket of his shirt and then wrote the prescription. Thereafter, they came outside and as per the pre-arranged instruction, PW-8 gave signal by wiping his face with his hand. Immediately, the CBI team entered into the chamber of the accused. PW-9 Inspector Sri Rath disclosed his identity and the accused gave his identity on demand by PW-9. PW-9 challenged as to why he took money from PW-8. The accused became nervous. They have also stated that Constables P.K.Nayak and B.K.Palai caught hold both the hands of the accused and on the instruction of PW-9, Constable A.K.Pradhan prepared the chemical solution which was colour less and then the accused being asked, put his right hand fingers inside the solution, as a result the same became pink colour and that solution was kept inside a bottle vide M.O.-II. Then Constable A.K.Pradhan prepared another solution which was colour less and the doctor, being asked, put his left hand fingers inside that solution, but the colour of the solution was not changed and that solution was kept inside another bottle vide M.O.-III. The above witnesses have also stated that being asked, the accused returned that five hundred rupee note to PW-6 who tallied the number of the

note with the number which he earlier noted down and that currency note was kept inside a cover vide Ext.21 and sealed. On the instruction of PW-9, the accused put off his shirt and A.K.Pradhan prepared another solution which was colour less and the pocket portion of the said shirt of the accused was put inside that solution, as a result, the colour of the solution became pink and that solution was kept inside a bottle vide M.O.-IV and sealed. That shirt was kept inside a cover vide M.O.-V. Then PW-9 arrested the accused. They have also stated that a sketch map of the spot vide Ext.24 was prepared on which they signed. PW-9 searched the chamber of the accused vide search list Ext.25 and seized some documents. PW-9 prepared the post trap memorandum vide Ext.26 on which they signed. Thereafter, they all went to the house of the accused, where PW-9 searched the house of the accused vide search list Ext.27. Then PWs-5 and 6 left the spot.

17. PW-9 has also stated that he examined the accused and prepared interrogation report and thereafter he seized the documents after preparing seizure memo vide Ext.4. The registers are OPD register (new) w.e.f. 1.11.2011 (entry Nos.1 to 7010) vide Ext.5, OPD register (old), Central Hospital, IB Valley w.e.f. 20.12.2010 to 4.3.2011 vide Ext.6. PW-9 seized one OPD ticket vide OPD No.6764 dated 1.3.2011 of MCL Central Hospital, Brajarajnagar IB Valley Area in the name of Kanha vide Ext.7, (ii) one cash receipt-cum-bill vide Book No.III regd. No.6764 dated 1.3.2011 in the name of Kanha,Thakurpada of MCL Central Hospital, IB Valley Area vide Ext.8 and one prescription dated 4.3.2011 in the name of Kanha written by the accused vide Ext.11 and prepared seizure memo vide Ext.30/1. On 14.3.2011 he (PW-9) handed over

investigation of the case to Sri D.K.Kabi, DSP as per the order of SP, CBI, Bhubaneswar for further investigation.

18. PW-9 has also stated that after taking investigation, Sri D.K.Kabi examined the complainant, other witnesses, seized the personal file of the accused, IPF file of the accused on 17.3.2011 on being produced by Sri B.B.Mishra, Sr. Manager, MCL Headquarters, after preparing seizure memo vide Ext.1. On 18.4.2011 Sri Kabi seized the attendance register of executives of Central Hospital, MCL, Brajarajnagar w.e.f. March, 2010 to April, 2011, Office copy of cash receipt-cum-bill book No.3 Sl.Nos.5101 to 5150 of Central Hospital, MCL, Brajarajnagar, duty sheet of doctors for the month of March, 2011 after being produced by Sri R.N.Senapati, OS, Central Hospital, MCL, Brajarajnagar and prepared a seizure memo vide Ext.9. Sri D.K.Kabi obtained CFSL Report vide Ext.16 and also obtained the sanction order from the competent authority vide Ext.15. PW-9 has also stated that after completion of investigation, Sri D.K.Kabi submitted charge-sheet u/s.7 and 13 (2) read with Section 13(1) (d) of P.C.Act, 1988.

19. During cross-examination, PW-5 has deposed that when he reached, the complainant Ashok Singh was not there, but he came soon thereafter. He does not know the number of that five hundred rupee currency note. He has also deposed that immediately after parking the motor cycle, they went to the chamber of the accused. Two to four persons were present inside the chamber before their arrival. He could not say how many of them were patients or doctors. The doctor prescribed medicine in a separate paper, but not in the hospital ticket. He could not say which documents were seized by the CBI from the chamber

of the accused. During cross-examination, PW-6 has deposed that PW-5 was present when he reached Railway Rest House and he (PW-6) talked with the complainant PW-8 who told him that the accused is harassing him and demanding money and he read the written complaint given by PW-8. He does not remember the number of that five hundred rupee currency notes. PW-6 has further deposed that the complainant kept that note in his backside pant pocket, but he does not remember whether it is right side or left side. After personal search of the accused, some documents were seized from him as per Ext.32 and no money was recovered from him during personal search.

20. During cross-examination, PW-9 has deposed that he was not present when the informant lodged FIR at their Rourkela Office and it was sent to their Bhubaneswar office by special messenger. PW-9 has not mentioned if he had verified any identity of the official witnesses who appeared before him on 4.3.2011, but they have brought the official letters of their higher authority to appear before him (PW-9). The said official letters have not been filed in this case. They have not made any prior written requisition for use of the rest house in question on 4.3.2011. He (PW-9) had ensured that except him, none of the trap team members should carry any cash and he was carrying Rs.1,000/- with him to meet any incidental expense. The exact manner, in which he ensured the same, has not been mentioned in the pre-trap memorandum. He does not remember how many persons were in front of the counter waiting for their turn, when the complainant went there. No entry was made in the new OPD register on 4.3.2011, but entry was made in the old OPD register for the year, 2011 on that day. He does not remember if any patient

was already present in the room of the accused, when the complainant went there and if patient came to that room, after the complainant reached there and if that was an AC room or non-AC room, but there was door closer fixed on the entrance door of that room. PW-9 has not recorded the statement of any person u/s.161 Cr.P.C. in connection with this case. He has not seized the prescriptions of other patients, seen by the accused on that day. He does not remember if the shirt of the accused seized by him, was half shirt or full shirt. He has not mentioned the denominations of other cash found in possession of the accused in personal search memo as well as in the post-trap memorandum, although the denomination of the tainted GC note recovered from the possession of the accused, has been mentioned. The fact that extra cash of Rs.1570/- was found in the possession of the accused, has not been mentioned in post trap memorandum, although it has been mentioned in personal search memo vide Ext.28.

21. PW-7 has stated that the accused was working as Chief Medical Officer in Central Hospital, Brajarajnagar and he was a specialist in pediatric. The hospital was both for MCL employees and outsiders. For outsiders, fee of Rs.100/- is collected for treatment by specialist. PW-7 has also stated that on 4.3.2011 the accused was present in the hospital and the prescription Ext.11 is written and signed by the accused vide his signature Ext.11/1. During cross-examination, PW-7 has deposed that he could not say why the doctor did not give prescription on 1.3.2011.

22. DW-1 the accused in his evidence has stated that their General Manager told him that one group is operating in that area who are involved doing blackmailing business and as per their advice, he lodged one FIR at

Orient P.S. Brajaraj Nagar on 22.10.2010 Ext.A. According to him he was receiving several telephonic calls from blackmailers for which he again wrote a letter to S.P., Jharsuguda on 20.1.2011 (Ext.B) and he has stated that everything was planned for which he was put to trouble.

23. Although D.W.1 has stated regarding some threatening given to him over telephone for the purpose of blackmailing him, in order to compel him to give money, the defence has not been able to prove in the standard of preponderance of probability that the said aspect has got any link with the alleged demand and acceptance of bribe by the accused from the complainant. Of course D.W.1 has filed Xerox copy of FIR dtd.22.10.2010 (Ext.A) and Xerox copy of FIR dtd.20.1.2011 vide Ext.B and one receipt to that effect vide Ext.3, the defence has been able to prove and D.W.1 has not also deposed if on the basis of said report sent by D.W.1, any FIR was registered and investigation was taken up at any police station.

24. P.W.8 the complainant has not supported the case of the prosecution in any manner. P.W.8 has categorically stated that he had gone to the hospital in question only once i.e. on 1.3.2011 and has categorically stated that he has not gone to the said hospital subsequently. He has also categorically deposed that none had accompanied him to the said hospital, when he had gone there for the treatment of his minor son namely Kanha.

25. Material discrepancies with regard to the OPD number and overwriting are found in Ext.6 and 7. The prosecution wanted to prove that since the son of the complainant was earlier examined, therefore, on his second visit to the said hospital entry to that effect vide Ext.6 was

made in the old OPD register. Ext.6 shows that OPD sl. No.6760 dtd.4.3.2011 was assigned, but Ext.10/1 shows the said serial number to be 6704. Similarly it is in the evidence that Ext.10/1 has been maintained in Book No.3, but it is seen that in some cash memos in the said book, book No.8 has been mentioned. There is much force in the submission of learned counsel for the defence that there has been manipulation in the OPD number since there has been overwriting of the same as seen from the right top corner of Ext.8.

26. The fact that the complainant (P.W.8) has denied to have lodged any FIR assumes further importance in view of the statement given by P.W.6 another independent witness. In para-4 of his deposition he has stated that the written complaint of the complainant was dated 1.3.2011. It is not known as to what happened to the said written complaint of P.w.8, which was seen by P.W.6. It is pertinent to mention here that the present FIR is dated 2.3.2011.

27. There are material contradictions in the statement of prosecution witnesses with regard to vital aspect of the prosecution case. Although P.W.5 and some other prosecution witnesses have stated regarding recovery of one GC note of the value of Rs.500/- from the possession of the accused, P.W.9 on the other hand in para-48 of his cross-examination has stated that the total amount of cash of Rs.1570/- was recovered from the possession of the accused.

28. Similarly, there is also material discrepancy on another vital aspect of the prosecution case. P.W.5 has stated in para-4 that the accused gave the tainted money to witness J.K. Mohanty (P.W.6), but during cross-

examination he has stated that the accused gave the money to the CBI inspector. The doctor (accused) gave Rs.500/- to the CBI Inspector. The CBI inspector being examined as P.W.9 on the other hand has stated that the accused took away some of the GC notes from his left side shirt pocket and the same were checked by Sri J.K. Mohanty, witness, on the instruction of P.w.9. In the above circumstances and in view of the discussions already made, no reliance can be safely placed on the said discrepant and contradictory statement of prosecution witnesses, when the complainant has not supported the case of the prosecution in any manner.

29. Having regard to the discussion made above, this Court finds that in the present case, demand and acceptance of bribe by the accused has not been proved by the prosecution beyond all reasonable doubt and it failed to establish the charge against the accused U/s.7/13(1)(d) read with Sec.13(2) of the Prevention of Corruption Act, 1988.

30. In the result, the accused is found not guilty of the offences punishable U/s.7 and 13(1)(d) read with Sec.13(2) of the Prevention of Corruption Act, 1988 and he is acquitted from the said charge U/s.248(1)Cr.P.C. He is discharged from his bail bond.

The seized GC notes of Rs.500/-(rupees Five hundred) vide Ext.21 be confiscated to the State, the sample bottles, T shirt under M.Os.I, II, III, IV and V be destroyed, the seized register be returned to the concerned authority after expiry of four months from the period of appeal, if no appeal is preferred and in the event of any

appeal, the same shall be guided by the orders of the Hon'ble Appellate Court.

Special Judge (CBI),  
Court No.IV, Bhubaneswar.

The judgment having been typed to my dictation and corrected by me and being sealed and signed by me is pronounced in the open court today this the 3<sup>rd</sup> day of August, 2016.

Special Judge (CBI),  
Court No.IV, Bhubaneswar.

List of witnesses examined for the prosecution :

PW-1	Bibhabasu Mishra.
PW-2	Rabi Narayan Senapati.
PW-3	Nirmal Chandra Jha.
PW-4	Baijayanta Mukhapadhyaya.
PW-5	Abdul Hannan.
PW-6	Jayant Kumar Mohanty.
PW-7	Chandra Sekhar Sharma.
PW-8	Ashok Kumar Singh.
PW-9	Sachidananda Rath.

List of witnesses examined for the defence :-

DW-1	Dr. P. Gopal Rao
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List of exhibits marked for the prosecution :-

Ext.1	Seizure list.
Ext.1/1	Signature of PW-1 in Ext.1.
Ext.2	Personal file of P.Gopal Rao.
Ext.3	I.P.R.file containing 42 sheets.
Ext.2/1	Appointment letter of accused.
Ext.2/2	Promotion order of accused.
Ext.2/3	Posting and transfer order of accused.
Ext.2/4	Office order.
Ext.2/5	Office order as Deputy Chief Medical Officer, Brajarajnagar, Central Hospital, MCL.
Ext.2/6	Office order showing the posting of Gopal Rao till 4.3.2011.
Ext.4	Seizure list.
Ext.4/1	Signature of PW-2.
Ext.5	OPD Register (New).
Ext.6	OPD Register (Old).
Ext.5/1	Entry made by Kuni Das in Ext.5.
Ext.7	OPD Ticket.
Ext.8	Money receipt issued by Kuni Das.
Ext.9	Seizure memo.

Ext.9/1	Signature of PW-2 in Ext.9.
Ext.10	Office copy of cash receipt-cum-bill book of Central Hospital, MCL.
Ext.10/1	Showing Bill No.5109 dt.1.3.2011 issued in the name of Kanha.
Ext.6/1	Entry made in Old OPD Register.
Ext.11	OPD Ticket-cum-Prescription.
Ext.12	Attendance Register maintained by Central Hospital, MCL.
Ext.12/1	Signature of Dr.P.G.Rao on 1.3.2011.
Ext.12/2	Signature of accused P.G.Rao on 4.3.2011.
Ext.13	Casualty duty sheet.
Ext.14	Zimanama.
Ext.14/1	Signature of PW-2 in Ext.14.
Ext.15	Sanction order.
Ext.15/1	Signature of PW-3 in Ext.15.
Ext.16	Report of PW-4.
Ext.16/1	Signature of PW-4 in Ext.16.
Ext.16/2	Signature of Dr.C.N.Bhattacharya, Director, CFSL in Ext.16.
Ext.17	Signature of PW-5 in M.O.-I.
Ext.18	Pre-trap memorandum.
Ext.18/1	Signature of PW-5 in Ext.18.
Ext.19	Signature of PW-5 in M.O.-II.
Ext.20	Signature of PW-5 in M.O.-III.
Ext.21	Sealed cover.
Ext.21/1	Signature of PW-5 in Ext.21.
Ext.22	Signature of PW-5 in M.O.-IV.
Ext.23	Signature of PW-5 in M.O.-V.
Ext.24	Spot Map.
Ext.24/1	Signature of PW-5 in Ext.24.
Ext.25	Seizure list.
Ext.25/1	Signature of PW-5 in Ext.25.
Ext.26	Post Trap memorandum.
Ext.26/1	Signature of PW-5 in Ext.26.
Ext.27	Search list.
Ext.27/1	Signature of PW-5 in search list.
Ext.17/1	Signature of PW-6 in M.O.-I.
Ext.18/2	Signature of PW-6 in Ext.18.
Ext.19/1	Signature of PW-6 in M.O.-II.
Ext.20/1	Signature of PW-6 in M.O.-III.
Ext.21/2	Signature of PW-6 in Ext.21.
Ext.22/1	Signature of PW-6 in M.O.-IV.
Ext.23/1	Signature of PW-6 in M.O.-V.
Ext.24/2	Signature of PW-6 in Ext.24.
Ext.28	Personal search memo of the doctor.
Ext.28/1	Signature of PW-6 in Ext.28.
Ext.25/2	Signature of PW-6 in Ext.25.

Ext.26/2	Signature of PW-6 in Ext.26.
Ext.27/2	Signature of PW-6 in Ext.27.
Ext.29	Signature of PW-8.
Ext.17/2	Signature of PW-8 in Ext.17.
Ext.19/2	Signature of PW-8 in Ext.19.
Ext.20/2	Signature of PW-8 in Ext.20.
Ext.22/2	Signature of PW-8 in Ext.22.
Ext.23/2	Signature of PW-8 in Ext.23.
Ext.21/3	Signature of PW-8 in Ext.21.
Ext.18/3	Signature of PW-8 in Ext.18.
Ext.24/3	Signature of PW-8 in Ext.24.
Ext.26/3	Signature of PW-8 in Ext.26.
Ext.30	Signature of PW-8 on paper.
Ext.29/1	FIR.
Ext.29/2	Endorsement/forwarding with signature of Sri D.K.Kabi.
Ext.31	Formal FIR.
Ext.31/1	Signature of Mr.M.S.Khan.
Ext.31/2	Endorsement.
Ext.18/4	Signature of PW-9 in Ext.18.
Ext.21/4	Signature of PW-9 in Ext.21.
Ext.24/4	Signature of PW-9 in Ext.24.
Ext.4/2	Signature of PW-9 in Ext.4.
Ext.30/1	Seizure list.
Ext.30/2	Signature of PW-9 in Ext.30/1.
Ext.1/2	Signature of D.K.Kabi in Ext.1.
Ext.9/2	Signature of D.K.Kabi in Ext.9.

List of exhibits marked for the defence :-

Ext.A	Xerox copy of the FIR dtd.21.10.2010
Ext.A/1	Signature of D.W.1 on Ext.A.
Ext.A/2	Endorsement regarding receipt of FIR.
Ext.B	Xerox copy of FIR dtd.20.1.2011.
Ext.B/1	Signature of D.W.1 on Ext.B.

List of M.Os. marked for the prosecution :-

M.O.-I	Pink solution kept inside a bottle and sealed.
M.O.-II	Pink colour solution kept inside a bottle and sealed.
M.O.-III	Solution kept inside a bottle and sealed.
M.O.-IV	Sealed cover bottle with pink solution.
M.O.-V	Shirt kept inside a cover and sealed.

List of M.Os. marked for the defence :-

Nil.

