

2. Briefly stated the prosecution case is that the wife of the informant was working as LVAW, Itamati Circle under the accused and she was transferred to Janla Circle in August, 2002. Though three months elapsed, the accused did not issue her "No Dues Certificate". The informant repeatedly approached the accused and he demanded Rs.3,000/- to issue "No Dues Certificate". When the informant expressed his inability to pay such huge amount, the accused reduced the amount to Rs.1,000/- . On 20.10.02 narrating these facts the informant lodged FIR before the SP,Vigilance stating that having no alternative he would pay bribe of Rs.1,000/- to the accused on 21.10.02. Basing on that FIR the case was registered, a trap party was formed and on 21.10.02 at 6 PM during preparation the complainant produced 10 numbers of 100 rupee G.C.Notes which were smeared with Phenolphthalein powder and it was given to him to pay the same to the accused on demand. The trap party proceeded to Nayagarh and the complainant and accompanying witness went to the house of accused who enquired whether he had brought the money and the complainant handed over the money to the accused and he accepted the same and kept in his Raxin bag. The accompanying witness gave signal and trap party members reached there, caught hold the accused, took his both hand wash which turned to pink and the accused produced the tainted money which was seized along with the Raxin bag, the No Due Certificate written by the accused and the sample solution bottles etc.

After completion of investigation, FRT was submitted by the I.O. as per Vigilance Directorate Letter No.5761, dt.12.12.01 referring the case for departmental proceeding. Vide order, dt.18.6.03 this Court finding sufficient prima facie evidence against the accused, did not accept the final report and directed to place the record before the competent

authority for sanction. On 27.11.07 after receipt of sanction order, this Court took cognizance of the aforesaid offences resulting the trial.

3. The defence plea is one of complete denial. His further plea is that the wife of the informant was having dues to pay Rs.1,500/- towards mung seeds which she had taken from the sale centre and for that "No Dues Certificate" was not issued and on the date of alleged occurrence, the informant had paid the said dues and on receipt of the amount, when the accused was writing "No Dues Certificate", the vigilance people caught him and a false case has been foisted against him.

4. The prosecution has examined 8 witnesses whereas the accused has examined 5 witnesses in support of their respective cases.

5. Points for determination in this case are :-

(i) Whether on 21.10.02 at about 11.30 PM the accused being a public servant working as Junior Agriculture Officer, Itamati, Dist.-Nayagarh obtained for himself pecuniary advantage of Rs.1,000/- by corrupt or illegal means from the complainant for issuing of no dues certificate in favour of his wife ?

(ii) Whether he being a public servant as employed above on 21.10.02 accepted illegal gratification of Rs.1,000/- from the complainant for issuing of no dues certificate in favour of his wife ?

6. Both points are taken up together. PW-1 the informant stated that his wife was working as LVAW, Itamati and was transferred to Janla in August,2002 and for three months the accused did not grant "No Dues Certificate". So, her salary was not drawn. He approached the accused several times and he demanded Rs.3,000/- from his wife for giving "No Dues Certificate" and his wife disclosed this fact to him. He personally met the accused and expressed his inability to pay such amount and the accused reduced the amount to Rs.1,000/-. On 20.10.02

he reported the matter before SP, Vigilance vide Ext.1. On the next day at 5 PM he reported in the Vigilance Office and before vigilance staff and official witnesses he narrated the contents of the FIR and produced 10 numbers of 100 rupee G.C.Notes which were treated with some powder and there was demonstration showing the reaction of that powder in some solution. Those notes were given to him and he was asked to make payment only on demand. One Rabindranath Behera was selected as accompanying witness to witness the transaction and to give signal. At about 8 PM they left Bhubaneswar and reached Nayagarh at 10 PM, proceeded to DAO Office, Nayagarh and the accused was not there and they proceeded to the rented house of the accused.

PW-1 further stated that he proceeded to the house of the accused followed by the accompanying witness and knocked the door. The accused came out and enquired whether he had brought the money and he answered in affirmative and handed over the tainted notes to the accused who accepted it and kept it in his Raxin bag. PW-2 gave signal and Vigilance Party reached there and both hand wash of the accused taken which turned to pink colour. Being asked about the money the accused told to have kept it in Raxin bag and produced the money and its number were compared which tallied. Wash of the Raxin bag was taken resulting change of colour. He further stated that the IO seized the tainted money and four fold paper, sample bottles, Raxin bag and personal cash of Rs.60/-.

7. In cross-examination PW-1 stated that he had not instructed his wife to ask for no dues certificate by filing written application. So also, he had neither instructed his wife nor taken initiative to write the higher authorities about the conduct of the accused.

PW-1 admitted that he has not mentioned in the FIR that the accused demanded Rs.3,000/- from his wife for giving NDC and his wife disclosed this fact to him. PW-1 could not say the dates when he had met the accused. He also could not say as to who prepared the preparation report (Ext.3) nor could say the numbers of notes he produced and what was the powder or the chemical solution used. He stated that he went to the house of the accused at about 11.30 PM. The accused was living in the first floor. Wife of Jagabandhu (House owner) who was aged about 50 years opened the door. He denied the suggestion that his wife had taken one quintal of Mung seeds from the sale centre and she had paid Rs.470/- towards the same and she was to pay Rs.1500/-. But he admitted that after the trap the Deputy Director, Agriculture directed his wife to pay Rs.1500/-. He denied the suggestion that he paid Rs.1500/- to the accused stating that the money was towards her dues and requested to give NOC.

8. PW-2 stated that he attended the vigilance office at Bhubaneswar on 21.10.02 where other vigilance officials were present and before them the complainant disclosed that the accused did not give clearance for submission of the LPC of his wife and demanded bribe of Rs.3,000/- from him and later reduced the same to Rs.1500/- and so saying the complainant produced 10 numbers of 100 rupee notes and its numbers were noted and some liquid was applied to those notes, kept in an envelope and given to the complainant with instruction to give the same to the accused on demand. PW-2 stated that he was selected as accompanying witness to see the transaction and to give signal. They left vigilance office and reached Nayagarh at 10 PM, went to the office of the accused, found him absent and then they went to the rented house of the accused. Being called by the complainant, the accused came and opened the door and the accused entered inside and he (PW-2) followed the complainant

to the first floor and stood near the door. He also stated that he saw the accused demanded money from him(PW-1) and the complainant gave the money to the accused who kept the same inside a black colour bag. PW-2 gave signal lighting a match stick and the raid party rushed to the spot. Being challenged the accused confessed to have taken the money from the complainant. His both hand wash was taken and the liquid changed to pink colour and thereafter the accused brought out the tainted money from his bag and PW-4 compared the numbers which tallied. PW-2 proved the seizure lists vide Exts.6,7,8,9 and 10 and the hand bag M.O.-I, seized wash bottles M.Os.-II to VII and the seized match box M.O.VIII.

9. During cross-examination PW-2 stated that the seizure lists and the Detection Report were prepared at Nayagarh Police Station. He could not say as to who scribed the same or what were the contents thereof. He stated that at about 11.30 PM he had gone to the rented house of the accused and the complainant identified the house of the accused to other members. PW-2 admitted that he had not heard the discussion between the accused and complainant when they were climbing the stair case or inside the room of the accused. PW-2 stated that he found the complainant gave a bunch of notes to the accused, but he could not say what was the exact amount. PW-2 categorically denied the suggestion that after counting the tainted money the vigilance officer handed over Rs.500/- to the complainant and only showed Rs.1,000/- in the seizure list. He stated that he cannot say if the complainant had given Rs.1500/- to the accused which was due to him and had obtained the No Objection Certificate from him.

10. PW-3 the scientific officer stated that on 20.11.02 he examined six glass bottles exhibits-A to F containing pink solution and on examination he detected Phenolphthalein in

sodium carbonate solution in all the bottles and he proved his report Ext.11. In cross-examination he stated that the SP had sent the exhibits to the Director and he had not received the exhibits directly. He also stated that he had prepared one work sheet by the time of examination but has not sent the same to Court.

11. PW-4 stated that on 21.10.02 he reached the vigilance office where vigilance staff and PW-1 were present and in their presence PW-1 disclosed that the accused was demanding Rs.3,000/- as bribe for issuance of the LPC of his wife and expressing his inability he had requested the accused to give Rs.1000/- on 21.10.02. PW-1 produced 10 numbers of 100 rupee notes and some powder were applied to those notes and given to PW-1 to give the same to the accused on demand and PW-3 Rabindra was selected as accompanying witness to witness the transaction and to give signal and he(PW-4) was instructed to count and verify the numbers of the notes. They proceeded to Nayagarh and reached at the office of the accused at 10.30 PM, found him absent. They enquired about the house of the accused and went there. The complainant knocked at the gate and the accused came and opened the gate and PWs-1 and 3 went inside the house. After 10 minutes getting signal of PW-3, they went to the house of the accused and being asked by the DSP about taking of Rs.1,000/-from the complainant, the accused agreed. His both hand wash was taken which turned to pink and thereafter the accused brought out the tainted money from a Raxin bag and on comparison its numbers tallied. The tainted money, Raxin bag and hand wash bottles were seized. He proved the detection report Ext.3 and the seizure lists vide Exts.6,7,8 and 10 and one zimanama Ext.13.

12. In cross-examination he admitted that he had not stated before the IO that in presence of the vigilance staff and the witnesses the complainant disclosed that the accused demanded

Rs.3,000/- as bribe to send the LPC of his wife and so saying he produced 10 numbers of 100 rupee G.C.Notes and the complainant had told to give Rs.1,000/- to the accused on 21.10.02 and PW-3 was selected as accompanying witness to hear the conversation and see the transaction and to give signal. PW-4 also stated that he had not stated to the IO that they went to the office of the accused, found him absent and ascertained from other staff about his rented house and on their arrival near the house PWs-1 and 3 went to the house, knocked the gate and the accused opened the door and 10 minutes thereafter PW-3 gave signal and the DSP challenged the accused saying that he had accepted bribe from the complainant and gave Rs.1,000/- to the DSP. Undoubtedly such omission in his statement to police would raise some doubt about his version in Court to that extent. He stated that the detection report Ext.3 and seizure lists Exts.6,7 and 8 were prepared at Nayagarh Vigilance Office. PW-4 denied the suggestion that Exts.3,6,7,8 and 10 were not prepared in his presence.

13. PW-5 Rasmita Pradhan (wife of the informant) stated that she was transferred from Bada Pandusara to Janla Circle and joined there on 1.8.2002. In the month of September she came to know about non-drawal of her salary, met the ADAO and went to the office of DDA, Puri and knew from a staff that as the JAO had not given her NDC, her LPC was not sent. So, she and her husband went to Itamati, met the JAO who told that unless she gives Rs.3,000/-, he would not send her LPC and when she expressed her inability, he told her to give Rs.1,000/-. Then she again sent her husband, but the JAO did not give "No Dues Certificate" and thereafter her husband looked after the matter and lodged FIR. She also proved the letters of the DDA, Puri, dt.1.2.03 vide Ext.14, dt.21.4.03 vide Ext.16 and dt.11.6.03 vide Ext.18 and her explanations to those letters, dt.17.2.03 vide

Ext.15, dt.30.4.02 vide Ext.17 and dt.28.6.03 vide Ext.19. She further proved the Stock Book of Additional Sale Centre for 1999-2000 to 2001-2002 vide Ext.20 and stated that on 21.12.01 3.60 quintals green gram seeds K 851 was received @ Rs.1970/- per quintal and Manguli Charan Satrujit (DW-1) had entered the same in the Stock Register at page-44 and the accused had also signed against that entry. She also proved the endorsements, dt.10.1.02, 12.1.02, 15.1.02 and 20.1.02 in that Register made by DW-2 vide Ext.20/1 and stated that as on 20.1.02 the balance was nil. She also stated that a daily sale register(Ext.21) was maintained in the sale centre by DW-2 showing the sale of seeds quoting the name of the purchasers and dates and she proved the entry at page-31 of the register vide Ext.21/1.

During cross-examination she denied the suggestion that DDA,Puri had written a letter to her through JAO, Jatni bearing No.7751, dt.30.9.02. I shall deal with this aspect later on. She admitted that she had not stated to Vigilance that she came to know regarding non-drawal of her salary, met the Additional DAO, then went to DDA Office, Puri and came to know there from that the JAO had not given No Dues Certificate, so her LPC was not sent. She also admitted the fact that she had not stated before police that on being approached, the JAO demanded Rs.3,000/- and when she expressed her inability, he told her to give Rs.1,000/-. So, this portion of her evidence does not inspire confidence. PW-5 denied the suggestion that in response to Exts.14, 16 and 18 she replied the letters vide her letters under Exts.15, 17 and 19 in connivance with the IO. She also denied the fact that Exts.20 and 21 were never maintained in Itamati Sale Centre and those were prepared for the purpose of this case and the entries Exts.20/1 and 21/1 are not entered by DW.2.

14. PW-6 TLO stated that on 20.10.02 as per the direction of the SP, a trap team was formed. On the next day

evening before the vigilance officials and independent witnesses the complainant narrated his allegation about demand of Rs.3,000/- made by the accused for issuance of No Dues Certificate of his wife and he produced 10 numbers of 100 rupee notes and those were applied with Phenolphthalein powder and witness-Rabindra Behera was selected as accompanying witness and the notes were given to the complainant with instruction to hand over the same to the accused on demand and they all proceeded to Nayagarh, reached there at 10 PM and they proceeded to the residence of the accused. The complainant and accompanying witness went to the house of the accused. At about 11.30 PM receiving signal they went inside the house of the accused and being questioned the accused admitted to have accepted the bribe amount and kept the same inside his black Raxin bag. His both hand wash taken in sodium carbonate solution turned to pink and the accused produced the tainted notes and PW-4 compared the numbers which tallied and thereafter hand wash of the accused and wash of the Raxin bag were taken which turned to pink. He proved detection report Ext.3 and the seizure lists vide Exts.4, 6 to 10, 12, 23 and 24.

During cross-examination PW-6 stated that the detection report was prepared at Nayagarh Vigilance Office and the seizure lists were prepared in the residence of the accused. He stated that Bimal Kumar Samal, Suresh Sarangi and Susant Das were the inmates in the house of the accused but they were not seen in the particular room where the trap was laid and currency notes were recovered. He categorically denied the suggestion that he had handed a sum of Rs.500/- to the complainant concealing others so as to give it to the accused. He also denied the suggestion that Rs.1500/- was recovered from the Raxin bag of the accused.

15. PW-6 stated that PW-1 during his examination on 22.10.02 had not stated before him that his wife was working as LVAW at Itamati and was transferred to Janla Circle and after three months the JAO did not grant No Dues Certificate and he approached the accused and he demanded Rs.3,000/-and reduced the same to Rs.1,000/-. He also stated that on 22.10.02 PW-1 had not stated before him that he reported at 5 PM in the Vigilance Office and their vigilance officials and other official witnesses were present and before them he narrated the contents of the FIR and told about demand of bribe made by the accused for giving NDC.

16. PW-7 the IO stated that after detection of the case he took charge of the investigation, sent the M.Os. for chemical examination, examined the wife of the informant on 22.11.02, verified her service particulars, received CE Report and on 16.12.02 he submitted final report true being directed by the competent authority. Subsequently being directed by SP, Vigilance he placed the FIR, preparation report, detection report, statements u/s.161 Cr.P.C. and the CE Report before the Sanctioning Authority i.e. Director, Soil Conservation and held discussion with him and sanction for prosecution was accorded.

In cross-examination he stated that the spot map prepared by his previous IO is not available on record. He stated that before submission of FRT he had not discussed with his authority or with competent authority to obtain sanction order. He stated that his CD does not disclose regarding to the specific date of prior demand and it also does not disclose if the accused had asked the complainant to give him illegal gratification in his house.

17. PW-8 the then Dealing Assistant of the office of the Sanctioning Authority stated that in 2007 one letter for sanction of prosecution of the accused came from the office of Directorate of

Agriculture, Bhubaneswar. After receipt of the requisition he dealt with the file and the then Director after going through the file asked him to prepare one sanction and as per his dictation he (PW-8) prepared sanction order vide Ext.25 and he also proved the signature of the sanctioning authority vide Ext.25/1. So also, he proved the forwarding letter of the sanction order and the signature of the Director therein vide Exts.25/2 and 25/3 respectively. In cross-examination PW-8 stated that he cannot say as to what documents Director had verified and whether he had applied his mind or not before according sanction and he also stated that he has no direct knowledge about the contents of Ext.25.

18. DW-1 one retired VAW stated that while taking seeds from Sale Centre, they were putting their signatures on the relevant registers acknowledging the receipt of seeds and were also giving hand receipts to the Sale Centre In Charge. He further stated that after they were depositing the sale proceeds in the Sale Centre, the In-charge was making necessary entry in the connected registers as well as on the hand receipts. During cross-examination DW-1 categorically stated that while taking the seeds, they were signing on the Daily Sale Register.

19. DW-2 the Sale Centre In-charge stated that he was maintaining the Stock Register (Ext.20) and the Sale Register (Ext.21) and one cash book. He also stated that on 27.12.2001 wife of the informant had taken one quintal of Mung costing Rs.1970/- and out of the same she had paid Rs.470/-and she was due to pay Rs.1500/-. He further stated that when Rashmita was coming to Nayagarh for meeting, there the Deputy Director, Agriculture had orally asked to deposit the dues of Rs.1500/-. But DW-3 the DDA has not stated so. DW-1 stated that on 22.10.02 he had produced the Sale Register, Stock Book, Cash Book, Daily Transaction Register and 18 numbers of Hand

Receipts before vigilance people and they took away the same but did not give any receipt to him. But PW-6 has denied this fact.

20. DW-2 filed and proved the Xerox copy of his letter, dt.5.7.02 vide Ext.A and one Xerox copy of the hand receipt executed by Rashmita Pradhan, dt.27.12.01 vide Ext.B and one copy of his application, dt.23.9.02 addressed to the Deputy Director for realization of arrear dues vide Ext.C. During cross-examination he stated that on 21.12.01 he had received 3 quintals 60 Kgs mung and entered that fact at page-44 of the Stock Register and the said mung seeds were sold on 10.1.02, 12.1.02, 15.1.02 and 20.1.02 and he has mentioned the fact of sale and has signed against those entries at page 44 vide Ext.20/1. As regards, Daily Sale Register he stated that the entry at page 31 of that Register vide Ext.21/1 was made by him. He specifically stated that the beneficiaries who had purchased the seeds from their centre had signed against the respective entries at page 31. He candidly admitted that he had not made any entry in the Stock Register or in the Daily Sale Register about the fact that Rashmita Pradhan had taken one quintal mung seeds from him. He also stated that he had not mentioned in the cash book about receipt of Rs.470/- from Rashmita Pradhan on 5.7.02 nor he had produced any document to show such deposit.

21. DW-3 the then Deputy Director, Agriculture stated that the accused was the JAO of Itamati Circle and DW-2 was the in charge of Sale Centre of Itamati. On 24.9.02 the accused forwarded one application of DW-2 alleging that Rashmita Pradhan had not cleared her dues of Rs.1500/- towards the seeds taken by her. He proved the Xerox copy of the application of DW-2 dt.23.9.02 vide Ext.D and the endorsement of the accused vide Ext.D/1 and his dated initial thereon vide Ext.D/2 and the xerox copy of money receipt vide Ext.D/3 which he received along with Ext.D. DW-3 proved the Xerox copy of his office

letter No.7751, dt.30.9.02 vide Ext.E with his signature thereon vide Ext.D/1 and the extract of the Receipt Register of ADAO, Bhubaneswar vide Ext.F and the entry No.1308 of that page vide Ext.F/1. He proved the copy of letter, dt.23.10.02 of the accused addressed to him vide Ext.G and the copy of the note sheet of his file dt.25.11.02 vide Ext.H. He stated that as per his direction DW-4 enquired into the matter and submitted his report vide Ext.J and he also proved one copy of his letter No.9593, dt.19.12.02 vide Ext.K.

22. During cross-examination DW-3 fairly admitted that both Exts.C and D have not been copied out from one original. He also stated that there is no mention in Ext.D that a copy of the money receipt, dt.27.12.01 was enclosed to Ext.D. He also admitted that he has not put his initial on Ext.D/3 which corresponds to Ext.B. DW-3 fairly admitted that in Exts.14 and 16 he had not referred about his earlier letter No.7751, dt.30.9.02. So also, he had not informed Rashmita Pradhan under Ext.16 about the result of the enquiry(Ext.J). He also stated that he had not verified any official cash book to ascertain if Rs.470/- was deposited in Government head.

23. DW-4 the then In-Charge of Finance and Establishment Officer in the office of DDA, Puri stated that as directed by DDA, Puri he had enquired into the matter and submitted a report vide Ext.J and his signature vide Ext.J/1. He proved the signature of DW-3 vide Ext.H/1 and his own signature thereon vide Ext.H/2 on the copy of the note sheet vide Ext.H. In cross-examination DW-4 stated that he had issued notices to the accused, DW-2, Rashmita Pradhan and the vigilance officials asking them to appear on 29.11.02 before DAO, Nayagarh and he had sent the notices in ordinary post. But only the accused and DW-2 appeared but the others did not appear. He also stated that he has not stated the fact of issuance of notices or about non-

appearance of some parties in his enquiry report. He also stated that he asked DW-2 to produce the original hand receipt of Rashmita Pradhan but he could not produce the same. He admitted that he had not verified the Stock Register and Sale Register of the Sale Centre, Itamati during his enquiry. He admitted that he had not issued any letter to the SP, Vigilance to direct the IO or TLO to appear before him.

24. DW-5 Head Clerk of the office of DAO, Bhubaneswar proved the Receive Register of their office vide Ext.M and the relevant entry vide Ext.M/1 at page-68 of that register including the entry at Sl.No.1308 showing receipt of a letter No.7753, dt.30.9.02 of the DDA, Puri. In cross-examination he stated that the concerned Assistant who receives any letter from the Receive Register is required to sign on the remarks column but there is no such signature against entry No.1308. He also stated that he had not seen letter No.7753, dt.30.9.02 referred vide Sl.No.1308. He further stated that out of all the ten letters vide Sl.Nos.1301 to 1310 received on 17.10.02, all the letters were of the Month of October, 2002 except Sl.Nos.1301 and 1308.

25. Law is well settled that the demand and acceptance of the amount as illegal gratification is the sine qua non for constituting an offence under the Act. It is also settled in law that there is a statutory presumption under Section 20 of the Act which can be dislodged by the accused by bringing on record some evidence, either direct or circumstantial, that money was accepted other than the motive or reward as stipulated under Section 7 of the Act. It is obligatory on the part of the court to consider the explanation offered by the accused under Section 20 of the Act and the consideration of the explanation has to be on the anvil of preponderance of probability. It is not to be prove beyond all reasonable doubt. It is necessary to state here that the

prosecution is bound to establish that there was an illegal offer of bribe and acceptance thereof. The same has to be founded on facts. In this context, we may refer with profit to the decision in **M.Narsinga Rao v. State of A.P.(2001) 1 SCC 691** wherein a three-Judge Bench referred to Section 20 of the Act and stated that the only condition for drawing the legal presumption under Section 20 is that during trial it should be proved that the accused has accepted or agreed to accept any gratification. The section does not say that the said condition should be satisfied through direct evidence. Its only requirement is that it must be proved that the accused has accepted or agreed to accept the gratification (**vide (2012) 52 OCR (SC) 576 Narendra Champaklal Trivedi-Vrs.-State of Gujarat- Relied upon by the learned defence counsel**).

Learned defence counsel also placed reliance on the decisions of the Hon'ble Apex Court reported in **(2009) 44 OCR SC 425** which is in the above line. On the contrary, the learned Special P.P. placing reliance on a decision of the Hon'ble Apex Court reported in **AIR 2004 SC 1242 T.Shankar Prasad-Vrs.- State of A.P.** submitted that when the tainted money was recovered from the accused, a presumption u/s.20 of the Act is obligatory. The presumption is a rebuttable presumption and it is by proof and not by explanation which may seem to be plausible.

Keeping in view the aforesaid position of law, let me scrutinize the evidence on record. PW-1 in his FIR Ext.1 has stated that when he repeatedly requested the accused for the No Due Certificate, he insisted for bribe of Rs.3,000/- and when he expressed his inability to pay such huge money, he reduced the demand to Rs.1,000/-. During preparation at Vigilance Office and in his evidence before the Court he reiterated the same story. So far demand at the spot, PW-1 stated that the accused enquired whether he had brought the money and he told that he had

brought and he handed over the tainted notes to the accused and the accused accepted and kept it in a Raxin bag. He further stated that being asked by the vigilance people about the money, the accused told to have kept in a Raxin bag. PW-2 accompanying witness also stated that during preparation the complainant stated that the accused did not give clearance and demanded Rs.3,000/- as illegal gratification and then reduced the amount to Rs.1,500/-. So saying the complainant gave 10 numbers of 100 rupee notes and its numbers were noted. PW-2 also stated that he and the complainant went to the house of the accused and he saw that the accused demanded money from the complainant and the complainant gave the money to the accused who kept the same inside a black colour bag and then he passed signal. He also stated that vigilance people came and being challenged by them, the accused admitted to have taken the money and he also stated that the accused brought out the tainted money from his bag and its numbers tallied. Of course, in cross-examination PW-2 admitted that he had not heard the discussion between the complainant and the accused when they were climbing the stair case or when they were inside the room. But he categorically stated that the complainant gave a bunch of notes to the accused, but he could not say what was the exact amount. Pws-4 and 6 are the witnesses who arrived at the spot after signal. PW-4 stated that at the spot being asked by the DSP if he had taken Rs.1,000/-, the accused admitted and gave recovery of the money. PW-6 TLO stated that during preparation the complainant narrated about demand of Rs.3,000/- made by the accused for issuance of No Due Certificate in favour of his wife and finally negotiated at Rs.1,000/-. So far the demand at the spot, he stated that after getting signal, they went to the spot and being questioned, the accused admitted to have accepted the bribe and to have kept it inside a black colour Raxin bag. He also stated that after the

accused produced the tainted currency notes, its numbers were compared and the same tallied.

26. It is significant to note that PW-6 IO stated that during his examination on 22.10.02 PW-1 had not stated to him that his wife was serving in the office of the accused, that she was transferred, that her LPC was not sent, that he approached the accused, that he demanded Rs.3,000/- from his wife for issuing No Due Certificate and he personally met the accused and expressed his inability and the accused said to issue No Due Certificate on payment of Rs.1,000/-. IO(PW-6) categorically denied the suggestion that he had not examined the complainant on 20.10.02. PW-1 the informant in his cross-examination stated that he was examined by the IO only once i.e. on 22.10.02 but was not interrogated on any other date.

Learned counsel for the accused placing heavy reliance on such statement of PW-1 submitted that such contradictions in his version are fatal for prosecution. The aforesaid so called contradictions relate to the happenings prior to detection. In other words, examination of the complainant by the IO on 20.10.02 was after lodging of FIR and before the detection. Ext.1 FIR contains the story of previous demand. Ext.2 preparation report contains a detail narration as to what happened during preparation. It also contains the narration as to what the complainant stated about the previous demand during the preparation in Vigilance Office. The statement of PW-1 that he was examined only once on 22.10.02 may be an accidental slip of tongue or due to inadvertence. It may be reiterated here that PW-1 categorically claimed to have stated before the IO about the previous happenings that his wife was working under the accused and she was transferred and the No Due Certificate was not sent and he approached the accused and he demanded Rs.3,000/- and then reduced to Rs.1,000/-. That apart a person

can make a false statement but the circumstance cannot speak lie. Evidence of all other witnesses including the IO coupled with the documents, i.e.FIR and preparation report, so also categorical denial of PW-1 that he had not stated before police about previous happenings read together establishes that the complainant had stated about previous happenings before the IO. So, a stray sentence of the complainant that he was only once examined by the IO on 22.10.02 cannot be fatal to the prosecution.

27. At this juncture, let me advert to the fact of recovery. The accused in his statement u/s.313 Cr.P.C. has specifically taken a plea that he had received Rs.1,500/- from the complainant towards official dues and he gave that money to the vigilance people, but they concealed Rs.500/- and showed Rs.1,000/- as seizure. PWs-1 and 2 stated that the accused produced the tainted currency notes and PW-4 compared its numbers which tallied. PW-4 also stated that the accused was asked to give recovery of the tainted money and the accused brought out the same from the Raxin bag. PW-6 the TLO also stated that after the accused produced the tainted currency notes before them, it was counted and PW-4 compared its numbers and declared to have tallied. Ext.8 the seizure list shows that the accused had kept the illegal gratification of Rs.1,000/- inside the pocket of his hand bag and later gave recovery of the same. Ext.10 shows that the black colour hand bag wherein the money was kept was seized. Pws-1,2,4 and 6 stated that both hand wash of the accused and wash of the hand bag turned to pink colour. Ext.2 the preparation report shows that 10 numbers of 100 rupee notes were treated with Phenolphthalein powder. A conjoint reading of such evidence establishes that there was recovery of the tainted money of Rs.1,000/- from the accused.

28. At this juncture, let me consider the defence plea. DW-2 stated that the wife of the informant had taken one quintal of Mung on 20.12.01 and he has proved the xerox copy of her receipt Ext.B corresponding to Ext.D/3. DW-2 proved one exrox copy of his letter, dt.5.7.02 vide Ext.A wherein he had informed this fact to the accused. In cross-examination he categorically admitted that on 21.1.2.01 he had received 3 quintals 60 Kgs.of Mung and entered that fact at page 44 of the said register Ext.20 and those were sold on 10th, 12th, 15th and 20th of January,2002 which he has mentioned in the Sale Register and signed against this entry vide Ext.20/1. If that be so, it seems quite improbable as to how the wife of the informant had taken one quintal of Mung seeds from him (DW-2). Even DW-2 admitted that the beneficiaries who had purchased the seeds from their sale centre had signed against respective entries at page 31 of Ext.21. He also admitted that he had not made any entry in the Stock Register or the Daily Sale Register about the fact that the wife of the informant had taken one quintal of Mung seeds from him. The original receipt corresponding to Exts.B and D/3 was not brought to record. Ext.A shows that along with that application DW-2 had annexed the receipt of the wife of the informant. Of course, there is no mention if the original receipt was enclosed or a xerox copy thereof was enclosed. The accused has not stated anything in this regard. Considering from other angle, DW-2 stated that the vigilance people took away 18 numbers of money receipts from him on 22.10.02 along with other registers. In his application, dt.28.10.10 to DDA,Puri vide Ext.27, DW-2 had stated that the original receipt was not with him, so he was not able to produce the same. DW-2 has not mentioned in Ext.27 that the vigilance people had taken original hand receipt of the wife of the informant from him. On the other hand, DW-3 has stated that one money receipt executed by the wife of the informant

dt.27.12.01 was enclosed along with Ext.D. He proved his initial on the application vide Ext.D/2, but admitted that there is no mention in Ext.D that a money receipt was enclosed thereto. So also he admitted that he had not put his initial on Ext.D/3. Apart from that, it is significant to note that Exts.C and D are the xerox copies of one application, dt.23.9.02 of DW-2 addressed to DDA, Puri. But it is a surprising factor that though the contents and endorsements of both these applications are same, but apparently both the applications seem not to have been copied out from one original. Even DW-3 fairly admitted in his cross-examination that Exts.C and D had not been copied out from one original. No explanation has been adduced by the accused in this regard. So, the genuineness of those documents is not free from doubt.

29. Considering from another angle, Exts.B and D/3 show that the wife of the informant had paid Rs.470/- out of Rs.1970/- and balance remained was Rs.1500/-. DW-2 has fairly admitted that he had not mentioned in the cash book about receipt of Rs.470/- from the wife of the informant on 5.7.02 nor he had produced any document to show such deposit. Even DW-3 Deputy Director of Agriculture has stated that he had not verified any official cash book to ascertain if Rs.470/- was deposited in the Government head. So, the fact of part payment of Rs.470/- said to be made by the wife of the informant on 5.7.02 seems to be doubtful.

30. Another significant feature of this case is that DW-4 stated that being directed by DW-3 he had enquired into the matter and submitted his report vide Ext.J. He proved his signature, dt.28.11.02 on the copy of the office note Ext.H. He stated that he had issued notices in ordinary post to the accused, DW-2, wife of the informant and vigilance people asking them to appear on 29.11.02 before the DAO, Nayagarh. It is difficult to

imagine how a responsible officer like DW-3 could expect the appearance of those persons on the very next day at Nayagarh that too by issuing notices to them through ordinary post. Moreover, DW-4 admitted that he had not mentioned the fact of issuance of notices to the parties in his enquiry report Ext.J. He also admitted that he asked DW-2 to produce the original hand receipt of Rashmita Pradhan but he could not produce the same. DW-4 also admitted that he had not verified the Stock Register and Sale Register during enquiry.

31. DW-2 admitted that Exts.A and C contain writing "Annexure-2 and Annexure-3" respectively. But the said writing does not belong to him. No explanation has been adduced by the side of the accused as to how writing "Annexure-2 and Annexure-3" were made on the top of Exts.A and C. Another peculiar feature is that Ext.D xerox copy of the application, dt.23.9.02 corresponding to Ext.C does not contain any writing such as, "Annexure-3". Apart from that, if Ext.A was received by the accused on 5.7.02 he could have asked the wife of the informant to pay the balance dues as admittedly by that time she was working under him. No explanation has been adduced by the accused as to what action he took on that application Ext.A. Moreover, it is a surprising factor that neither Ext.B nor Ext.D/3 was confronted to PW-5 during her cross-examination though she is the best person to say about the same.

32. It is pertinent to note that during cross-examination of PW-5 it was suggested by the accused to her that Exts.20 and 21 i.e. Stock Register and Sale Register were never maintained at Itamati Sale Centre and the relevant entries Exts.20/1 and 21/1 were not entered by DW-2 to which PW-5 denied. But, DW-2 in his evidence admitted that he was maintaining both these registers and the relevant entries Exts.20/1 and 21/1 were made by him. DW-3 has proved the draft office copy of his letter No.7751,

dt.30.9.02 (Ext.E) addressed to PW-5 asking her to deposit the amount with DW-2. PW-5 has denied the receipt of such letter. Neither the Issue Register of the Office of DW-3 nor the copy of this letter addressed to JAO, Jatni or ADAO, Bhubaneswar have not been proved. No material is brought to record to show that PW-5 had received this letter. DW-3 DDA in his evidence at para-7 has categorically admitted that in his letters vide Exts.14 and 16 he had not referred about Ext.E. Another peculiar feature of the case is that during detection, the accused had not disclosed before the vigilance authority about such letter. So also, he had not made any reference about Exts.A and C before them.

PW-5 was asked to deposit the amount of Rs.1500/- with the Additional Sale Centre In Charge, Itamati. If that be so, the accused on the date of occurrence should have asked the complainant to deposit the amount with DW-2. But instead of that, he received the amount. Admittedly, no money receipt was issued by the accused to the complainant in token of receipt of Rs.1500/- (as stated by him). It may be mentioned here that the original No Due Certificate written by the accused has not been proved. The detection report shows that the accused issued one No Due Certificate as follows :-

“Certified that Rashmita Pradhan, Ex-LVAW, Badapandusara has no due towards seeds, sale proceeds of Itamati and Nayagarh, Sale Centres Sd/- Ganeswar Samantaray, dt.21.10.2002, JAO, Nayagarh.”

There is no mention in the No Due Certificate about receipt of Rs.1500/-. Further plea of the accused is that after he gave recovery of Rs.1500/-, PW-6 concealed Rs.500/- and showed Rs.1,000/- only. As discussed above, other witnesses denied such fact. Fact remains that the accused has not reported to any higher vigilance authority about such alleged misdeed of PW-6 in concealing Rs.500/-. I am unable to understand as to

why a responsible police officer would invent such a strategy and go to such extent to falsely rope the accused particularly when there is no material on record to show that he had any personal enmity with the accused. Above all, both oral and documentary evidence on record as discussed hereinabove falsify such plea. Considering from other angle also, DW-4 who was asked by DW-3 to enquired into the matter could have enquired from the vigilance officials to ascertain the truth but he did not do so. Anyhow, the accused as well as Dws-3 and 4 remained complacent over the matter and proceeded in their own way. It should not be forgotten that the amount was received by the accused from the complainant in the dead night although in usual course he was not legally obliged to receive that amount and more so over, he had not prepared any paper in token of receipt of that amount. These circumstances speak a lot against his plea. As such, a conjoint reading of the evidence and the circumstances on record render the defence plea unacceptable even to the extent of preponderance of probability.

33. Learned counsel for the accused placing reliance on a decision of the Hon'ble Apex Court reported in **AIR 1997 Supreme Court 3400 Mansukhlal Vithaldas Chauhan-Vrs.- State of Gujarat** submitted that the sanction order Ext.25 is invalid as it was not obtained in a legal manner and Ext.25 was prepared by the SP, Vigilance only to carry out the direction of this Court. With profound respect to the authority cited by the learned counsel for the accused, I found that the same is not applicable to the case in hand. In that case, the Hon'ble Apex Court held that the Sanctioning Authority in that case was left with no choice except to sanction the prosecution and in passing the order of sanction, it acted mechanically in obedience to the Mandamus issued by the Hon'ble High Court by putting the signature on a proforma drawn up by the office. But here, the sanction order

itself contains the brief facts of the case and it also shows that the Sanctioning Authority having applied his mind and carefully examined the materials ascertained during investigation and perusing the FIR, SP's Report and other relevant papers, discussing with the IO and being satisfied about the justification to prosecute the accused, accorded sanction. As discussed above, PW-7 the IO has also stated that he placed the FIR, preparation report, detection report, statements u/s.161 Cr.P.C. and C.E. Report before the Sanctioning Authority and held discussion with him. There is nothing in the sanction order to show that the sanction was accorded as per the direction of the Court without application of mind. Therefore, the submission of the learned counsel for the accused is not acceptable and it is held that the sanction is valid.

34. Learned counsel for the accused has placed reliance on the decision of the Hon'ble Apex Court reported in **Crimes 1993(1) 519 Balakrishnan -Vrs.-State by Special Police Establishment**. Therein, the complainant turned hostile and admitted the defence plea of borrowing loans from the accused. In para 21 of that judgment it was categorically mentioned that the complainant did not support the prosecution case and there was no evidence regarding payment of bribe. So, the said decision being distinguishable on facts is not helpful to the accused.

Learned counsel for the accused also placed reliance on a decision reported in **2011 (Supp.I) OLR 359 Hrudaya Bihari Mohapatra-Vrs.-State of Orissa**. In that case, as stated by the complainant, when he offered the tainted notes to the accused, he did not receive the same at first instance and later on when he again offered the notes to the accused, he did not receive the same and he then kept the tainted notes in the table drawer of the accused. The accompanying witness stated that when the complainant stretched his hands with the tainted money

towards the accused, he relayed signal but he could not see what happened to the tainted money. But in the present case, the facts are totally different. So, the said decision is not at all helpful to the accused.

The learned counsel for the accused placed reliance on a decision of the Hon'ble Apex Court reported in **AIR 1979, Supreme Court, Page-1408, Suraj Mal-Vrs.- The State (Delhi Administration)** wherein it was held that in a case of bribery, mere recovery of money divorced from the circumstances under which it is paid is not sufficient to convict the accused when the substantive evidence in the case is not reliable. In that case, the Hon'ble Court held that the witnesses made inconsistent statements in their evidence at different stages. Considering the evidence of that case, the appellant was acquitted. But, here there is ample evidence to establish the circumstances under which the tainted money was paid to the accused. So, the said decision is not helpful to the accused.

As such, all the above cases are distinguishable from the facts of the present case as in all those cases, some peculiar facts are found which improbabilized the prosecution case. Hence, having utmost regard to the principle of law decided in the aforesaid cases, I am inclined to hold that the same are not helpful to the accused as the facts of the present case are quite distinguishable from the facts of the cited cases.

35. The learned Special P.P. placing reliance on a decision reported in **AIR 1982, Supreme Court 1511, Kisan Chand Mangal-Vrs.-State of Rajasthan** submitted that testimony of Pws-1,2,4 and 6 and the circumstantial evidence coupled with the documentary evidence are sufficient to hold that there was demand of bribe by the accused. The complainant lodging the FIR, registration of a case, forming of a trap party, visit of the trap party members including the independent witnesses and the

complainant to the residence of the accused and detection of the case coupled with seizure of the tainted money, No Due Certificate and hand wash of the accused in sodium carbonate solution turning to pink colour are the circumstances which establish that there was demand and acceptance of bribe by the accused from the complainant.

36. Learned counsel for the accused during course of argument submitted that the IO during investigation had not investigated about the reason for non-drawal of salary of PW-5. So also, he had not conducted any search in the office of the accused which creates a doubt about the prosecution case. The fact that PW-5 was working under the accused and was transferred there from and her No Due Certificate was not sent and the No Due Certificate written by the accused was seized during detection vide Ext.24 are not disputed. So, it is not material as to why the salary of PW-5 was not drawn. Likewise, as discussed above, the tainted money and No Due Certificate were seized during detection. Moreover, if by the time of detection the accused was in possession of any receipt executed by PW-5, he could have produced the same before the IO. So, no fault can be found in the action of the IO for not searching the office of the accused or for not investigating about the reason of non-drawal of salary of PW-5. Hence, such contention is devoid of any force.

Learned counsel for the accused further contended that the time and place of payment of bribe money has not been mentioned in the FIR which renders the prosecution case doubtful. It is specifically mentioned in the FIR that the complainant repeatedly requested the accused for issuing No Due Certificate of his wife and being frustrated and having no alternative he had decided to pay bribe amount of Rs.1,000/- to the accused on 21.10.02. In the evidence also, he stated that being the husband of PW-5 he was looking after her affairs. Receipt of

the amount by the accused from the complainant in the dead night in his residence indicates that there was prior negotiation among them. So, non-mentioning of time and place in the FIR cannot render the prosecution case doubtful.

37. Learned counsel for the accused further contended that forwarding letter of the IO to the chemical examiner has not been proved. It is not the case of the accused that he had not handled the tainted money. As discussed hereinbefore, Pws-1,2,4 and 6 stated that hand wash of the accused and wash of the bag turned to pink colour. Even the accused had admitted the recovery of money. So, non-proving of the copy of forwarding letter addressed to the chemical examiner is insignificant.

Learned counsel for the accused also contended that there was delay of six days in sending the FIR, seizure lists and detection report to the Court which creates doubt about prosecution case. Fact remains that copies of the seizure lists, detection report were served on the accused during detection. The same contain the signatures of the witnesses. No ground has been made by the accused as to how he was prejudiced for sending the same to Court in delay. So, such contention is devoid of any merit.

38. Learned counsel for the defence also raised a contention that the requisition sent to the authority for procuring the attendance of Pws-2 and 4 has not been proved. So, their presence during preparation and detection is doubtful. Pws-2 and 4 are public officials. There is nothing on record to show that they had any enmity with the accused. They stated in their evidence that they were present during the time of preparation and detection. They have also stated that they attended the preparation being directed by their authority. So, in such circumstance, non-proving of the requisition cannot falsify their presence.

Learned counsel for the accused submitted that the evidence of the witnesses is not consistent as regards the fact as to who opened the door of the house of the accused and where the seizure lists were prepared and at what time the raid party reached at the spot. So, the prosecution case should be discarded. But in my considered view, these are minor discrepancies which do not touch to the root of the case. Moreover, when the witnesses are deposing in the Court after a prolonged period of about seven years, naturally, there would be some minor discrepancies. So, the contention of the learned counsel for the accused is not acceptable.

39. From the aforesaid discussion of evidence, it emerges that the accused had demanded and accepted bribe of Rs.1,000/- from the complainant to issue the No Due Certificate of his wife. The evidence of Pws-1 and 2 has not been substantially shaken during cross-examination. The version of Pws-4 & 6 corroborates their testimony. The contemporaneous documents such as, the FIR, preparation report, detection report, seizure of the tainted money and the No Due Certificate lend additional corroboration to their version. The accused has failed to adduce any evidence why these witnesses would depose lie against him. For the reasons discussed above, the plea of the accused that he had received Rs.1500/- from the complainant towards arrear dues of his wife, is not convincing and highly improbable and unbelievable. Considering the entire evidence on record and keeping in view the position of law as cited above and when accused has failed to rebut the statutory presumption u/s.20 of the P.C.Act, I am inclined to hold that prosecution has well proved the charges that the accused being a public servant, demanded Rs.1,000/- from the complainant and accepted the same on 21.10.02 for issuing the No Due Certificate of his wife

and as such, he obtained pecuniary advantage by corrupt or illegal means and abusing his position as public servant.

As a result, I found the accused guilty of the offences u/s.7 and 13(1)(d) r/w 13(2) of the P.C.Act,1988 and convicted him thereunder. Considering the nature of the offences, I am not inclined to extend him the benefit of Probation of Offenders Act.

Special Judge(Vigilance),
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 5th day of April, 2014.

Special Judge(Vigilance),
Bhubaneswar.

HEARING ON THE QUESTION OF SENTENCE

Heard on the question of sentence. The learned counsel for the convict and the Special P.P. are present. It is submitted on behalf of the convict that he has no criminal antecedent, so, a lenient view may be taken. Keeping in view the submission of the convict and the facts and circumstances of the case, the convict is sentenced to undergo R.I. for one and half years and to pay a fine of Rs.3000/-(Rupees three thousand) in default to undergo R.I. for four months more for the offence U/s.13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 and he is sentenced to undergo R.I. for one year and to pay a fine of Rs.2000/-(Rupees two thousand) in default to undergo R.I. for three months more for the offence U/s.7 of the Prevention of Corruption Act, 1988. The substantive sentences awarded under both the Sections would run concurrently. The period of detention undergone by the convict in this case be set off U/s.428 Cr.P.C.

The seized tainted currency notes Rs.1000/-(M.O.-IX) be returned to the complainant (PW-1) if not reimbursed in the meantime. If the said amount has been reimbursed to the complainant in the meantime, in that case the seized tainted currency notes of Rs.1000/- be confiscated to the State. The Raxin Bag (M.O.-I), glass bottles (M.Os. II to VII) and Match Box (M.O.-VIII) be destroyed. Order regarding disposal of the property shall take effect four months after expiry of the appeal period if no appeal is preferred and in case of appeal, the same shall be dealt as per the order of the Appellate Court.

Special Judge(Vigilance),
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 5th day of April, 2014.

Special Judge(Vigilance),
Bhubaneswar.

List of witnesses examined for the prosecution :

P.W.1	Gopabandhu Sahu.
P.W.2	Rabindra Nath Behera.
P.W.3	Pradip Kumar Samantaray.
P.W.4	Radha Mohan Kar.
P.W.5	Rasmita Pradhan.
P.W.6	Mayadhar Swain.
P.W.7	Debadatta Seth.
P.W.8	V.Subash.

List of witnesses examined for the defence :-

D.W.1	Samsundar Parida.
D.W.2	Manguli Charan Satrujit.
D.W.3	Saroj Kumar Dash.
D.W.4	Rama Chandra Barik.
D.W.5	Laxmidhar Sethi.

List of exhibits marked for the prosecution :-

Ext.1	F.I.R.
Ext.1/1	Signature of PW-1 on Ext.1.
Ext.2	Preparation Report.

Ext.2/1	Signature of PW-1 on Ext.2.
Ext.3	Detection Report.
Ext.3/1	Signature of accused.
Ext.4	Seizure list. been
Ext.4/1	Signature of PW-1 on Ext.4.
Ext.5	Four fold paper.
Ext.5/1	Signature of PW-1 in Ext.5.
Ext.2/2	Signature of PW-2 on Ext.2.
Ext.3/2	Signature of PW-2 on Ext.3.
Ext.6	Seizure list.
Ext.6/1	Signature of PW-2 on Ext.6.
Ext.7	Seizure list.
Ext.7/1	Signature of PW-2 on Ext.7.
Ext.8	Seizure list.
Ext.8/1	Signature of PW-2 on Ext.8.
Ext.9	Seizure list.
Ext.9/1	Signature of PW-2 on Ext.9.
Ext.10	Seizure list.
Ext.10/1	Signature of PW-2 on Ext.10.
Ext.11	C.E.Report.
Ext.11/1	Signature of PW-3 on Ext.11.
Ext.3/3	Signature of PW-4 on Ext.3.
Ext.6/2	Signature of PW-4 on Ext.6.
Ext.7/2	Signature of PW-4 on Ext.7.
Ext.8/2	Signature of PW-4 on Ext.8.
Ext.10/2	Signature of PW-4 on Ext.10.
Ext.12	Seizure list.
Ext.12/1	Signature of PW-4 on Ext.12.
Ext.13	Zimanama.
Ext.13/1	Signature of PW-4 on Ext.13.
Ext.14	Letter of D.D.A.,Puri.
Ext.15	Explanation of PW-5.
Ext.15/1	Signature of PW-5.
Ext.16	Letter No.2336, dt.21.4.2003.
Ext.17	Explanation of PW-5.
Ext.17/1	Signature of PW-5 in Ext.17.
Ext.18	Letter No.3671, dt.11.6.2003.
Ext.19	Explanation of PW-5.
Ext.19/1	Signature of PW-5 in Ext.19.
Ext.20	Stock Register regarding receipt of seeds stock.
Ext.20/1	Relevant entry with signature of Manguli Ch. Satrujit in Ext.20.
Ext.21	Daily sell register of Addl. Sells Centre, Itamati.
Ext.21/1	Relevant page in Ext.21.
Ext.1/2	Endorsement with signature of S.P.(V) on Ext.1.
Ext.1/3	Endorsement with signature of OIC(V) on Ext.1.
Ext.1/4	Formal F.I.R.

Ext.1/5	Signature of OIC(V) on Ext.1/4.
Ext.2/3	Signature of PW-6 on Ext.2.
Ext.3/4	Signature of PW-6 on Ext.3.
Ext.4/2	Signature of PW-6 on Ext.4.
Ext.6/3	Signature of PW-6 on Ext.6.
Ext.7/3	Signature of PW-6 on Ext.7.
Ext.8/3	Signature of PW-6 on Ext.8.
Ext.9/2	Signature of PW-6 on Ext.9.
Ext.10/3	Signature of PW-6 on Ext.10.
Ext.12/2	Signature of PW-6 on Ext.12.
Ext.5/2	Signature of PW-6 on Ext.5.
Ext.22	Paper containing facsimile seal.
Ext.22/1	Signature of PW-6 on Ext.22.
Ext.23	Seizure list.
Ext.23/1	Signature of PW-6 on Ext.23.
Ext.24	Seizure list.
Ext.13/2	Signature of PW-6 on Ext.13.
Ext.25	Sanction Order.
Ext.25/1	Signature of the then Director T.Wapang.
Ext.25/2	Forwarding Letter.
Ext.25/3	Signature of the then Director T.Wapang.
Ext.26	Letter No.3016, dt.18.6.13 of Director, Soil Conservation, Odisha, BBSR.
Ext.26/1	Signature of present Director, Soil Conservation, Odisha, BBSR.
Ext.27	Letter, dt.28.10.2010.
Ext.27/1	Signature of DW-2 on Ext.27.

List of exhibits marked for the defence :-

Ext. A	Xerox copy of letter, dt.5.7.02.
Ext. B	Xerox copy of hand receipt executed by Rashmita Pradhan, dt.27.12.01.
Ext. C	Xerox copy of application, dt.23.9.02.
Ext. D	Xerox copy of application of Manguli Charan Satrujit, dt.23.9.2002.
Ext. D/1	Endorsement with signature of accused on the application-Ext. D.
Ext. D/2	Dated initial on the top of the application-Ext. D.
Ext. D/3	Xerox copy of the money receipt, dt.27.12.2001.
Ext. E	Xerox copy of office letter No.7751, dt.30.9.2002.
Ext. E/1	Signature of DW-3 on Ext. E.
Ext. F	Extract of receive register of the office of ADAO, BBSR bearing receipt number vide Sl.No.1301 to 1315.
Ext. F/1	Entry No.1308 of that page where under office memo No.7753, dt.30.9.2002.
Ext. G	Copy of the letter, dt.23.10.2002 of the accused.

Ext. H	Copy of notesheet, dt.25.11.2002.
Ext. H/1	Endorsement with signature of DW-3 on Ext. H.
Ext. J	Enquiry report containing three sheets.
Ext. J/1	Signature of Rama Chandra Barik, the then FEO who had signed on the last page of the enquiry report.
Ext. K	Copy of letter No.9593, dt.19.12.2002.
Ext. K/1	Signature of DW-3 on Ext. K.
Ext. H/2	Signature of DW-4 on Ext. H.
Ext. L	Authorization letter of DAO, BBSR.
Ext. L/1	Signature of DAO, BBSR.
Ext. L/2	Signature of DW-5 on Ext. L.
Ext. M	Receive Register.
Ext. M/1	Relevant Page No.68 containing the receive entry at Sl.No.1308 of that page.
Ext. N	Letter No.5761/V.Cr(S), dt.12.12.02 of Dy. Superintendent of Police, Vigilance, Orissa, Cuttack.

List of documents marked by the defence for identification :-

Mark-X Xerox copy of letter No.7751, dt.30.9.02.

List of documents marked by the prosecution for identification :-

Mark-Y Xerox copy of fax message.

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

M.O.-I	One Raxin Bag.
M.Os.II to VII	Glass bottles containing pink colour solution.
M.O.VIII	Match Box.
M.O.IX	Seized tainted currency notes.

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

Nil

Special Judge(Vigilance),
Bhubaneswar.

5.4.2014

The accused is present in person and files hazira. Special P.P. and the learned defence counsel are present. Judgment is ready and pronounced in the open Court vide separate sheets. The accused is found guilty of the offences u/s.7 and 13(1)(d) r/w 13(2) of the P.C.Act,1988 and convicted thereunder. The convict is sentenced to undergo R.I. for one and half years and to pay a fine of Rs.3000/-(Rupees three thousand) in default to undergo R.I. for four months more for the offence U/s.13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 and he is sentenced to undergo R.I. for one year and to pay a fine of Rs.2000/-(Rupees two thousand) in default to undergo R.I. for three months more for the offence U/s.7 of the Prevention of Corruption Act, 1988. The substantive sentences awarded under both the Sections would run concurrently. The period of detention undergone by the convict in this case be set off U/s.428 Cr.P.C.

The seized tainted currency notes Rs.1000/-(M.O.-IX) be returned to the complainant (PW-1) if not reimbursed in the meantime. If the said amount has been reimbursed to the complainant in the meantime, in that case the seized tainted currency notes of Rs.1000/- be confiscated to the State. The Raxin Bag (M.O.-I), glass bottles (M.Os. II to VII) and Match Box (M.O.-VIII) be destroyed. Order regarding disposal of the

property shall take effect four months after expiry of the appeal period if no appeal is preferred and in case of appeal, the same shall be dealt as per the order of the Appellate Court.

(Dictated)

Special Judge(Vig.),
Bhubaneswar.