



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Appeal (Sb) No. 745/2022

Kana Ram S/o Sh. Shravan Lal @ Ramji Lal Patwari, Aged About
41 Years, Chhila B, Teh. Kolayat No. 2, Bajju, Bikaner R/o Nangal
Tajavatan, Dausa.

-----Appellant

Versus

State Of Rajasthan, Through Pp

-----Respondent



For Appellant(s)	:	Mr. Madhav Mitra, Sr. Adv. assisted by Mr. Kapil Meena Mr. Shreyash Ramdev
For Respondent(s)	:	Mr. Surendra Bishnoi, AGA

HON'BLE MR. JUSTICE FARJAND ALI

Order

REPORTABLE

DATE OF CONCLUSION OF ARGUMENTS	:	21/01/2026
DATE ON WHICH ORDER IS RESERVED	:	21/01/2026
FULL ORDER OR OPERATIVE PART	:	Full Order
DATE OF PRONOUNCEMENT	:	17/04/2026

BY THE COURT:-

1. The instant criminal appeal under Section 374(2) of the Code of Criminal Procedure has been preferred by the appellant assailing the judgment dated 21.05.2022 passed by the learned Special Judge, Prevention of Corruption Act Cases, Bikaner in Sessions Case No. 12/2013, whereby the appellant came to be



convicted for the offences under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

1.1 By the said judgment, the learned trial Court sentenced the appellant to undergo two year's simple imprisonment along with a fine of Rs.2,000/- for the offence under Section 7 of the Act, and in default of payment of fine, to further undergo three month's simple imprisonment. For the offence under Section 13(1)(d) read with Section 13(2) of the Act, the appellant was sentenced similarly.

2. The brief facts giving rise to the present appeal are that the complainant, Likhma Ram, approached the office of the Anti-Corruption Bureau (ACB) on 16.04.2012 and submitted a written complaint stating that he had purchased 22 Bighas 8 Biswas of land situated in Murabba No. 98/49, Chak 2 CD, in the name of his mother, Bhira. The complainant intended to obtain a loan on the said land for the purpose of fountain irrigation, for which he contacted the accused. It was alleged that the accused demanded a bribe of ₹10,000 for issuing the Jamabandi and passbook.

2.1 Upon receipt of the complaint, the ACB verified the demand and initiated trap proceedings. A trap was laid with two independent witnesses, and on 17.04.2012, the accused was caught red-handed at Sub-Tehsil Bajju while accepting ₹3,500 as illegal gratification. Upon noticing the raiding party, the accused attempted to throw away the money and flee, but was apprehended on the spot. Necessary formalities, including seizure and hand-wash procedures, were duly carried out.



2.2 After completion of investigation, a charge-sheet was filed, and the learned Trial Court took cognizance and framed charges against the accused. During trial, the prosecution examined witnesses and exhibited documents in support of its case. The statement of the accused was recorded under Section 313 Cr.P.C., wherein he denied the allegations and claimed that he had been falsely implicated due to enmity. Being aggrieved by the judgment of conviction and order of sentence dated 21.05.2022, the appellant has preferred the present appeal before this Court.

3. Learned counsel appearing on behalf of the appellant submitted that the learned Trial Court has erred in law and facts, and the findings recorded are perverse and contrary to the material on record. The prosecution has failed to prove the essential ingredients of demand and acceptance of illegal gratification beyond reasonable doubt. There is no evidence to show that any work of the complainant was pending with the appellant or that he was in a position to extend any favour. The alleged verification proceedings are doubtful due to material contradictions and lack of scientific evidence. Mere recovery of tainted money, in absence of proof of demand and acceptance, is insufficient to sustain conviction. Hence, the impugned judgment deserves to be quashed.

4. Learned counsel appearing for the State has vehemently opposed the prayer so advanced on behalf of the appellant.



5. I have heard the counsels appearing on behalf of the parties and have also perused the material available on record.

6. To start with, it is apposite to discuss the relevant provisions of the PC Act. For ease of reference, Sections 7, 13(1)(d) and 13(2) are reproduced hereinbelow: -

7. Offence relating to public servant being bribed.—

Any public servant who,—

(a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or

(b) obtains or accepts or attempts to obtain, an undue advantage from any person as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or

(c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in consequence of accepting an undue advantage from any person,

shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

Explanation 1.—For the purpose of this section, the obtaining, accepting, or the attempting to obtain an undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper.

Illustration.—A public servant, 'S' asks a person, 'P' to give him an amount of five thousand rupees to process his routine ration card application on time. 'S' is guilty of an offence under this section. Explanation 2.—For the purpose of this section,—

(i) the expressions "obtains" or "accepts" or "attempts to obtain" shall cover cases where a person being a public servant, obtains or "accepts" or attempts to obtain, any undue advantage for himself or for another person, by abusing his position as a public servant or by using his personal influence over another public servant; or by any other corrupt or illegal means;



(ii) it shall be immaterial whether such person being a public servant obtains or accepts, or attempts to obtain the undue advantage directly or through a third party.

From a bare perusal of Section 7 of the PC Act, it is manifest that the legislature intends to criminalise not only the acceptance but even the mere demand or attempt to obtain any undue advantage by a public servant. The essence of the offence lies in the corrupt motive to perform a public duty improperly, dishonestly, or to forbear from its due discharge. It is further evident that actual improper performance of duty is not a sine qua non, as the offence stands complete with the act of demand or acceptance itself. The provision also takes within its sweep indirect obtainment through abuse of position or via third parties. Thus, the section is couched in wide terms to preserve the sanctity of public office and to deter even the slightest taint of corruption.

6.1 Section 13 of the PC Act reads as:-

13. Criminal misconduct by a public servant. —

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

- (a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in section 7; or
- (b) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any



property entrusted to him or under his control as a public servant or allows any other person so to do; or

(d) if he, —

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

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

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

if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

Explanation. —For the purposes of this section, “known sources of income” means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant.

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

A bare perusal of Section 13(1)(d) read with Section 13(2) of the PC Act, it is manifest that “criminal misconduct” by a public servant is attracted where he, by corrupt or illegal means or by abusing his official position, secures for himself or for another any valuable thing or pecuniary advantage. The provision further takes within its fold cases where such advantage is obtained without any public interest, thereby striking at arbitrary exercise of power. It also contemplates possession of disproportionate assets for which no satisfactory account is furnished. The gravamen of the offence





lies in the misuse of public office for private gain, whether direct or indirect. Once such misconduct is established, Section 13(2) prescribes stringent punishment, extending from one year up to seven years' imprisonment, along with fine. Thus, the section is designed to ensure purity in public administration and to deter enrichment through abuse of official position.

7. At the outset, the complainant PW-5, namely Likhmaram, upon whose complaint (Ex. P-10) the entire prosecution is founded, has turned hostile and has categorically denied the allegations of demand, payment, and even the trap proceedings. He has further deposed that he never met the appellant and instead interacted with one Gudduram. In view of the settled proposition of law as laid down in **Banarasi Das v. State of Haryana** reported in (2010) 4 SCC 450 whereby Hon'ble the Supreme Court noted that the primary witnesses were declared hostile, and the evidence of demand and acceptance was not corroborated beyond reasonable doubt; here in this case, sustainability of the judgment does not seem safe. The Apex Court emphasized that conviction cannot be based on inference alone and requires direct or circumstantial evidence. Consequently, the Supreme Court set aside the conviction, granting the appellant the benefit of the doubt, and acquitted him. In **N. Sunkanna v. State of Andhra Pradesh** reported in (2016) 1 SCC 713, the Apex Court found that there was no proof of demand for illegal gratification, as the complainant turned hostile and no other evidence supported the demand. So, when the complainant does



not support the prosecution case, the burden lies heavily upon the prosecution to establish demand and acceptance through independent and unimpeachable evidence, which is conspicuously absent in the present case.

8. After thoroughly perusing the material and evidence available on record, it is further manifest that no work was pending with the appellant. The appellant was admittedly a Patwari in the Colonisation Department, whereas the issuance and maintenance of jamabandi falls within the domain of the Revenue Department. This position stands fortified by the testimony of PW1. The documentary evidence, particularly Ex. P-35, reflects that copies of the relevant documents had already been issued to the complainant much prior to the lodging of the FIR. Additionally, Ex. P-21 (Mutation Register) establishes that the mutation in favour of the complainant's mother had already been effected. Thus, there existed no occasion or necessity for the appellant to either demand or facilitate issuance of such documents.

9. Moving on to the allegations of demand, being the sine qua non for constituting an offence under the PC Act, has not been proved beyond reasonable doubt. The complainant has denied the demand in unequivocal terms. PW-4, who accompanied the complainant for verification, has not supported the prosecution and admitted that he neither heard nor witnessed any demand. PW-12's testimony is riddled with contradictions and fails to inspire confidence. Furthermore, there are material inconsistencies regarding the amount allegedly demanded, varying from Rs.



10,000/- to Rs. 5,000/- then Rs. 4,000/- which ultimately changed to Rs. 3500/- during the trap, which strikes at the root of the prosecution case. In light of the law laid down in **Neeraj Dutta v. State (Govt. of NCT of Delhi)** reported in (2023) 18 SCC 251 wherein Hon'ble the Supreme Court affirmed that circumstantial evidence could suffice in proving demand and acceptance of a bribe and the court clarified the legal standards for proving such offenses, emphasizing the role of circumstantial evidence when direct evidence is unavailable. In **Madan Lal v. State of Rajasthan** reported in (2025) 4 SCC 624 the Apex court found inconsistencies in the complainant's testimony and noted that independent witnesses did not corroborate the prosecution's version of events. The court concluded that the prosecution failed to establish the demand and acceptance of the bribe beyond reasonable doubt.

9.1 The trap proceedings and the element of acceptance are equally doubtful. The recovery of the alleged tainted money from the ground and not from the conscious possession of the appellant, coupled with the consistent and immediate denial by the appellant, creates a serious dent in the prosecution case. The testimonies of PW-8, PW-9, and PW-10 reveal that none of them conclusively witnessed the exchange of money and that the money was allegedly thrown on the ground by the appellant. In such circumstances, the essential ingredient of "acceptance" remains unproved.



9.2 In the present matter, there is no direct evidence on record to establish the essential ingredients of the alleged offence. Even if, for the sake of argument, reliance is placed upon circumstantial evidence to infer demand and acceptance, the prosecution has failed to bring on record such cogent and reliable circumstances. In the absence of both direct and circumstantial evidence, the foundational facts of demand and acceptance remain unproved. Consequently, when the very substratum of the prosecution case is not established, no adverse inference can be drawn against the accused.

10. Coming to the admissibility of evidence in electronic form and compliance of Section 65B of the Indian Evidence Act, 1872 (hereinafter to be referred as "IEA"). For the ease of reference, Section 65B of the IEA is reproduced hereinbelow:-

65B. Admissibility of electronic records. -- (1)

Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely: --

(a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(b) during the said period, information of the kind contained in the electronic record or of the kind from which the



information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;

(c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and

(d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether--

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say, --

(a) identifying the electronic record containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section, --





(a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(c) a computer output shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation.--For the purposes of this section any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process.]

10.1 At the outset, it is apposite to observe that Section 65B of the IEA constitutes a special provision governing the admissibility of electronic records, engrafting a legal fiction whereby any information contained in an electronic record, when produced in the form of a printout, CD, or other media, is deemed to be a document, provided the statutory conditions are duly satisfied. The provision, in its scheme, mandates that such computer output becomes admissible without production of the original device, subject to fulfillment of the requirements enumerated in sub-sections (2) and (4). Sub-section (2) lays down foundational conditions, namely that the computer was in regular use, the information was fed in the ordinary course of activities, the device was operating properly, and the output is derived from such data, thereby ensuring the authenticity and reliability of the electronic record. Sub-section (3) further clarifies that in cases involving



interconnected systems or multiple devices, the same shall be treated as a single computer. However, the heart and soul of the provision lies in sub-section (4), which mandates the furnishing of a certificate identifying the electronic record, describing the manner of its production, providing particulars of the device involved, and certifying compliance with the conditions of sub-section (2). Such certificate must be signed by a person occupying a "responsible official position," which expression has to be construed to mean a person who is directly concerned with the operation of the device or management of the relevant activities and is competent to vouchsafe the integrity and accuracy of the data, such as a system administrator or authorised officer; it does not necessarily denote a high-ranking officer but must have a clear nexus with the device and the data in question. It is trite that the requirement of such certification is not a mere procedural formality but a condition precedent to make the document admissible in evidence, ensuring the sanctity and chain of custody of electronic evidence, and in absence thereof, the electronic record is rendered inadmissible in evidence, the mandate of the statute being strict and obligatory.

10.2 Upon a careful scrutiny of the record, it transpires that the alleged CDs containing the conversation are stated to have been prepared on 17.04.2012 during the course of trap proceedings. However, the certificate mandated under Section 65B of the IEA, which constitutes a sine qua non for admissibility of electronic evidence, came to be furnished only on 30.05.2018, after an



inordinate and unexplained delay of more than six years. The transcripts (Ex. P-6 to P-15), though admittedly prepared from the original tape recorder, stand juxtaposed with a certificate issued qua the CDs, thereby creating a patent inconsistency. Significantly, the original device was never produced before the Court, and the CDs, when played during trial, were not even audible, thereby further eroding the evidentiary worth of the material relied upon.

10.3 This Court is constrained to observe that the requirement of a certificate under Section 65B is not an empty or procedural formality, but a mandatory condition precedent, going to the very root of admissibility of electronic evidence. The legal position stands authoritatively settled by the Hon'ble Supreme Court in **Anvar P.V. v. P.K. Basheer** reported in (2014) 10 SCC 473 and reaffirmed in **Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal** reported in (2020) 7 SCC 1, wherein it has been unequivocally held that compliance with Section 65B is indispensable and non-negotiable.

10.4 At the very outset, no such certificate was produced alongwith the charge-sheet. The record further reveals that PW-12, Niyaz Mohammad, appeared before the Court on 06.03.2018 for recording of his statement and, thereafter, in continuation of his statements, on 30.05.2018, he moved an application stating: "मेरे द्वारा प्रकरण संख्या 91/12 के संबंध में धारा 65 बी का प्रमाण पत्र सहवन से रहने के कारण आज पेश कर रहा हूँ", and it is only on that date that the certificate surfaced for the first time.



10.5 This Court cannot remain oblivious to the fact that such a foundational document, which ought to have been in existence at the inception of the evidentiary process, was conspicuously absent at the stage of filing of the charge-sheet and came to be introduced at a belated stage during trial. It is further borne out that at the time when PW-12 entered the witness box, he was posted as DSP, Kolayat, District Bikaner, whereas the incident in question pertains to a period when he was posted with the ACB at an outpost. The interregnum of several years, coupled with the change in his official capacity and posting, assumes material significance and casts a shadow on the credibility of the subsequent certification.

10.6 This Court is, therefore, constrained to entertain a serious and well-founded doubt that upon his appearance before the Court, and either upon noticing the glaring absence of the requisite certificate or being advised by the prosecutor; an attempt was made to prepare such document instantly, ostensibly to fill up a lacuna. The certification dated 30.05.2018, coinciding with the date of his deposition, in respect of recordings allegedly heard and transcripts prepared on 17.04.2012, renders the entire exercise suspect. A certification which purports to vouch for events of six years prior, without any contemporaneous record, continuity of custody, or demonstrable linkage with the original device, is nothing but a hollow and perfunctory formality, lacking in legal sanctity.



10.7 It is manifestly clear that PW-12 did not come to the Court equipped with the requisite record. On the day of his deposition, he was neither in possession of the CD nor of any recording device through which he could have independently verified the contents, nor even the concerned file. It appears that only upon entering the Court premises, and possibly upon being so advised by the learned Public Prosecutor or some other person, he perused the file and upon noticing the absence of the mandatory certificate, hastily caused a certificate to be typed within the Court campus and appended his signature thereto before producing the same. At the cost of repetition, it must be emphasized that the law mandates certification upon due verification of the electronic record by actually hearing or examining the source material. The legislative intent was never to countenance a mechanical exercise whereby a few lines are casually typed, signed, and tendered to confer legality upon an otherwise inadmissible document. Such a perfunctory compliance strikes at the very root of the sanctity and reliability of electronic evidence and cannot be accorded judicial imprimatur.

10.8 At this juncture, it becomes imperative for this Court to dwell upon and underscore the true import, scope, and legislative intent behind the expression "**responsible official**" as employed under Section 65B of the IEA. The legislature, in its conscious wisdom, has not used this expression lightly or redundantly. The phrase "responsible official" embodies a substantive safeguard, intended to ensure authenticity, accountability, and reliability of



electronic evidence, which by its very nature is susceptible to manipulation, alteration, duplication, fabrication, or any kind of manual interference. A "responsible official" is not a mere signatory or a formal attestor who affixes his signature upon a document at convenience or upon suggestion. Rather, such an official must be a person who is directly connected with the operation of the device, or who has lawful control over the use of the device, or who has personally handled, monitored, or supervised the process of recording, copying, or extraction of the electronic data. The responsibility envisaged by the statute is not symbolic but real, not retrospective but contemporaneous, and not superficial but substantive. The obligation cast upon such responsible official is multi-fold, firstly, to ensure that the device in question was in proper working condition at the relevant time; secondly, to verify that the process of recording or copying was carried out in a reliable and secure manner; thirdly, to affirm that the contents reproduced are a true and faithful representation of the original data; and lastly, to certify that no tampering, alteration, or interference has occurred at any stage. Such certification must be rooted in personal knowledge, derived from direct involvement at the time of the event, and not based upon conjecture, assumption, or post facto reconstruction or supplied information.

10.9 Tested on the anvil of the aforesaid principles, the conduct of PW-12 falls woefully short of the standard so envisaged. A person who, by his own admission and conduct, did not prepare or



furnish the certificate at the relevant point of time, and who seeks to assume such responsibility after a lapse of six years, cannot, by any stretch of legal imagination, be regarded as a “responsible official” within the meaning of Section 65B. The very essence of responsibility would be the immediacy and accountability at the time of occurrence, and not a belated assumption of authority when the evidentiary lacuna is brought to fore. The assertion, in substance, that “six years earlier, the recording was heard, found to be correct, the device was functioning properly, and no interference was detected,” when such assertion is made for the first time at the stage of deposition and not contemporaneously recorded, is devoid of credibility, bereft of assurance, and lacks evidentiary sanction and value as well. Such a statement, in the considered view of this Court, is nothing more than an exercise in empty formalism, undertaken to give a semblance of compliance to a mandatory statutory requirement.

10.10 This Court must also observe, in no uncertain terms, that such practice borders on reducing the legislative mandate to a mockery. The statutory requirement is sought to be converted into a ritualistic exercise, where the certificate is generated not at the time of creation of the electronic record, but at the time when its absence is noticed during trial. This is impermissible in law. The certificate under Section 65B is not a curative tool to fill up lacunae, nor is it a document that can be manufactured at convenience to salvage an otherwise inadmissible piece of evidence.



10.11 It is further to be clarified that the certificate under Section 65B stands on an entirely different footing from other forms of documentary evidence, such as expert reports or FSL opinions, which may, in certain circumstances, be permitted to be brought on record at a later stage. The certificate in question pertains to the very foundation of admissibility and reliability of the electronic record itself. Therefore, the law mandates that such certification must be contemporaneous with the event, i.e., at the time when the electronic record is created, copied, or first extracted. In other words, the certification must bear the same temporal nexus as the event sought to be proved, and cannot be divorced from it by a substantial lapse of time.

10.12 In view of the foregoing discussion, this Court has no hesitation in holding that the certificate under Section 65B, having been produced after an inordinate delay of six years, lacking contemporaneity, and suffering from intrinsic inconsistencies, cannot be relied upon. Consequently, the electronic evidence sought to be adduced by the prosecution, being unsupported by a valid and lawful certification by a truly "responsible official," is rendered inadmissible and deserves to be eschewed from consideration.

11. It is also noteworthy that the investigation suffers from serious procedural lapses, including doubtful chain of custody of the alleged tainted money, inconsistencies in preparation of documents, absence of independent corroboration, and contradictions in testimonies of material witnesses. The



cumulative effect of these infirmities renders the prosecution case wholly unreliable.

12. In the considered opinion of this Court, the complainant, who constitutes the primary and most material witness of the prosecution, has not supported the case and has resiled from his earlier version. In such a situation, the evidentiary value of the prosecution case stands substantially weakened. At best, the concerned officer can depose as to what was allegedly stated to him by the complainant; however, such a statement, being a mere reiteration of what was told by another person, does not carry the force of substantive evidence and squarely falls within the realm of hearsay, which is inadmissible in law. It is no doubt true that merely because a witness is declared hostile, his entire testimony does not stand effaced, and the Court may rely upon such part of his deposition which is found to be credible and trustworthy. However, such reliance must be founded upon legally admissible evidence. In the present matter, the prosecution has sought to place reliance on alleged electronic evidence to establish demand. Yet, unless such electronic record satisfies the mandatory requirements of admissibility, including compliance with Section 65B of the IEA, the same cannot be looked into. Had the electronic evidence been duly proved and rendered admissible in accordance with law, and further had it been established that the voices contained therein were of the accused and the complainant, more so, when the complainant himself identifies his voice, then, on the basis of such authenticated conversation, an inference with regard



to demand could have been legitimately drawn. However, in the absence of such admissible and reliable material, the foundational fact of demand remains unproved. The fact that neither the recorder was produced in the Court nor the copies in the form of compact disc were clearly audible when tried to play in courtroom further puts a serious dent in the case of prosecution and in such circumstances, it would be safe for this Court to held that the prosecution miserably failed to substantiate the charge and no conviction can be sustained on such deficient evidence. The prosecution has failed to establish the foundational facts of demand and acceptance beyond reasonable doubt

13. Accordingly, the appeal deserves to be and is hereby allowed. The impugned judgment of conviction and sentence dated 21.05.2022 passed by the learned Special Judge, Prevention of Corruption Act Cases, Bikaner in Sessions Case No. 12/2013 is hereby set aside.

13.1 The appellant stands acquitted of all the charges levelled against him. His bail bonds are hereby discharged. The record be sent back.

13.2 The accused shall furnish requisite bonds to the satisfaction of the trial Court within one month from the date of receipt of a copy of this order, undertaking that in the event of any appeal being preferred before the Hon'ble Supreme Court, he shall duly appear as and when directed.

14. Before parting and in order to obviate recurrence of such lapses, it is deemed appropriate to suggest the Director General,



Anti-Corruption Bureau, to issue suitable circulars/instructions to all officers of the ACB that whenever any electronic device is used for recording, and the same is heard or transcribed, the responsible officer shall, on the very same day or in exceptional cases, contemporaneously prepare and issue a certificate in compliance with Section 65B of the Indian Evidence Act / Section 63 of the Bharatiya Sakshya Adhiniyam. This certificate must specify the specifications of the device, its make, identification particulars, the manner of recording, the process of extraction, and certifying the correctness, integrity, and authenticity of the contents. Such certification shall not be deferred, postponed, or prepared at a later stage, and shall invariably form part of the case record at the earliest stage, preferably along with the charge-sheet. Any deviation from this mandate shall be viewed seriously, as it not only undermines the evidentiary value of such material but also strikes at the very root of a fair, transparent, and credible investigation.

15. This Court is equally constrained to observe, with a measure of concern, that on account of such lapses, cases which are otherwise capable of being duly proved by the prosecution are rendered vulnerable. At times, even a culpable person succeeds in escaping the clutches of law, not on merits, but owing to technical infirmities attributable to the negligence of the investigating officers. It is trite that the criminal justice system rests upon the foundational principle that the guilty must be punished and the innocent must be set at liberty. However, when avoidable



procedural lapses and casualness on the part of the police machinery give rise to technical defects, the very administration of justice is imperilled, resulting in undeserved advantage to the guilty and erosion of public confidence in the system.

16. Stay petition and all pending applications stands disposed of.

(FARJAND ALI),J

170-Mamta/-

