

**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. No. 26/3 of 2013/2007  
(Arising out of R.C. 36(A)/2006)

Date of argument : 16.12.2014

Date of Judgment : 23.12.2014

**REPUBLIC OF INDIA**

**Versus**

Purna Chandra Sahoo, aged about 59 years,  
Son of Gangaram Sahoo, Vill. Budhabahal,  
P.S.Saintala, Dist. Bolangir  
Branch Manager, Utkal Gramya Bank, Kandhakil Branch,  
Dist. Bolangir.

... Accused.

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

For the Accused : Shri G. Acharya and  
associates, Advocates.

**J U D G M E N T**

The accused stands charged under Sec.7 and Sc.13(2) read with Sec.13(1)(d) of Prevention of Corruption Act, 1988 for demanding and accepting bribe of Rs.2000/- from the complainant.

2. The case of the prosecution in brief is that Sri Mahabir Putel of village Bandhabahal, Dist. Bolangir submitted a loan application for loan of Rs. 15,000/- for agriculture and when he contacted Branch Manager, Utkal Gramya Bank of Kandhakela Branch Purna Chandra Sahoo on 7.11.2006 he demanded bribe of Rs.2000/- in order to sanction the loan. Ultimately the matter was reported to S.P., CBI, Bhubaneswar on 11.11.2006 basing on which R.C. Case No.36(A)of 2006 was registered and Inspector D.K. Kabi was directed to take up investigation and to lay a trap. In order to lay a trap, trap team was constituted on 13.11.2006 headed by D.K. Kabi. Two independent witnesses namely Rajesh Kumar Pradhan and Damodar Bagar were called. The complainant produced Rs.2000/- in shape of one five hundred rupee G.C. note and fifteen numbers of 100 rupee G.C. notes, which were treated with phenolphthalein powder and after observing all formalities the notes were kept inside the chest pocket of the complainant with instruction to hand over the same to Mr. Sahoo only on his demand. Damodar Bagar was instructed by Sri D.K. Kabi to be the accompanied witness. Accordingly, he accompanied with the complainant to overhear the conversation between the complainant and the accused. The complainant was asked to give signal by rolling of the sleeves of the shirt. A pre-trap memorandum was prepared, all the witnesses put their signatures. Then the complainant and the accompanied witnesses proceeded to the spot, other staffs followed them. After reaching near the bank, Mr. Putel entered into the bank followed by Mr. Bagar. He met the accused and requested him to sanction the loan. On seeing him, the accused asked him if he had brought the bribe amount demanded by him. When Mr. Putel replied affirmative, Mr. Sahoo accepted the bribe amount of Rs.2000/- from Mr. Putel and after counting

the same, kept the notes in the pocket of his T-shirt. After receiving the bribe amount, the accused brought out the loan application, wrote the sanction order, kept the documents in his table drawer. After transaction on getting signal from the complainant the trap team headed by Mr. D.K. Kabi went inside and challenged the accused who became nervous. Immediately, left hand and right hand wash of accused Sahoo was taken in sodium carbonate solution and the colour of the liquid change to pink which were kept in two separate bottles marked as 'L' and 'R'. The shirt pocket wash was also taken which was preserved in a bottle marked as 'P'. A post trap memorandum was prepared at the spot and the witnesses put their signatures. The loan application of Mr. Putel and other documents were recovered from the table drawer of the accused. The accused was arrested and on completion of investigation, charge sheet was submitted against him to stand his trial in the court of law.

3. Plea of the defence is one of complete denial and the accused has taken the stand that the complainant forcibly put the money in his pocket instead of depositing the same towards previous loan and entangled him in a false case.

4. In order to establish the charge prosecution has examined altogether eight witnesses out of whom P.W.6 is the complainant, P.W.3 is the accompanying witness, P.W.2 is the independent witness of trap, P.W.7 is the member of trap team, P.W.1 is the supporting officer, P.W.4 is the cashier of the bank, P.W.5 is the sanctioning authority and P.W.8 is the Investigating Officer.

On the other hand, defence has examined two witnesses out of whom D.W.1 is an independent witness and D.W.2 is the bank official.

5. The points emerge for consideration are:

- (i) Whether the accused was a public servant and discharging the duties of the Branch Manager, Utkal Gramya Bank, Kandhakei Branch, Dist. Bolangir?
- (ii) Whether he had demanded and accepted bribe of Rs.2000/- from the complainant, abusing his official position?
- (iii) Whether the bribe amount was recovered from the exclusive possession of the accused?
- (iv) Whether the accused being a public servant has committed criminal misconduct by obtaining pecuniary advantage or valuable, without any public interest by abusing his official position?

6. It is revealed from the evidence of P.W.2 that on 13.1.2006 on being called by CBI staff, he went to Saintola Telephone Exchange where the complainant had put forth his allegation that the accused was demanding bribe of Rs.2000/- from him for sanction of an agricultural term loan. The informant produced 15 numbers of 100 rupee note and one 500 rupee currency note before them, the number of which were noted in the papers and demonstration was made to show the use and effect of phenolphthalein powder in sodium carbonate solution. The notes were treated with Phenolphthalein powder and he himself handled the same. His hand wash was taken in dry cleaned bottle vide M.O.I. Constable P.K. Nayak kept the tainted notes in the front shirt pocket of the informant with instruction to hand over the

same to the accused on demand and to give signal. P.W.3 was instructed to accompany with the complainant and to overhear the conversation and to see the transaction. A pre-trap memorandum was prepared at the spot vide Ext.6 and thereafter all proceeded to the office premises of the accused. It is revealed from the evidence of this witness that on getting signal, all the trap party members rushed to the bank and found the accused sitting on a chair in the chamber. Mr. Kabi challenged the accused who became nervous and kept mum. Both the hands of the accused were caught hold by constable P. K. Palai and S.P. Mishra and his fingers were dipped separately resulting change of colour and the sample were kept in two bottles vide M.O.II and III. On being asked, the accused brought out the tainted note from his left side shirt pocket and on verification, the numbers tallied with the note made earlier. The note was kept in a sealed envelope vide M.O.IV and the pocket wash was taken at the spot which was kept in another sealed bottle vide M.O.V. A post trap memorandum was prepared at the spot vide M.O.VII and all the witnesses put their signature after the same being read over and explained to the witnesses. According to this witness, the shirt of the accused was seized vide M.O.VI and a sketch map was prepared at the spot vide Ext.8. The paper containing the numbers of the notes was also proved vide Ext.9. So far as recovery of bribe money is concerned, the evidence of this witness remain unshaken throughout and there is nothing to discard his testimony.

7. So far as recovery of tainted notes are concerned, P.W.3 has corroborated the version of P.W.2. It is revealed from the evidence of P.W.3 that he came to know about the demand of bribe by the accused from the complainant in order to process a

loan and after ascertaining the truth of allegation from complainant, he produced Rs.2000 which was tainted with phenolphthalein powder with sodium carbonate solution by constable P.K. Nayak. The hand wash of P.W.2 was taken and the solution resulting change of colour was preserved in a bottle vide M.O.I. This witness was advised to accompany with the complainant who kept the tainted note in his pocket with instruction to hand over the same to the accused on his demand. He has proved the pre-trap memorandum vide Ext.6 and his signature vide Ext.6/2. According to this witness, he remained near the door and Mr. Putel contacted the branch manager and asked about the sanction of loan. On being asked by the accused, the complainant brought out the demanded money and handed over the same to the accused who accepted in his right hand. Thereafter he counted the tainted notes in both of his hands and kept in his left side T-Shirt pocket. After that he brought out the loan application and some other papers and obtained signature of complainant. After getting signature, the trap team rushed to the spot and on being asked by D.K. Kabi, the accused became mum and fumbled. Both Inspector Mishra and P.K. Palai caught hold of both the hands of accused and according to the instruction of Mr. D.K. Kabi sodium carbonate solution was prepared and when both hands were dipped in the liquid, same turned pink which were kept in two separate bottle vide M.O.II and M.O.III. The accused brought out the tainted currency notes from his shirt pocket and the numbers were tallied with the previous noting. It is revealed that the tainted notes were kept in an envelope and same was sealed. The pocket wash also taken and same was kept in a bottle vide M.O.V. P.W.3 has signed on the post trap memorandum vide Ext.7. The evidence of this witness remains unshaken throughout

and there is nothing to discard the testimony of above witness. This witness has fully corroborated the evidence of P.W.2. So far handing over and taking over of the money is concerned, both the witnesses have corroborated the versions of each other. Regarding recovery of tainted notes from the possession of accused, both have also corroborated the version of each other.

8. P.W.7 was a member of the trap party who in his evidence has fully corroborated the prosecution case as regards acceptance and recovery of bribe. As regards preparation of sodium carbonate solution, recovery of tainted notes from possession of the accused, hand wash of the accused, reaction of same in sodium carbonate solution he has fully corroborated the version of P.Ws.2 and 3. He has also corroborated the version of above two witnesses regarding washing of shirt pocket and reaction of the same in sodium carbonate solution. This witness has proved the seizure of loan application form vide Ext.10 and the loan documents vide Ext.1. As regards handing over of the bribe amount by the complainant, acceptance of bribe by accused and recovery of the tainted money from the possession of accused, all the above three witnesses have corroborated the versions of each other.

9. It is revealed from the evidence of complainant P.W.6 that he had applied for an agricultural loan and the accused was the Branch Manager of the said branch. He demanded bribe of Rs.2000/- in order to process the loan, for which he made a complaint vide Ext.14 before CBI regarding such demand. On 13.11.2006 he went to Saintola Telephone Exchange where other CBI staffs were present along with D.K. Kabi. He has admitted the fact that he had presented the loan application vide Ext.1 and he

has signed the documents vide Exts.2 to 5. Further he has admitted that a memorandum was prepared at Saintola Telephone Exchange and he put his signature vide Ext.6 and Ext.6/3. He admits to have paid Rs.2000/- to accused which he kept the same in his pocket. He has denied all the prosecution allegation as regards challenge by the I.O., hand wash of accused in chemical liquid, preservation of the same in bottles. Even at the time of his cross-examination he has denied about the contents of the written report vide Ext.14 as he is unable to read and write English. He has also denied to have applied about the second loan and he has not repaid the previous loan. Further he has admitted that CBI Inspector handed over the money to him and directed to handover the money to Branch Manager in order to repay the previous loan. He has further admits that accused has not demanded bribe from him, but he handed over the money in his hand. At the time of his cross-examination, he has also stated that he has not given any written allegation before CBI against the accused. Even if the prosecution allegation is that accused demanded bribe of Rs.2000/- from the complainant, he had denied such allegation in his evidence recorded on oath. Even if this witness has been declared hostile by prosecution, his entire evidence should not be thrown out. His admission in evidence regarding pending of loan application, handing over of tainted notes to the accused and his acceptance can be caste aside.

10. The trap laying officer D.K. Kabi has not been examined in this case since he is dead. But P.W.8 took over charge of investigation on 28.11.2006 and sent the seized articles to CFSL Kolkata for chemical examination. After completion of investigation, he moved for sanction of prosecution and submitted charge sheet after receipt of the same as well as chemical

examination report through S.P.CBI vide Ext.15. This witness has clearly stated that he has recorded the statement of the complainant (P.W.6) who has stated before him that the accused has demanded bribe of Rs.2000/- to sanction the loan and he has produced the denomination of one 500 rupee currency note and 15 numbers of 100 rupee currency notes which were tainted with chemical powder and given to him with a direction to hand over the same to accused. This witness has examined the complainant at his native place and it is revealed that the complainant has got a previous loan vide KCC 532 for Rs.15,000/- sanctioned on 11.7.2006 which has been mentioned in loan document. Hence, it is clearly established from the evidence of prosecution witnesses including the complainant that the accused has accepted bribe of Rs.2000/- from the complainant in order to process the loan.

11. P.W.1 has disclosed that the accused being Branch Manager is empowered to sanction loan. He has proved the loan application of the complainant vide Ext.1 and his evidence revealed that he is well acquainted with the handwriting of accused Purna Chandra Sahoo who has filled up the loan application and Ext.1/1 is his signature. According to him, the accused has signed the entire application and the date 13.11.2006 was corrected as 10.11.2006. The demand promissory note (Ext.2), D.P. note delivery letter (Ext.3) have been scribed by the accused and signed by the loanee. Ext.4 is the deed of hypothecation dtd. 13.11.2006 scribed by the accused and signed by the loanee. He has proved the loan sanction letter vide Ext.5 which has been scribed by the accused. It is clearly revealed that the loan application was pending with the accused and he has filled up all the forms of loan application and relevant documents. From the evidence of above witnesses, it is

clearly established that not only the accused has demanded bribe of Rs.2000/- from the complainant, but also the complainant has handed over the money to the accused to which he has accepted the same and subsequently same was recovered from him.

12. P.W.4 has disclosed that the attendance register Ext.11 goes to reveal that the accused was on duty on 7.11.2006 and has signed vide Ext.11/1 and he was also present in duty on 13.11.2006 and has put his signature vide Ext.11/2. The contents have been filled up in the handwriting of accused-branch manager as per Ext.1 to 5. He has also supported the evidence of P.W.1 regarding sanction of loan in favour of the complainant on 10.11.2006 and the signatures of the accused on Exts.1,4 and 5. From the evidence of P.Ws.2 and 4, it is clearly established that the accused has filled up the documents as required and has sanctioned the loan in favour of the complainant.

13. P.W.5 has accorded sanction of prosecution in respect of accused for launching prosecution against him vide Ext.13. He has disclosed that he found prima facie material against the accused and being competent authority to remove him from service, he accorded sanction.

14. P.W.8 has proved the chemical examination report vide Ext.15 which reveals that phenolphthalein, sodium carbonate and water were detected in the contents of each of exhibits marked as Chem. 111/06/A to Chem. 111/06/D ( R, L, P & D) respectively.

15. D.W.1 has disclosed that the complainant tried to put money inside the shirt pocket of the Branch Manager and the Branch Manager put his hand on the pocket for which Putel inserted the money in his hand and the Branch Manager raised shout. At the time of his cross-examination, she has stated that the fact was not

reported by her to any body and for the first time she is deposing in the court. Similarly Sukuru Pradhan D.W.2 who was working as Messenger in the bank has disclosed that Branch Manager told the complainant whether he had brought money, then accused asked him to deposit in the counter. The complainant put money in his pocket and Branch Manager pressed his hand in the pocket and the notes fell on the table. He has also stated that three persons came to the bank and challenged about the acceptance of money from Mahabir Putel. This witness admits to have been examined by the CBI staff in the bank. He has also stated that the loan application and other documents were taken by CBI staffs. At the time of his cross-examination, he failed to say the amount offered by Mahabir Putel to Branch Manager and he had no knowledge if any notice was issued to the complainant. In his cross-examination, he has stated that he has not remembered what type of shirt was put on by the accused on that day. Both D.Ws. 1 and 2 have disclosed about the handing over money by the complainant to the accused to which he accepted.

16. From the evidence on record, it is clearly established that accused has voluntarily accepted the bribe amount in shape of tainted notes from the complainant which was recovered from his exclusive possession. But so far as demand of bribe is concerned, there is prevaricating statement of the complainant. Even if he has stated in chief that accused has demanded bribe, but in his cross-examination he has stated that the accused has not demanded bribe, but he has handed over the money to him.

17. It is the settled principle of law that every acceptance of illegal gratification whether preceded by a demand or not would be covered by Section 7 of the Act. But if the acceptance of an illegal gratification is in pursuance of a demand by the public

servant, then it would also fall under Section 13(1)(d) of the Act. The act alleged against the accused, of demanding and receiving illegal gratification constitutes an offence both under Section 7 and under Sec. 13(1)(d) of the Act. The offence being a single transaction, but falling under two different sections, the offender cannot be liable for double penalty. As the offence is one which falls under two different sections providing different punishments, the offender should not be punished with a more severe punishment than the court could award to the person for any one of the two offences. It has been observed in case of *Inder Dayaldas Advani V. Stat of Mombay* reported in AIR 1952 Bom. 58 "it is not necessary that the act for which the bribe is given, be actually performed. A representation by a public servant that he has done or he will do an act, impliedly includes a representation that it was or is within his power to do that act." According to Section 20 of the Prevention of Corruption Act, where, in any trial of an offence punishable under Section 7 or Section 11 or clause (a) or clause(b) of sub-section (1) of section 13 it is proved that an accused person has accepted or obtained or has agreed to accept or attempted to obtain for himself, or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in Section 7 of the Act,

18. In the instant case, it is clearly established that the accused has accepted the bribe of Rs.2000/- from the complainant which was recovered from his exclusive possession which reveals his motive in accepting such gratification.

19. Hence, considering the evidence on record, I come to the conclusion that prosecution has well proved the case against the accused under Section 7 of Prevention of Corruption Act only beyond all reasonable doubt. Accordingly, the accused is held guilty of the offence under Section 7 of the Prevention of Corruption Act and is convicted there under.

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

Dictated & corrected by me and is pronounced in the open court today i.e. on 23<sup>rd</sup> December, 2014.

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

**HEARING ON THE QUESTION OF SENTENCE:**

Heard the convict on the question of sentence. It is submitted by the learned defence counsel that the accused is innocent and there is no previous allegation against him, 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 fine of Rs.3000/- (Rupees

Three Thousand) in default to suffer rigorous imprisonment for two months for the offence under Sec.7 of Prevention of Corruption Act with a direction that the sentences shall run concurrently. The period undergone as UTP if any be set off.

The seized documents be returned to the person from whom seized and the zimanama if any, be cancelled after four months of appeal period, if no appeal is preferred and in the event of appeal subject to the order of appellate court. The M.Os be destroyed after four months of appeal period, if no appeal is preferred and in case of appeal subject to the order of the 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 23<sup>rd</sup> December, 2014.

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

**List of witnesses examined for the prosecution:**

P.W.1	Ram Krishna Meher.
P.W.2	Rajesh Kumar Pradhan
P.W.3	Damodar Bagar.
P.W.4	Alli Majhi
P.W.5	Ramesh Chandra Pani.
P.W.6	Mahavir Putel.
P.W.7	Sudhansu Bhusan Mishra.
P.W.8	Narayan Chandra Sahoo.

**Witnesses examined for the defence :**

D.W.1 Baidehi Podha.  
 D.W.2 Sukru Pradhan.

**List of exhibits marked for the prosecution:**

Ext.1 Loan application.  
 Ext.1/1 Signature of accused.  
 Ext.2 Demand Promissory Note.  
 Ext.3 D.P. note delivery letter.  
 Ext.4 Agreement.  
 Ext.4/1 Signature of accused.  
 Ext.5 Loan sanction letter.  
 Ext.5/1 Signature of accused.  
 Ext.6 Pre-trap memorandum.  
 Ext.6/1 Signature of P.W.2.  
 Ext.7 Post trap memorandum.  
 Ext.7/1 Signature of P.W.2.  
 Ext.8 Sketch map.  
 Ext.8/1 Signature of P.W.2.  
 Ext.9 Paper containing numbers of G.C. notes.  
 Ext.9/1 Signature of P.W.2.  
 Ext.6/2 to 9/2 Signature of P.W.3.  
 Ext.10 Search list.  
 Ext.10/1 Signature of P.W.3.  
 Ext.11 Attendance register.  
 Ext.11/1&11/2 Signature of Branch Manager.  
 Ext.12 Seizure list.  
 Ext.12/1 Signature of P.W.4.  
 Ext.13 Sanction order.  
 Ext.13/1 Signature of P.W.5.  
 Ext.14 Written complaint.  
 Ext.14/1 Signature of P.W.6 in Ext.14.  
 Ext.1/2 Signature of P.W.6 in Ext.1.  
 Ext.2/1,3/1,4/2 & 5/2 Signature of P.W.6 in Ext.2 to 5.  
 Ext.6/3 Signature of P.W.6 in Ext.6.  
 Ext.8/3 Signature of P.W.6 in Ext.8.  
 Ext.7/3 Signature of P.W.6 in Ext.7.  
 Ext.9/3 Signature of P.W.6 in Ext.9.  
 Ext.6/4 Signature of D.K. Kabi in Ext.6.  
 Ext.6/5 Signature of P.W.7 in Ext.6.  
 Ext.10/2 Signature of D.K. Kabi in Ext.10.  
 Ext.8/4 Signature of D.K. Kabi in Ext.8.  
 Ext. 8/5 Signature of P.W.7 in Ext.8.

Ext.7/4 Signature of D.K. Kabi in Ext.7.  
 Ext.7/5 Signature of P.W.7 in Ext.7.  
 Ext.9/4 Signature of D.K. Kabi in Ext.9.  
 Ext.12/2 Signature of P.W.8 in Ext.12.  
 Ext.15 Chemical Examination report.  
 Ext.16 Rule received by P.W.8.  
 Ext.17 Service regulation.

**List of exhibits marked for the defence :**

Ext.A Savings account pass Book No.3768 of Anchalik  
 Gramya Bank, Bolangir.  
 Ext.A/1 Entry dated 13.11.2006 in Ext.A.

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

M.O.I Sample bottle containing hand wash after  
 demonstration.  
 M.O.II & III Bottle containing both hand wash.  
 M.O.IV Envelop containing G.C. Notes.  
 M.O.V Bottle containing pocket wash  
 M.O.VI Packet containing shirt.

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