

**IN THE COURT OF THE SPECIAL JUDGE, C.B.I., COURT NO.III,
BHUBANESWAR.**

PRESENT : Sri B.N. Das,
Special Judge, C.B.I.,
Court No.III, Bhubaneswar.

T.R.Case No. 4/2 of 2013/2012
(Arising out of R.C. 12(A)/ 2011)

Date of argument : 28.3.2014

Date of Judgment : 31.3.2014

REPUBLIC OF INDIA

Versus.....

Ranjit Kumar Sahoo, aged about 37 years,
Son of Gayadhar Sahoo, Qr.No.8, Block-18,
P & T Colony, Vani Vihar, Bhubaneswar
... Accused.

For the Prosecution : Sri K. C.Mishra,Sr. P.P.,CBI,
Sri Ashish Jaiswal, P.P.CBI.

For the Accused : Shri R.K. Nanda,
Shri J.N. Patnaik & Associates,
Advocates.

J U D G M E N T

The accused stands charged Under Sec.7 and Sec.13(2) read with Sec. 13(1)(d) of Prevention of Corruption Act,1988 for demanding and accepting bribe of Rs.500/- in order to disburse a cheque in favour of the complainant.

2. Prosecution case in nut shell is that, accused Ranjit Kumar Sahoo was working as Group-D employee in the office of Executive Engineer, Civil Division No.II, B.S.N.L., Bhubanewar since the year, 2004 and was entrusted with the work of regular despatch on the verbal order of Executive Engineer. Complainant Pravat Kumar Nanda (P.W.4) is a private person who had leased a piece of land situated at Plot No.11627 at Mouza Erabanga and entered into an agreement on 18.9.2008 with Executive Engineer (Civil), BSNL, Civil Divn. No.II, for erection of a BSNLh tower on monthly rent basis for Rs.1400/-. The accused who was looking after the despatch work demanded Rs.500/- from the complainant on 7.6.2011 in order to disburse a cheque amounting to Rs.4200/- towards rent for three months, and being aggrieved by such illegal demand, the complainant (P.W.4) lodged a complaint before S.P.CBI, on 7.6.2011 on the basis of which the present case was registered and investigation was entrusted to A.K. Mishra (P.W.5). Then, P.W.5 constituted a CBI team consisting of two independent witnesses, complainant and other CBI officials in order to lay trap. On 8.6.2011 all the witnesses including complainant remained present in the office of S.P. CBI, Bhubaneswar on th direction of P.W.5. The complainant produced the amount of Rs.500/- which was tainted with phenolphthalein powder. After necessary chemical demonstration and explaining the purpose of such trap, pre-trap memorandum was prepared vide Ext.14 which was signed by the witnesses. The trap party members were instructed to remain close to the place of occurrence. The complainant and shadow witnesses namely Manas Gourav

Maharana (P.W.2) and Bidyut Kumar Naik (P.W.3) proceeded to the spot along with the complainant (P.W.4) and other trap members. The complainant was asked to pay the money on demand to the accused and to give signal by rubbing his head after transaction of bribe money. Accordingly, both complainant (P.W.4) and the accompanying witnesses P.Ws.2 and 3 went to the accused. After entering the office, the complainant when was asked by the accused, if he has brought the bribe money of Rs.500/-, and stretched his right hand, complainant handed over the tainted note to him. He accepted the bribe money and kept in his left side chest pocket of shirt. The complainant acknowledged the receipt of the cheque on a letter which was issued in his favour amounting to Rs.4200/- and subsequently gave signal by rubbing his head with both hands. Soon after receipt of signal, the CBI Inspector rushed to the spot and recovered the amount from the left side chest pocket of the accused. His hand wash and pocket wash were taken and after observing all formalities of post trap proceeding, the trap team members left the spot with the accused. On completion of investigation, charge sheet was submitted against the accused Under Sec. 7 and Sec.13(2) read with Sec.13(1)(d) of P.C. Act, 1988, resulting the present case.

3. Defence plea is complete denial of the complicity of the accused in the alleged crime. It is the specific plea of the accused that the complainant forcibly thrust money into his pocket for which, he is not liable for the alleged offence.

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4. The points fall for determination are :

- (i) Whether the accused being a public servant was functioning as Despatcher in the office of BSNL and demanded Rs.500/- from the complainant Pravat Kumar Nanda in order to issue the cheque ?
- (ii) Whether the accused being a public servant accepted the bribe of Rs.500/- from the complainant as a gratification other than legal remuneration in order to issue the cheque in his favour ?
- (iii) Whether the accused being a public servant while functioning as despatcher by corrupt and illegal means abusing his official position as such public servant, obtained pecuniary advantage of Rs.500/-from the complainant in order to issue the cheque ?

5. In order to establish the charges against the accused prosecution has examined all together six witnesses, out of whom P.W.1 is the Executive Engineer, BSNL, P.Ws.2 and 3 are accompanying witnesses, P.W.4 is the complainant and P.Ws.5 and 6 are the Investigating Officers. On the other hand defence has examined only one witness on his behalf who is a retired Senior Clerk of BSNL.

6. It is to be seen whether the charge of demand by the accused has been established by the prosecution. Prosecution has placed reliance on the evidence of witnesses supported by documents. From the evidence of P.w.1, it is clearly established that he had received the application of one Syam Sundar Nanda for installation of tower vide Ext.1 and for site selection, there was a

meeting, in which proceeding was drawn vide Ext.2. On 12.5.2008 under his signature, a letter was issued to Sri Nanda vide Ext.3 which was received by the complainant with a direction to execute the lease deed. Subsequently, the

lease deed vide Ext.4 was executed in which, Executive Engineer is a party. It is the evidence of P.W.1 that the accused was working as Group-D employee who was entrusted with despatch and diary work. According to him, one letter was issued under his signature to forward the cheque bearing No.602519 dtd.3.6.2011 for Rs.4200/- vide Ext.11 which was pending with the despatcher-accused.

7. The complainant (P.W.4) in his evidence has stated that his father had executed a power of attorney in his favour duly consented by his brothers vide Ext.17. Further, monthly rent was decided for Rs.1400/- which was being collected by him from the accused in shape of cheque regularly. According to him, on 7.6.2011 he went to collect the cheque amounting to Rs.4200/- towards rent for three months, but, when the accused demanded bribe of Rs.500/-, he intimated the fact to CBI and lodged a complaint on the same day vide Ext.18. Hence, it is crystal clear that the land of the complainant was taken on lease by BSNL authority on monthly rent of Rs.1400/- for installation of tower and regularly, the cheques were being paid to the complainant by the accused-despatcher. The evidence of P.W.5 reveals that on the report of P.W.4, S.P. CBI, directed him to conduct investigation after registering CBI Case No.12 of 2011. According to him, the

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complainant has complained regarding demand of illegal gratification by the accused Ranjit Kumar Sahoo for despatch of the cheque towards rent of Rs.4200/-. On 8.6.2011 the complainant came with Rs.500/- when the pre-trap memorandum was prepared vide Ext.14. Before proceeding to the spot, a demonstration was made in presence of the witnesses. The note was tainted with chemical powder and handed over to the complainant. All the witnesses

put their signatures on pre-trap memorandum and subsequently, the complainant, witnesses and the I.O. proceeded to the spot. The evidence of P.W.4 reveals that when he met the accused, he asked for the money and accordingly, he handed over the tainted note to the accused to which he accepted in his right hand and kept the same in his left side chest pocket. After that the accused handed over the cheque to the complainant to which, he received after necessary acknowledgement and signature. Subsequently, he gave signal to the CBI staff as per pre-programme. This part of evidence remain unshaken through out and finds corroboration by the evidence of P.W.2 who was very much present along with P.W.4.

8. P.W.5 the Investigating officer in his evidence has clearly disclosed that after getting information from the complainant, he along with other witnesses rushed to the accused and gave their identity and when they challenged the acceptance of bribe from the complainant, the accused remained mum and did not give his explanation. The hand of the accused was washed with liquid which turned pink and the solution was kept in a separate bottle marked 'R'. The accused gave recovery of tainted notes

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which was seized from his possession. Shirt of the accused was also seized and wash of the pocket was taken and the liquid was kept in a sealed bottle marked 'S' where the witnesses put their signature.

9. Regarding recovery of money from the possession of accused, the evidence of P.W.5 finds ample corroboration by the evidence of P.Ws.1, 2, 3 and 4. According to P.W.1, the number of 500 rupee note recovered from the possession of the accused also tallied with the number which was kept by the inspector. Further, the drawer of the accused was searched and

correspondence letter was seized vide Ext.6. The relevant entry in the despatch register at Sl. No.522 has been proved vide Ext.12/1 which shows that payment has been made towards rent. The photo copy of the cheque was seized vide seizure memo Ext.19. According to P.W.5, the post trap proceeding was prepared separately vide Ext.7 and subsequently, the accused was arrested and forwarded to the court. Regarding demand of money, acceptance of bribe, the evidence of prosecution witnesses remain unshaken through out and nothing has been brought out substantial to discard their testimony. Rather all have corroborated the version of each other. At the time of recovery of tainted note, the hand wash of the accused was taken which was kept in a separate bottle vide M.O.II. On 10.6.011 the exhibits were sent for chemical examination vide forwarding report Ext.20 and the chemical examination report was received subsequently which has been proved by prosecution vide Ext.21. Same reveals that the exhibits 'R', 'S' and 'D' gave positive tests for the presence of phenolphthalein.

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10. From the evidence of prosecution witnesses, it is clearly established that the accused was in-charge of despatch during the relevant period. In order to hand over the cheque to the complainant, he has demanded bribe and the fact was intimated to C.B.I. There was a preparation of pre-trap memorandum, the bribe amount was given to the accused who received and handed over the cheque to the complainant. Subsequently, the tainted note was recovered from the exclusive possession of the accused. The hand wash and pocket wash of accused gave positive symptom. The chemical examination report is in favour of the prosecution.

11. On behalf of the accused, a witness has been examined namely Arjun Sahoo who has disclosed that there was ill-feeling between the complainant and the accused due to demand of required documents, such as death certificate of his father, legal heir certificate, savings bank account etc. by the accused from him. But at the time of his cross-examination, it is established that he has no knowledge about the lease deed or any such complain made by the accused. Even, he has no idea about the conversation of the accused with the visitors and prior to eight days of occurrence, even on 7.6.2011 he was on leave.

12. Learned defence counsel appearing for the accused submitted before the court that during previous occasion, the cheques have been issued promptly which has been received by the complainant on the same day and the conduct of the accused in

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demanding money is not based on reason. The complainant has not gone to the office and in view of the previous enmity, the accused has been falsely implicated with the crime even no allegation has been made before the Executive Engineer by the complainant previously regarding non-payment of the cheque. In view of the evidence adduced by the prosecution, such argument holds no good in absence of any proof. When the cheque has already been kept with the accused, asking for various documents from the complainant by him without any authority proves his ill-intention.

13. Accordingly, I come to the conclusion that the ingredients of the offences are well established under Sec.7 and Sec.13(2) read with Sec.13 (1)(d) of P.C. Act against the accused and prosecution has well established the

charge against him beyond all reasonable doubt. Accordingly, the accused is held guilty of the offence under Sec.7 and Sec.13(2) read with Sec.13(1)(d) of P.C. Act and is convicted thereunder.

SPECIAL JUDGE,CBI, COURT NO.III,
BHUBANESWAR.

Dictated & corrected by me and pronounced in the open Court today on 31st March, 2014 under my seal and signature.

SPECIAL JUDGE, C.B.I., COURT NO.III,
BHUBANESWAR.

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HEARING ON THE QUESTION OF SENTENCE:

Heard the convict on the question of sentence. It is submitted by the learned defence counsel that there is no adverse antecedent and complain against the accused. Moreover, he has got future service career, for which, a lenient view may be taken in awarding sentence. On the other hand learned P.P., CBI submitted that the convict deserves exemplary punishment for committing such offence.

Considering the gravity of the offence as well as submission of both the counsels, I am of the considered opinion that a lenient view be taken in respect of the convict. Consequently, the convict is sentenced to undergo rigorous imprisonment for One year and to pay a fine of Rs.2000/- (Rupees TwoThousand) in default to suffer rigorous imprisonment for two months for

the offence under Sec.7 of Prevention of Corruption Act and to undergo rigorous imprisonment for One year and to pay a fine of Rs.2000/- (Rupees Two Thousand) and in default to undergo R.I. for two months for the offence under Section 13(2) read with Sec. 13(1)(d) of P.C. Act with a direction that the sentences shall run concurrently. The period as undergone as UTP if any be set off.

The M.Os I to V be destroyed and the currency note be confiscated to the state after expiry of four months of appeal period, if no appeal is preferred and in the event of appeal subject to the order of the appellate court.

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The seized documents be returned to the person from whom seized after cancelling the zimanama after four months of appeal period, if no appeal is preferred and in the event of appeal subject to the order of appellate court.

SPECIAL JUDGE,C.B.I.,COURT NO.III,
BHUBANESWAR.

Dictated & corrected by me and is pronounced in the open court today i.e. on 31st March, 2014.

SPECIAL JUDGE,C.B.I.,COURT NO.III,
BHUBANESWAR.

LIST OF WITNESSES EXAMINED FOR THE PROSECUTION:

P.W.1 Makara Marandi.
P.W.2 Manas Gourav Maharana.

P.W.3 Bidyut Kumar Naik.
P.W.4 Pravat Kumar Nanda.
P.W.5 Ashis Kumar Mishra.
P.W.6 S. N. Subramaniam.

LIST OF WITNESSES EXAMINED FOR THE DEFENCE:

D.W.1 Arjuna Sahoo.

LIST OF DOCUMENTS ADMITTED BY THE PROSECUTION :

Ext.1 Application along with land particulars of Shyama Sundar Nanda.
Ext.1/1 Signature of P.W.1 in Ext.1.
Ext.2 Proceeding of meeting.
Ext.2/1 Signature of P.W.1 in Ext.1.
Ext.3 Letter of P.W.1 to Sri Nanda on 12.5.2008(two sheets)
Ext.3/1 Signature of P.W.1 in Ext.3.
Ext.4 Copy of lease deed (13 sheets)
Ext.4/1 Signature of P.W.1 in Ext.4.
Ext.5 Search list (3 sheets)

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Ext.5/1to 5/3 Signature of P.W.1 in Ext.5.
Ext.6 Seizure list.
Ext.6/1 Signature of P.W.1 in Ext.6.
Ext.7 Post trap memorandum (5 sheets)
Ext.7/1 to 7/5 Signatures of P.W.1 in Ext.7.
Ext.8 Bound Register.
Ext.8/1 Relevant entry at page 555.
Ext.9 Arrest memo.
Ext.9/1 Signature of P.W.1 in Ext.9.
Ext.10 Personal search memo.
Ext.10/1 Signature of P.W.1 in Ext.10.
Ext.11 Letter with cheque.
Ext.11/1 Signatures of P.W.1 in Ext.11.
Ext.12 Despatch register.
Ext.12/1 Relevant entry No.522 in Ext.12.
Ext.13 Sanction order (6 sheets)
Ext.13/1 to 13/6 Signatures of P.W.1 in Ext.1
Ext.14 Pre-trap memorandum

Ext.14/1	Signature of P.W.2 in Ext.14.
Ext.5/4	Signature of P.W.2 in Ext.5.
Ext.15	Sketch map.
Ext.15/1	Signature of P.W.2 in Ext.15.
Ext.16	Photo copy of cheque.
Ext.16/1	Signature of P.W.2 in Ext.16.
Ext.9/2	Signature of P.W.2 in Ext.9.
Ext.10/2	Signature of P.W.2 in Ext.10.
Ext.7/6	Signature of P.W.2 in Ext.7.
Ext.11/2	Signature of P.W.2 in Ext.11.
Ext.8/2	Signature of P.W.2 in Ext.8.
Ext.14/2	Signature of P.W.3 in Ext.14.
Ext.5/5	Signature of P.W.3 in Ext.5.
Ext.7/7	Signature of P.W.3 in Ext.7.
Ext.9/3	Signature of P.W.3 in Ext.9.
Ext.10/3	Signature of P.W.3 in Ext.10.
Ext.15/2	Signature of P.W.3 in Ext.15.
Ext.16/2	Signature of P.W.3 in Ext.11.
Ext.11/3	Signature of P.W.3 in Ext.11.
Ext.8/3	Signature of P.W.3 in Ext.8.
Ext.12/2	Signature of P.W.3 in Ext.12.

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Ext.1/2	Signature of P.W.4 in Ext.1.
Ext.17	Original Power of attorney.
Ext.17/1	Signature of father of P.W.4 in Ext.17.
Ext.17/2	Signature of P.W.4 in Ext.17.
Ext.18	Written complaint of P.W.4.
Ext.18/1	Signature of P.W.4 in Ext.18.
Ext.14/3	Signature of P.W.4 in Ext.14
Ext.16/3	Signature of P.W.4 on the cheque Ext.16.
Ext.15/3	Signature of P.W.4 on Ext.15.
Ext.7/8	Signature of P.W.4 in Ext.7.
Ext.3/2	Signature with acknowledgement of P.W.4 on Ext.3.
Ext.14/4	Signature of P.W.5 on Ext.14.
Ext.5/6	Signature of P.W.5 on Ext.15.
Ext.15/4	Signature of P.W.5 on Ext.5.
Ext.16/4	Signature of P.W.5 on Ext.16.
Ext.6/2	Signature of P.W.5 on Ext.6.
Ext.19	Seizure memo in respect of cheque of Rs.4200/-.

Ext.19/1 Signature of P.W.5 on Ext.19.
Ext.7/9 Signature of P.W.5 on Ext.7.
Ext.20 Forwarding report/letter for chemical examination.
Ext.20/1 Signature of P.W.5 on Ext.20.
Ext.21 Chemical examination report.

LIST OF DOCUMENTS ADMITTED BY THE DEFENCE :

Ext.A Affidavit dtd. 31.10.2007.

LIST OF M.Os. MRKED BY THE PROSECUTION:

M.O.I Sealed bottle marked as 'D'.
M.O.II Sealed bottle marked as 'R'.
M.O.III Sealed bottle marked as 'S'.
M.O.IV Shirt.
M.O.V Sealed envelope containing tainted note bearing No.74C-981583.

LIST OF M.Os. MARKED FOR THE DEFENCE:

Nil.

SPECIAL JUDGE,C.B.I.,COURT NO.III,
BHUBANESWAR.