2025 INSC 618

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2613 OF 2014

AMAN BHATIA **...APPELLANT**

VERSUS

STATE (GNCT OF DELHI) **...RESPONDENT**

J U D G M E N T

J.B. PARDIWALA, J.

For the convenience of exposition, this judgment is divided into the following parts:-

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1. This appeal arises from the judgment and order passed by the High Court of Delhi in Criminal Appeal No. 348 of 2013 ("**impugned judgment**") by which the High Court dismissed the appeal filed by the appellant herein and thereby affirmed the judgment and order dated 30.01.2013 passed by the Special Judge in Complaint Case No. 11 of 2009 holding the appellant herein guilty of the offence under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 respectively (for short, "**the PC Act**").

A. FACTUAL MATRIX

2. As per the case of the prosecution, on 09.12.2003, the complainant went to the Office of the Sub-Registrar, Janakpuri, Delhi to purchase a stamp paper of Rs. 10/-. The appellant, a licensed stamp vendor, made a demand of Rs. 12/- for a stamp paper of Rs. 10/-. Against the excess demand of Rs. 2/-, the complainant lodged a written complaint with the Anti-Corruption Branch (for short, "**ACB**"). Pursuant to the said complaint, a trap was laid by the ACB. The complainant was handed over one GC note of Rs. 10/- and one GC note of Rs. 2/-, smeared with phenolphthalein powder, by the Raid Officer. The complainant alongwith the raiding party left for the Office of the Sub-Registrar, Janakpuri, Delhi. After reaching there, when the complainant asked for a stamp paper of Rs. 10/-, the appellant again made a demand of Rs. 12/-. The complainant gave the smeared GC notes to the appellant who accepted them with his right hand. At the signal of the *panch* witness, the raiding party arrived at the spot. The appellant was apprehended. The wash of his

hand turned the solution of sodium carbonate pink and the notes were allegedly recovered from the register kept for maintaining the records of the stamp papers.

2.1 Upon completion of the investigation, chargesheet was filed in the court of Special Judge (Anti-Corruption Brach), Delhi. The Special Judge framed charges against the appellant for the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the PC Act respectively. The appellant denied the charges and claimed to be tried.

2.2 In the course of the trial, the prosecution examined nine witnesses, of whom four are crucial for the adjudication of the matter at hand:

i. Complainant (PW-1);
ii. *Panch* witness (PW-4);
iii. Raid Officer (PW-6);
iv. Investigating Officer (PW-9)

2.3 The Trial Court, upon appreciation of the oral as well as the documentary evidence on record, held the appellant guilty of the offences with which he was charged and sentenced him to undergo rigorous imprisonment for a period of six months and fine of Rs. 1000/- for the offence punishable under Section 7 of the PC Act and rigorous imprisonment for a period of one year and fine of Rs. 1000/- for the offence punishable under Section 13(1)(d) read with Section 13(2) of the PC Act. The sentences were ordered to run concurrently.

B. IMPUGNED JUDGMENT

3. The pivotal issue that fell for the consideration of the High Court was "whether a stamp vendor is a public servant for the purposes of the PC Act or not."

3.1 The High Court answered the aforesaid question in the affirmative. It held that ensuring access to stamp papers, which are indispensable for legal transactions, falls within the scope of 'performance of a public duty'. The said public duty i.e., vending of the stamps, is a licensed activity regulated under the statutes governing the sale of judicial and non-judicial stamp papers. It further held that the fact that stamp vendors purchase these papers at a discounted rate before selling them to the public does not diminish the public nature of the duty they perform. The High Court added that in terms of Explanation 1 to Section 2 of the PC Act, it is not necessary for the stamp vendor to be 'appointed' by the Government in order to be a public servant.

3.2 The High Court also adverted to the Delhi Province Stamp Rules, 1934 (for short, "**the 1934 Rules**") and observed that Rule 28 of the 1934 Rules stipulates the conditions governing the grant of license to a stamp vendor and violation of the said rule would amount to an illegal act. Further, Rule 28(xx) states that the remuneration to the vendor in the form of a discount is allowed from time to time by the orders of the local Government. The High Court further took note of Rule 34 which provides for remuneration to stamp vendors by

entitling the licensed vendor of stamps to discount on the amount of purchase.

3.3 Further, the High Court analysed the question whether any "remuneration, fees or commission" was being paid to the stamp vendors by the Government. In other words, whether the discount availed by the stamp vendor at the time of purchase of stamps from the treasury could be said to be 'commission' paid for the purpose of performing duty in terms of Section 2(c)(i) of the PC Act. The Court observed that the 1934 Rules clearly indicate the nature of the remuneration paid to a stamp vendor. The Court termed the said discount as a fee for performing the task of a licensed agent of the Government. Further, from the reading of Rule 34(ii) and 34(iii) of the 1934 Rules respectively, the Court reached the conclusion that what is paid as commission to the stamp vendors is a discount at the given rate on the stamps purchased and the same is treated as a commission.

3.4 Lastly, the High Court considered the decision of the High Court of Gujarat in ***Ahmedabad Stamp Vendors Association* v. *Union of India***, reported in **2002 SCC OnLine Guj 135**, relied upon by the appellant to fortify his submission that once the stamp papers are purchased by the vendor from the treasury, there is complete ownership of the stamp papers with the vendors. The High Court held that the said decision is not applicable to the facts of the case in the same way as it was rendered in the context of Section 194H of the Income Tax Act, 1961 (for short, "**the 1961 Act**") and the

meaning of 'commission' was not considered in the light of Section 2(c)(i) of the PC Act.

3.5 Thereafter, the High Court proceeded to look into the evidence on record to ascertain the correctness of the finding of the guilt. The High Court noted that the *panch* witness had been consistent as regards his statement about the appellant having accepted the tainted money. In this context, the Court observed that if the appellant had not demanded excess Rs. 2/-, there was no occasion to accept it in the first place.

3.6 As regards the recovery of GC notes – whether those were recovered from possession of the appellant or from the register lying on his table, the Court observed that the wash of the appellant's hand did turn pink, and both the GC notes were found, even if not directly from the appellant, then too certainly the notes were found placed on the register. Further, the testimony of the Raid Officer, that it was the *panch* witness who pointed out that money accepted by the appellant was lying on his register, was found to be reliable and trustworthy. The *panch* witness also stated that the accused made an entry in the register after accepting the money. The High Court was of the view that the evidence of the complainant corroborated by the evidence of the Raid Officer established the culpability of the appellant beyond reasonable doubt.

C. SUBMISSIONS ON BEHALF OF THE APPELLANT

4. Mr. S. K. Rungta, the learned Senior Counsel appearing for the appellant submitted that the prosecution instituted against the

appellant under the PC Act itself was not maintainable. It was argued that at best the prosecution could have been under the Indian Stamp Act, 1899 (for short, "**the 1899 Act**") alongwith the 1934 Rules, as these comprehensively regulate the sale of stamp papers by licensed vendors and constitute a complete code for offences related to stamps. The license of the appellant was cancelled in terms of Section 69 of the 1899 Act read with Rule 29 of the 1934 Rules. He submitted in *arguendo* that, the said cancellation was one of the consequences of alleged demand of excess amount of Rs. 2/-. Hence, even if the appellant would have been found guilty under the framework of the 1899 Act, the maximum possible sentence would have been significantly lower than what the Trial Court has imposed in the present case.

4.1 Mr. Rungta further submitted that a bare perusal of Section 2(c) of the PC Act reveals that a 'public servant' has a co-relation with the service or office under the Central Government, State Government or the local authority. He argued that the definition is exhaustive and a licensed stamp vendor does not fall in any of the clauses. Therefore, the appellant cannot be said to be in service or in office of the Central or State Government. Further, Mr. Rungta invited the Court's attention to Section 7 of the PC Act, prior to the amendment of 2018 and submitted that the provision deals with acceptance of any gratification for showing any favour or disfavour to any person in relation to an official act. To support his submission, he argued that an excess amount of Rs. 2/- could not be said to be the motive or

reward for showing favour or disfavour with Central Government or State Government.

4.2 The second limb of Mr. Rungta's submission was that the prosecution had failed to prove the demand and acceptance of an excess amount of Rs. 2/- for sale of stamp paper of face value of Rs. 10/-. He submitted that the *panch* witness failed to support the case of prosecution of demand of Rs. 12/- thereby rendering the arrest memo, search and seizure memo also doubtful. Further, the Investigating Officer admitted that the time of arrest of the appellant was 7:15 PM, however, the raid was conducted around 3:45 PM.

4.3 He further submitted that there are glaring inconsistencies in the testimony of the *panch* witness and the complainant as regards the recovery of the GC notes. The High Court in the impugned judgment expressed doubts on the recovery of the GC notes since the seizure memo and other documents were drawn up only later at the office of the ACB. He submitted that even the bottle containing the sodium carbonate solution was sealed later at the Office of the ACB.

4.4 Mr. Rungta also highlighted a few mitigating circumstances for the purpose of reducing the sentence awarded by the Trial Court, more particularly, the fact that the appellant was only 19 years of age at the time of the commission of the offence.

4.5 In such circumstances referred to above, he prayed that there being merit in the present appeal, the same may be allowed and the impugned judgment and order passed by the High Court may be set

aside and the appellant herein may be acquitted of the charges levelled against him. Lastly, Mr. Rungta highlighted a few of the mitigating circumstances for the purpose of reducing the sentence of awarded by the Trial Court, more particularly the fact that the appellant was only 19 years of age at the time of the commission of the offence.

D. SUBMISSIONS ON BEHALF OF THE RESPONDENT

5. Ms. Aishwarya Bhati, the learned Additional Solicitor General appearing for the respondent State, on the other hand, submitted that no error, not to speak of any error of law, could be said to have been committed by the High Court in passing the impugned judgment. She submitted that the High Court has rightly taken the view that the licensed stamp vendor is a public servant for the purposes of the PC Act. She further submitted that the 1934 Rules, more particularly Rule 34 therein makes it abundantly clear that what is paid to the vendors by the Government is remuneration in the form of discount. It was argued that the term "remunerated" occurring in Section 2(c)(i) of the PC Act should be given a meaningful interpretation so as not to frustrate the object of the PC Act. She further argued that a stamp vendor cannot get away with his liability under the PC Act by arguing that what is paid by the Government is in the form of a discount and not remuneration.

5.1 The learned A.S.G. submitted that the reliance placed by the appellant on the decision of the Division Bench of the High Court of Gujarat in the case of ***Ahmedabad Stamp Vendors Association*** (*supra*), as affirmed by this Court in ***Commissioner of Income Tax,***

Ahmedabad & Ors.* v. *Ahmedabad Stamp Vendors Association, reported in **(2014) 16 SCC 114**, is totally misconceived and is of no avail to the appellant. She argued that the said decision was in the context of Tax Deducted at Source on "commission or brokerage" under the contract of agency. In other words, the said decision was considered only in the context of Section 194H of the 1961 Act.

5.2 She contended that the relationship between the Government and the stamp vendors is that of principal and agent. The learned A.S.G. further submitted that the High Court was right not only in saying that the stamp vendors are public servants for the purposes of the PC Act but even otherwise on merits also, the High Court rightly affirmed the judgment and order of conviction passed by the Trial Court.

5.3 In such circumstances referred to above, the learned A.S.G. prayed that there being no merit in this appeal, the same may be dismissed.

E. ISSUES FOR CONSIDERATION

6. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the following two questions fall for our consideration:-

a. Whether the High Court was right in holding that a licensed stamp vendor falls within the ambit of a public servant for the purposes of the PC Act?

b. If the answer to the aforesaid question is in the affirmative, then whether the conviction of the appellant herein on merits is sustainable?

F. ANALYSIS

i. Legislative intent behind the definition of "public servant" under Section 2(c) of the PC Act

7. Before adverting to the rival submissions canvassed on either side, we deem it absolutely necessary to look into the backdrop of the PC Act. It cannot be lost sight of the fact that, the repealed Prevention of Corruption Act, 1947 (for short, "**the Act 1947**"), was enacted with the avowed object and purpose of effectively preventing bribery and corruption. The PC Act which repeals and replaces the 1947 Act provides for a very wide definition of the term "public servant" in clause (c) of Section 2.

8. The Statement of Objects and Reasons, attached to the Bill by which the PC Act was introduced by the legislature, throws light on the intention of the legislature in providing a very comprehensive definition of the words "public servant". It gives the background in which the legislation was enacted. The PC Act, which contains a much wider definition of "public servant", was brought in force to purify the public administration. Para 3 of the Statement of Objects and Reasons reads thus:

> "*3. The Bill, inter alia, envisages widening the scope of the definition of the expression 'public servant', incorporation of offences under Sections 161 to 165-A of the Penal Code, 1860, enhancement of penalties provided for these offences and incorporation of a provision that the order of the trial court upholding the grant of sanction for prosecution would be final if it has not already been challenged and the trial has commenced. In order to expedite the proceedings, provisions for day-to-day trial of cases and*

prohibitory provisions with regard to grant of stay and exercise of powers of revision on interlocutory orders have also been included."

9. The appellants in ***State of Gujarat* v. *Mansukhbhai Kanjibhai Shah***, reported in **(2020) 20 SCC 360**, referred to the notes on clauses of Prevention of Corruption Bill dated 20.02.1987 to clarify the legislative intent behind the statute. The relevant extract has been reproduced hereinbelow:

> "***36.*** *Our attention was also drawn to the notes on clauses of Prevention of Corruption Bill dated 20-2-1987. Clause 2 of the Notes on Clauses in the Gazette of India, Extraordinary, Part II, Section 2, clarifies the legislative intent, wherein it was commented as under:*
>
> > *"**2**. This clause defines the expressions used in the Bill. Clause 2(c) defines "public servant". In the existing definition the emphasis is on the authority employing and the authority remunerating. In the proposed definition the emphasis is on public duty. The definition of "election" is based on the definition of this expression in the Penal Code, 1860."*
> >
> > *(emphasis supplied)*"

10. Under the repealed 1947 Act, the definition of "public servant" was restricted to public servants as defined in Section 21 of the Indian Penal Code, 1860 (for short, "**IPC**"). In order to curb bribery and corruption not only in government establishments and departments but also in other semi-governmental authorities and bodies and their departments where the employees are entrusted with public duty, a comprehensive definition of "public servant" was introduced in Section 2(c) of the PC Act.

11. When the legislature has used such a comprehensive definition of "public servant" to achieve the purpose of punishing and curbing growing corruption in government and semi-government departments, it would be appropriate not to limit the contents of the definition clause by a construction which would be against the spirit of the statute. The definition of "public servant", therefore, deserves a wide and purposive construction. In construing the definition of "public servant" in Section 2(c) of the PC Act, the Court is required to adopt a purposive approach as would give effect to the intention of the legislature.

12. In the aforesaid context, we deem it appropriate to refer to the decision of this Court in ***State of M.P.* v. *Ram Singh***, reported in **(2000) 5 SCC 88**, wherein this Court observed as follows:-

> *"**9.** The menace of corruption was found to have enormously increased by the First and Second World War conditions. Corruption, at the initial stages, was considered confined to the bureaucracy which had the opportunities to deal with a variety of State largesse in the form of contracts, licences and grants. Even after the war the opportunities for corruption continued as large amounts of government surplus stores were required to be disposed of by the public servants. As a consequence of the wars the shortage of various goods necessitated the imposition of controls and extensive schemes of post-war reconstruction involving the disbursement of huge sums of money which lay in the control of the public servants giving them a wide discretion with the result of luring them to the glittering shine of wealth and property. In order to consolidate and amend the laws relating to prevention of corruption and matters connected thereto, the Prevention of Corruption Act,*

1947 was enacted which was amended from time to time. In the year 1988 a new Act on the subject being Act 49 of 1988 was enacted with the object of dealing with the circumstances, contingencies and shortcomings which were noticed in the working and implementation of the 1947 Act. The law relating to prevention of corruption was essentially made to deal with the public servants, not as understood in common parlance but specifically defined in the Act.

10. *The Act was intended to make effective provisions for the prevention of bribery and corruption rampant amongst the public servants. It is a social legislation intended to curb illegal activities of the public servants and is designed to be liberally construed so as to advance its object. Dealing with the object underlying the Act this Court in R.S. Nayak v. A.R. Antulay [(1984) 2 SCC 183 : 1984 SCC (Cri) 172] held: (SCC p. 200, para 18)*

> *"18. The 1947 Act was enacted, as its long title shows, to make more effective provision for the prevention of bribery and corruption. Indisputably, therefore, the provisions of the Act must receive such construction at the hands of the court as would advance the object and purpose underlying the Act and at any rate not defeat it. If the words of the statute are clear and unambiguous, it is the plainest duty of the court to give effect to the natural meaning of the words used in the provision. The question of construction arises only in the event of an ambiguity or the plain meaning of the words used in the statute would be self-defeating. The court is entitled to ascertain the intention of the legislature to remove the ambiguity by construing the provision of the statute as a whole keeping in view what was the mischief when the statute was enacted and to remove which the legislature enacted the statute. This rule of construction is so universally accepted that it need not be supported by precedents. Adopting this rule of construction,*

whenever a question of construction arises upon ambiguity or where two views are possible of a provision, it would be the duty of the court to adopt that construction which would advance the object underlying the Act, namely, to make effective provision for the prevention of bribery and corruption and at any rate not defeat it."

(Emphasis supplied)

13. What is relevant to note from the aforesaid is that the PC Act was enacted after the repeal of the 1947 Act with the object of dealing with the circumstances, contingencies and shortcomings which were noticed in the working and implementation of the 1947 Act. The law relating to prevention of corruption was essentially made to deal with the public servants, not as understood in common parlance but as specifically defined in the PC Act.

14. While holding that a deemed university would fall within the ambit of the PC Act, a three-Judge Bench of this Court in ***Mansukhbhai Kanjibhai Shah*** (*supra*) observed that it falls upon the courts to interpret provisions of an anti-corruption legislation in a manner to strengthen the fight against corruption. It was further added that in case two views are possible, the court should accept the one that seeks to eradicate corruption over the one which seeks to perpetuate it. The relevant observations are reproduced hereinbelow:

*"**25.** However, we are concerned herein with interpreting the provisions of the PC Act. There is no dispute that corruption in India is pervasive. Its impact on the nation is more pronounced, due to the fact that India is still a developing economy. Presently, it can be stated that corruption in India has become an issue which affects all walks of life. In this*

context, we must state that although anti-corruption laws are fairly stringent in India, the percolation and enforcement of the same are sometimes criticised as being ineffective. Due to this, the constitutional aspirations of economic and social justice are sacrificed on a daily basis. It is in the above context that we need to resolve the issues concerned herein.

26. *In Subramanian Swamy v. Manmohan Singh [Subramanian Swamy v. Manmohan Singh, (2012) 3 SCC 64 : (2012) 1 SCC (Cri) 1041 : (2012) 2 SCC (L&S) 666] , this Court observed : (SCC p. 100, para 68)*

> *"68. Today, corruption in our country not only poses a grave danger to the concept of constitutional governance, it also threatens the very foundation of Indian democracy and the rule of law. The magnitude of corruption in our public life is incompatible with the concept of a socialist secular democratic republic. It cannot be disputed that where corruption begins all rights end. Corruption devalues human rights, chokes development and undermines justice, liberty, equality, fraternity which are the core values in our Preambular vision. Therefore, the duty of the Court is that any anti-corruption law has to be interpreted and worked out in such a fashion as to strengthen the fight against corruption. That is to say in a situation where two constructions are eminently reasonable, the Court has to accept the one that seeks to eradicate corruption to the one which seeks to perpetuate it.*
>
> *xxx*
>
> ***44.*** *As discussed earlier, the object of the PC Act was not only to prevent the social evil of bribery and corruption, but also to make the same applicable to individuals who might conventionally not be considered public servants. The purpose under the PC Act was to shift focus from those who are traditionally called public officials, to those individuals who perform public duties. Keeping the same in mind, as rightly submitted by the learned Senior Counsel for the appellant State, it cannot be*

stated that a "deemed university" and the officials therein, perform any less or any different a public duty, than those performed by a university simpliciter, and the officials therein."

(Emphasis supplied)

ii. Stamp Vendors are "Public Servants"

15. In light of the observations made by this Court in ***Ram Singh*** (*supra*) and ***Mansukhbhai Kanjibhai*** (*supra*), we now proceed to assess whether a stamp vendor comes within the purview of a "public servant" as defined under Section 2(c)(i) of the PC Act. The provision reads thus:

> *"(c) "public servant" means, -*
> *(i) any person in the service or pay of the Government or remunerated by the Government by fees or commission for the performance of any public duty;"*

16. A person would be a public servant under Section 2(c)(i) of the PC Act if he is:

1. in the service of the Government; or
2. in the pay of the Government;
3. remunerated by fees or commission for the performance of any public duty.

17. All three categories are independent of each other. There may be cases where more than one of the aforesaid categories are applicable and "or" may be read as "and", however, the present case does not warrant such reading.

18. In the present factual matrix, for the appellant to be a public servant under Section 2(c)(i) of the PC Act, two conditions will have to be fulfilled:

1. *First*, whether he is remunerated by the Government through fees or commission; and
2. *Secondly*, whether such remuneration is for the performance or discharge of a public duty.

a. Interpretation of 'Remuneration' in light of the Delhi Province Stamp Rules, 1934

19. To arrive at a decision on the first aspect, what is required to be determined is whether the discount received by the appellant is remuneration in the terms of the expression "*remunerated by the Government by fees or commission for the performance of any duty*" under Section 2(c)(i) of the PC Act. To determine whether the appellant was being remunerated by the Government, we must make a reference to the 1934 Rules. Rule 1(f) defines the expression, "licensed agent", whereas, Rule 1(g) along with Rule 22 defines the term "vendor". The same reads thus:-

> *"(f) the expression "Licensed Agent" means and includes every person who, for the time being holds a licence granted under these rules, to sell stamps, but does not include a specially licensed agent or an ex-officio agent, as such, though an ex-officio agent may, if duly licensed, be also a licensed agent. The expression "licence" means a licensed agent's license;"*
> *"(g) the term "vendor" includes an ex-officio agent, a licensed agent and a specially licensed agent"*
>
> *xxx*
>
> *22. Vendors – There will be two classes of agent, namely –*

(a) ex-officio agent as vendor, defined in rule I(e).
(b) licensed or specially licensed agent as defined in rule I(f), (g) & (h)."

Rule 26 stipulates that the Collector or any other officer empowered by the local Government can grant license for the sale of stamps.

20. Rule 2 stipulates that the Controller of Stamps is responsible for supplying stamps that are required by the local Government. The Controller of Stamps supplies stamps on the request of treasury officers. As per Rule 3, the district treasury has been constituted as a local depot and the sub-treasury has been constituted as a branch depot for the custody and sale of stamps.

21. Rule 17 mandates that utmost care must be taken to ensure that no licensed vendor is hindered from obtaining stamps from treasuries. Furthermore, it stipulates that vendors must be permitted to procure supplies on any day and at any hour during treasury working hours, without unnecessary delay.

22. Further, Rule 28 states the conditions which every license granted under the rules is subject to. Rule 28(vii) prescribes that a vendor is bound to sell stamps on immediate payment permitted by his license. Further, he shall not demand or accept for any stamp any consideration exceeding the value of such stamp. Rule 28(xiii) also mandates that the vendor shall make corresponding entries in his vend register and get the entry attested by the purchaser. Upon

filling up of the register, the vendor has to deliver the same to the Collector or any other officer deputed to receive the same.

23. Lastly, Rule 28(xx) mandates that the remuneration to the vendor shall be in the form of discount allowed from time to time under the orders of the local Government. In furtherance, Rule 34 states the rule for remuneration of vendors, under the heading "*Commission allowed on Court-fee stamps*". It states that every licensed vendor of court-fee stamps shall be entitled to discount at the rate of 1% on stamps upto Rs. 100 in a single transaction purchased by him, however, the total value of stamps shall neither be less than Rs. 10/- nor in excess of a multiple of Rs. 10/-. The said rule is reproduced hereinbelow:

> "*(xx) The remuneration to the vendor shall be in the form of discount allowed from time to time under the orders of the local Government.*"

24. The 1934 Rules indicate that a licensed vendor, under the rules obtains stamps from the treasury and the Rules empower him to procure the stamps without any wait or delay. He is entitled to a discount on the value of stamps at the time of purchase. The remuneration envisaged under Rule 28(xx) alongwith Rule 34 of the 1934 Rules is in the form of 'discount' or 'commission' under the orders of the local Government.

25. In terms of the 1934 Rules, when a licensed vendor procures stamps from the treasury at a discounted rate which is lower than their face value, and subsequently sells them to purchasers at their face value, the difference between the two amounts constitutes the vendor's

remuneration. For instance, if a stamp vendor purchases a stamp with a face value of Rs. 100/- at a one percent discount, he pays Rs. 99/-. In return, he sells it to the purchaser for Rs. 100/-, i.e., the face value of the stamp. Thus, the one percent discount by the orders of the local Government effectively becomes the vendor's remuneration, representing the margin between the procurement cost and the sale price. The rules neither envision nor indicate any other form of remuneration.

26. The difference between the procurement price and the sale price is by and large because of the scheme devised by the Government i.e., the 1934 Rules. The remuneration being received by the licensed vendor is on the strength of the license that the vendor is holding. Although, it is true that the liability of the stamp vendor to pay the price less the discount is not dependent or contingent upon the sale of the stamp papers yet the remuneration remains contingent on the order of the local Government under Rule 28(xx) of the 1934 Rules.

27. Assuming, that no such discount was provided and the licensed vendors were required to purchase stamps at their face value and sell them at the same value, there would be no financial incentive for the licensed vendors to engage in such transactions. In such a scenario, the vendor would merely recover the amount expended on the purchase of the stamps, without any margin of profit. The discount, therefore, serves as a form of remuneration and operates as a commercial incentive, enabling the vendor not only to recoup the purchase amount but also to earn a commission in the nature

of the differential amount between the procurement cost and the face value. Hence, the discount is the only form of commission.

28. At this stage, we deem it appropriate to refer to the object behind the stamp duty. It is important to underscore that the object of the 1899 Act, along with its provisions, must be interpreted in light of the interest of the Government in ensuring adequate remuneration to licensed stamp vendors. While examining the relevant provisions, it is pertinent to ask—why does the Government find it necessary to remunerate a licensed stamp vendor at all?

29. The 1899 Act is a fiscal enactment, enacted with the primary objective of securing revenue for the State through the imposition of stamp duties on certain instruments. This underlying purpose is clearly reflected in Section 3 of the 1899 Act. Section 5 further bolsters the object by stating that where an instrument deals with several distinct matters, the total stamp duty payable would be equal to the combined duty that would apply if each matter were covered by a separate instrument. In furtherance of Section 5, Section 6 states that where duties chargeable under the different descriptions under Schedule I are different, the instrument shall be chargeable with the highest of them.

30. Sections 13 and 14 stipulate the mode of stamping respectively, Section 15 reinforces the effect of non-compliance of the preceding provisions and deems it unstamped. Section 17 provides that all instruments chargeable with duty and executed by any person in

India shall be stamped before or at the time of execution. Non-compliance of Section 17 is penalised under Section 62. Section 33 provides that every person who has authority to receive evidence shall impound an instrument which is, in their opinion, chargeable with duty but appears to be not duly stamped. The procedure laid down by the statute to be followed after such impounding also ensures that there is payment of stamp duty and the exchequer does not incur any revenue loss.

31. Section 35 is of particular significance to the issue before this Court as it renders instruments which are not duly stamped inadmissible in evidence for any purpose and imposes a prohibition on such instruments from being acted upon, registered, or authenticated. However, the bar is removed on payment of duty and the penalty. The Collector, again, by powers vested in him under Section 40 is authorised to levy penalty. Section 42 reinforces that the purpose of stamping is in payment of duty, as once the payment of duty and a penalty is complete, the instrument is admissible.

32. The common thread running across the above-mentioned provisions is that the Government desires that the holder of the instrument pays appropriate stamp duty. To fulfil this objective, the Government ensures there is sufficient availability of stamps through licensed stamp vendors. It is for this reason the Government remunerates a stamp vendor as he is facilitating the accessibility of stamps on behalf of the Government, and thus the role being performed by licensed stamp vendor is nothing short of a highly important public

duty, essential for ensuring the efficient collection of revenue on behalf of the State.

b. Meaning of "Commission" under Section 194H of the 1961 Act and Section 2(c)(i) the PC Act

33. We may test the case of the appellant from another standpoint. The appellant by relying on ***Ahmedabad Stamp Vendors*** (*supra*), which was affirmed by this Court in ***Commissioner of Income Tax, Ahmedabad*** (*supra*), submitted that the stamp vendors are not agents of the State Government. It was submitted that the purchase of stamps by the vendor from the treasury results in the transfer of ownership to the vendor, thereby precluding the characterization of the relationship as one of principal and agent. Consequently, the discount on the purchase of the stamps cannot be said to be commission neither in terms of Section 194H of the 1961 Act nor in terms of Section 2(c)(i) of the PC Act. The appellant's submission although, at first glance, appears persuasive, but it does not withstand scrutiny.

34. The High Court of Gujarat in ***Ahmedabad Stamp Vendors*** (*supra*) held that in spite of the restrictions on a licensed stamp vendor under the relevant rules, the transactions would still be a sale and not one between a principal and agent. There is no gainsaying that although the Government has imposed restrictions on the licensed stamp vendors by way of the relevant rules *qua* the manner of carrying on the business yet the vendors are required to purchase the stamps on payment of price less the discount on principal-to-principal basis.

35. The decision rendered by the Gujarat High Court in ***Ahmedabad Stamp Vendors*** (*supra*) was also looked into by the High Court of Uttarakhand in the case of ***Roorkee Stamp Vendor Association* v. *State of Uttarakhand***, reported in **2013 SCC OnLine Utt 3764**. The High Court, while dealing with an identical issue – namely, whether the amount received by stamp vendors from treasury, upon the subsequent sale of the stamps to purchasers is by way of holding a position of an agent of the treasury, adopted the reasoning assigned by the Gujarat High Court. The High Court of Kerala in ***Kerala State Stamp Vendors Association* v. *Office of the Accountant-General***, reported in **2005 SCC OnLine Ker 672**, in agreement with the findings of ***Ahmedabad Stamp Vendors*** (*supra*), took a corresponding view that the licensed stamp vendors are not agents of the Government and are independent dealers in stamps, though they are subject to the relevant rules in regards of purchase and sale of stamps.

36. The definition of "public servant" cannot be understood devoid of the context in which it came to be incorporated and the manner in which it has been subsequently interpreted by this Court as elucidated in the preceding section of this judgment.

37. The heart of the definition of "public servant" under Section 2(c)(i) of the PC Act lies in the expressions "*remunerated by the Government*" and "*for the performance of any public duty*", and not in the mode of remuneration, such as "fees or commission". The 'commission' referred in "*remunerated by the Government by fees or commission*

for the performance of public duty" is not analogous to the 'commission' in Section 194H of the 1961 Act. The terms "fees" and "commission" are merely indicative of the mode of remuneration and not determinative of the position held by a person. Their presence or absence does not alter the core question as to whether a person is remunerated by the Government for the performance of any public duty, which remains the central consideration under Section 2(c)(i) of the PC Act.

38. The interpretation of a definition should not only avoid being repugnant to the context but it should also be interpreted to achieve the purpose which is sought to be served by the statute. A construction which would defeat or may likely defeat the purpose of the Act has to be ignored and not accepted. A definition, like any other word in a statute, has to be read in the light of the context and scheme of the Act.

39. The definition of "public servant" under Section 2(c)(i) can be said to have three parts, as they are disjunctive: first, a person who is in the service of the Government; secondly, a person who is in the pay of the Government; thirdly, a person who is remunerated by fees or commission for the performance of any public duty. The expression "remunerated" in the third part has to be read in context and in line with the expressions in the first and the second part i.e., "in the service" and "in the pay". The three key expressions, "in the service", "in the pay" and "remunerated" by the Government belong to the same genus and have the same flavour. In the first two parts, a person is rendering his services for the Government which implicitly

means discharging a public duty. Whereas, in the third part, even though a person is not rendering his services for the Government but is being remunerated for discharging a public duty. In this context, the terms "fees or commission" must be construed so as to give full effect to the definition and the other provisions of the statute.

40. Further, the term "commission" as used and understood in the context of Section 194H of the 1961 Act is not *stricto sensu* similar to its usage in Section 2(c)(i) of the PC Act. When a person is in service of the Government, as is contemplated under the first part of Section 2(c)(i), he is said to be in a master-servant relationship where the employer employs the person on the basis of salary. Whereas, in the second part, a person may not be a regular employee but is receiving salary from his master. A five-Judge Bench of this Court in ***M. Karunanidhi* v. *Union of India***, reported in **(1979) 3 SCC 431**, although in the context of Section 21, Twelfth, of the IPC, has interpreted the word 'pay' as implying that a person is getting salary, compensation, wages or any amount of money yet a relationship of master-servant need not exist in all cases.

41. Further, as the master-servant or principal-agent relationship has already been envisaged under the first part, the legislature could not have intended to address it again under the third part. The structure of the definition reduces the emphasis on the strictness of the relationship between the Government and the public servant, while placing greater focus on the performance of a public duty. It is

important to note that, the first two parts imply that the individual is rendering services directly for the Government. Whereas, the last part suggests that even where the services are not rendered 'for' the Government, the Government may nevertheless remunerate the person for performing a public duty.

42. Where the wording of a statutory provision indicates that the legislature has consciously attributed varying degrees of significance to different interpretative elements such as the nature of the relationship or the duty performed, the courts are obliged to adhere to that legislative determination and interpret the provision in a manner that reflects the intended statutory scheme. While interpreting a statute, it is essential not only to consider the words used but also to examine the Statement of Objects and Reasons, as it provides the background against which the legislation was enacted. The legislature introduced a comprehensive definition of "public servant" with the intent to punish and curb the menace of corruption. In such circumstances, it would be improper to construe the definition in a manner that limits its scope, thereby defeating the very essence and purpose of the statute.

43. It is an important rule of interpretation that every interpretation of a statute must be undertaken by considering the statute in its entirety, the prior state of the law, other statutes in *pari materia*, the general scope and purpose of the legislation, and the mischief that the legislature intended to address.

iii. Public Duty as the determinant of status of Public Servant

44. We now proceed to consider the case of the appellant on the second aspect of the definition of a public servant i.e., whether the remuneration received by a licensed stamp vendor is for the performance or discharge of a public duty. As we have discussed in the preceding section, it is the nature of duty which is the determining factor in deciding whether a person qualifies to be a public servant and not the manner of appointment or mode of remuneration. The primary test of qualification for inclusion in the definition of "public servant" in the third part of Section 2(c)(i) is whether the concerned person is performing any public duty. The commonality across the sub-clauses of Section 2(c) is that all the persons therein are performing a 'public' duty. Section 2(b) defines "public duty" as follows:

> *(b) "public duty" means a duty in the discharge of which the State, the public or the community at large has an interest."*

45. Once the nature of performance of duties gets crystallized, any person remunerated by the Government for the performance of any public duty or who holds an office by virtue of which he is authorized or required to perform any public duty, is a "public servant" within the meaning of the term defined under Section 2(c).

46. This Court in ***Mansukhbhai Kanjibhai Shah*** (*supra*), had held that the emphasis under Section 2(c) of the PC Act is on the public duty performed by him and not on the position held by an individual. The relevant observations are reproduced hereinbelow:

"***34.*** *On a perusal of Section 2(c) of the PC Act, we may observe that the emphasis is not on the position held by an individual, rather, it is on the public duty performed by him/her. In this regard, the legislative intention was not to provide an exhaustive list of authorities which are covered, rather a general definition of "public servant" is provided thereunder. This provides an important internal evidence as to the definition of the term "university".*

xxx

44. *As discussed earlier, the object of the PC Act was not only to prevent the social evil of bribery and corruption, but also to make the same applicable to individuals who might conventionally not be considered public servants. The purpose under the PC Act was to shift focus from those who are traditionally called public officials, to those individuals who perform public duties. Keeping the same in mind, as rightly submitted by the learned Senior Counsel for the appellant State, it cannot be stated that a "deemed university" and the officials therein, perform any less or any different a public duty, than those performed by a university simpliciter, and the officials therein.*"

(Emphasis supplied)

47. In ***G. Krishnegowda* v. *State of Karnataka***, reported in **2021 SCC OnLine Kat 15332**, the petitioner therein was working as a project manager in a society registered under the provisions of the Karnataka Societies Registration Act, 1960, whose principal object was to develop skills in construction and to undertake civil construction works assigned by the Government. On receipt of a complaint of possession of disproportionate assets as against the known sources of his income, an FIR was registered. The petitioner sought quashing of the FIR on the ground that respondent-authority does not have the power to register a case against the petitioner as he is not a public servant. The High Court held that having regard to the nature of work carried on by the petitioner he would fall within

the definition of the word "public duty" as defined under the PC Act. Hence, even if an individual does not qualify as a public servant under the PC Act, they may still fall within its ambit if they are engaged in the discharge of any public duty. The relevant observations are reproduced hereinbelow:

> "***13.*** *From the reading of the definition of the word 'public servant as found in the P.C. Act, it is very clear that a person who holds an office by virtue of which he is authorized or required to perform any public duty, and any person or employee of any institution if it has been receiving or if it has received any financial assistance from the State or Central Government, shall be considered as a public servant. The explanation to Section 2(c) of the P.C. Act would further go to show that such a person may be appointed by the Government or not. Therefore, a public servant need not be a Government/civil servant, but a Government/civil servant is always a public servant.*
>
> ***xxx***
>
> ***20.*** *Be that as it may, having regard to the fact that the Nirmithi Kendra in which the petitioner is employed has been receiving funds from the State and the Central Government and taking into consideration the definition of the word 'public servant' as found in the P.C. Act, it cannot be but said that the petitioner is a public servant. Even if a person is not a public servant, but by virtue of his office if he is discharging public duty, then he is covered under the ambit of the P.C. Act.*
>
> ***21.*** *Corruption in our country is a growing menace and P.C. Act being a welfare legislation is required to be interpreted keeping in mind the object and spirit of the statute. In furtherance of the fight against corruption a broad interpretation to the provisions of this statute is required to be given and the arms of this Act is required to be extended to the maximum. The offences under the P.C. Act can be invoked not only against a public servant but also against a person, who by virtue of his office has been discharging 'public duty'[...]*"
>
> (Emphasis supplied)

48. The case of the appellant has tested positive on both aspects of the definition of a public servant under Section 2(c)(i) of the PC Act. The 1934 Rules envisage that the nascent discount eventually matures into a form of remuneration. Further, the purpose of securing stamp duty fortifies the motive behind the efforts of the Government to remunerate stamp vendors. Thus, the appellant, at the relevant time, was being remunerated by the Government. Undoubtedly, the appellant was discharging a duty in which both the State and the public have an interest, which, nonetheless, brings him within the ambit of a public servant as defined under the PC Act.

iv. Legality of appellant's conviction

49. We shall now consider whether the prosecution successfully discharged its burden of establishing its case against the appellant under Sections 7 and 13(1)(b) respectively beyond reasonable doubt. The oral evidence of the complainant reveals that on 09.12.2003, after lodging the complaint at the ACB office, at about 2:45 PM, he proceeded with the raiding team to the Office of Sub-Registrar, Janakpuri. At about 3:45 PM, he attempted to purchase a stamp paper of Rs. 10/- from the appellant, who demanded Rs. 12/-, stating that it was his usual charge. As per the directions of the Raid Officer, the complainant then handed over the smeared GC Notes from his shirt pocket, which the appellant accepted with his right hand. At this point, the complainant failed to recollect as to where the appellant had kept the money thereafter. He added that the ACB officials apprehended the appellant, and the Raid Officer took a wash

of the right hand of the appellant, which changed the colour of the solution.

49.1 At this stage, the Public Prosecutor sought to cross-examine the complainant, alleging that as the complainant was resiling from his earlier statement he be declared as a hostile witness. During the cross-examination by the Public Prosecutor, the complainant revealed further details by stating that the Raid Officer and Investigating Officer (IO) had recorded all proceedings at the spot. The Raid Officer had instructed the *panch* witness to stay close to the complainant, listen to the conversation, observe the transaction, and give a pre-assigned signal if a demand was made by the appellant. He further added that when the complainant handed over the smeared GC Notes, the appellant stamped the back of the stamp paper and made an entry in his register. The *panch* witness then gave the signal, and the raiding team arrived and recovered the GC Notes from the appellant's register.

49.2 The Raid Officer testified that on 09.12.2003, he received a complaint alleging that a stamp vendor was selling stamp papers of the value Rs. 10/- for Rs. 12/-. After explaining the procedure of the raid, he instructed the complainant and the *panch* witness to stay close and tender the excess amount of Rs. 2/- only if demanded. The *panch* witness was to signal completion of transaction by moving his hand over his head. He stated that the IO and driver stayed behind while the rest proceeded to the Office of Sub-Registrar, Janakpuri. At 4 PM, the *panch* witness gave a

signal, and the raiding team rushed to the spot. The *panch* witness pointed out that the money accepted was lying on the appellant's register. After the seizure, the witness called the IO and handed over the copy of the raid report, seizure memos, exhibits, and the appellant. In his cross-examination, the *panch* witness deposed that he did not hear the conversation regarding the demand and payment of the excess Rs. 2/-. He admitted that the currency notes were lying on the register when he reached the spot and were not recovered from the body or clothes of the accused.

49.3 The IO deposed that after leaving the ACB office, he stayed behind while the Raid Officer, the complainant, the *panch* witness and others proceeded for the raid. At around 7:15 PM, the Raid Officer called him to the location and handed over the documents. In cross-examination, the witness admitted that the seizure memo does not mention that an *attachie*, sale register, and various stamp papers were seized from the appellant's seat. He also admitted that he was not present when the appellant was apprehended and searched by the Raid Officer. The seizure memo was prepared by him after the Raid Officer handed over the site to him as the IO, and he was unable to say when the raid got concluded. He further deposed that the seizure memo pertaining to the currency notes records the time of seizure as 4:15 PM.

49.4 Following this, the *panch* witness in his examination-in-chief deposed that on 09.12.2003, he was deputed as a *panch* witness in the ACB. He, alongwith the complainant, Raid Officer, and other

ACB officials left for the Sub-Registrar Office, Janakpuri. The Raid Officer had directed him to stay close to the complainant and overhear the conversation with the stamp vendor. At this stage, the prosecutor sought permission to cross-examine him. On being cross-examined, he stated that the GC Notes of Rs. 10/- and Rs. 2/- were recovered from the accused but he could not recall whether he had informed the Raid Officer about any demand for Rs. 12/- instead of Rs. 10/- for a stamp paper. In his cross-examination by the counsel for the appellant, he reiterated that he does not recollect whether the appellant demanded for Rs. 12/- for a stamp paper of Rs. 10/-. He admitted that he was very close to the complainant at the time of the transaction.

50. In ***C.K. Damodaran Nair* v. *Govt. of India*** reported as **(1997) 9 SCC 477**, this Court, although interpreting the term "accept" in the context of the 1947 Act, observed that "accept" means to take or receive with a consenting mind. In contrast, "obtain" was understood to imply securing or gaining something as a result of a request or effort. In both instances, a demand or request by the receiver is a prerequisite for establishing an offence under Sections 7 and 13(1)(d) of the PC Act.

51. It is well-settled that mere recovery of tainted money, by itself, is insufficient to establish the charges against an accused under the PC Act. To sustain a conviction under Sections 7 and 13(1)(d) of the Act respectively, it must be proved beyond reasonable doubt that the public servant voluntarily accepted the money, knowing it to be a bribe. The courts have consistently reiterated that the demand for a

bribe is *sine qua non* for establishing an offence under Section 7 of the PC Act.

52. A five-Judge Bench of this Court in ***Neeraj Dutta* v. *State (Government of NCT of Delhi)***, reported in **(2023) 4 SCC 731**, categorically held that an offer by bribe-giver and the demand by the public servant have to be proved by the prosecution as a fact in issue for conviction under Sections 7 and 13(1)(d)(i) and (ii) of the PC Act. Mere acceptance of illegal gratification without proof of offer by bribe-giver and demand by the public servant would not make an offence under Sections 7 and 13(1)(d)(i) and (ii) of the PC Act. The relevant observations are reproduced hereinbelow:

> "***88.4.*** *(d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:*
> *(i) if there is an offer to pay by the bribe-giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.*
> *(ii) On the other hand, if the public servant makes a demand and the bribe-giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Sections 13(1)(d)(i) and (ii) of the Act.*
> *(iii) In both cases of (i) and (ii) above, the offer by the bribe-giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an*

offence under Section 7 or Sections 13(1)(d)(i) and (ii), respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe-giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe-giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Sections 13(1)(d)(i) and (ii) of the Act."

(Emphasis supplied)

53. It was further explained by this Court in ***P. Satyanarayana Murthy* v. *State of A.P.***, reported in **(2015) 10 SCC 152**, as follows:

"***23.*** *The proof of demand of illegal gratification, thus, is the gravamen of the offence under Sections 7 and 13(1)(d)(i) and (ii) of the Act and in absence thereof, unmistakably the charge therefor, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, dehors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Section 7 or 13 of the Act would not entail his conviction thereunder.*"

(Emphasis supplied)

54. From the above exposition of law, it may be safely concluded that mere possession and recovery of tainted currency notes from a public servant, in the absence of proof of demand, is not sufficient to establish an offence under Sections 7 and 13(1)(d) of the PC Act respectively. Consequently, without evidence of demand for illegal gratification, it cannot be said that the public servant used corrupt

or illegal means, or abused his position, to obtain any valuable thing or pecuniary advantage in terms of Section 13(1)(d) of the PC Act.

55. The present case is not one of an "*offer to pay by the bribe-giver*" where, in the absence of any demand from the public servant, the mere acceptance of illegal gratification would constitute an offence under Section 7 of the PC Act. The expression "offer" indicates that there is a conveyance of an intention to give, which must be communicated and understood by the recipient, leading to meeting of minds. Consequently, the offer is accepted. For such an acceptance to constitute an offence under Section 7, there must be clear and cogent evidence establishing that the public servant was aware of the offer and accepted it voluntarily, knowing it to be illegal gratification. In other words, even where there is no express demand, the bribe-giver and the bribe-taker must be shown to have been *ad idem* as regards the factum of offer of bribe.

56. By applying the abovementioned principles to the evidence on record, we are of the considered view that, having regard to material inconsistencies in the testimony of the complainant and the testimony of the *panch* witness, the allegation of demand by the appellant herein does not emerge clearly, let alone being proved beyond reasonable doubt.

57. Undoubtedly, when dealing with a wholly reliable witness, the court faces no difficulty in reaching a conclusion, it may convict or acquit solely on the basis of such testimony, provided it is free from any suspicion of interestedness, incompetence, or subordination.

Similarly, in the case of a wholly unreliable witness, the court again faces no ambiguity in discarding the testimony. The real challenge arises when the witness is neither wholly reliable nor wholly unreliable. In such situations, the court must proceed with caution and seek corroboration in material particulars, whether through direct or circumstantial evidence. The court's duty to act on the testimony of a single witness arises when it is satisfied, upon a careful perusal of the testimony, that it is free from all taints and suspicions. [See: ***Vedivelu Thevar* v. *State of Madras***, **1957 SCC OnLine SC 13**; ***State of Madhya Pradesh* v. *Balveer Singh***, **2025 SCC OnLine SC 390**]

58. Although, it cannot be said that the complainant did not support the prosecution's case at all, yet there were lapses on his part in disclosing significant facts alongwith material inconsistencies between his testimony and that of the *panch* witness. The testimony of the complainant and the Raid Officer reveal that the *panch* witness was instructed to accompany the complainant so as to enable the raiding team to apprehend the appellant as soon as he makes a demand for illegal gratification. The *panch* witness admitted that he was in a close proximity to the complainant and the appellant at the time of transaction. The *panch* witness further deposed that there was no other person on the counter of the appellant and thus the possibility of any exchange of communication between the complainant and the appellant being not heard properly by the *panch* witness is also negligible.

59. The necessity and desirability of a *panch* witness is particularly to be aware of the transactions and to facilitate in carrying out the raid. On being questioned about a demand of Rs. 12/- being made by the appellant, the *panch* witness lacked recollection on whether he had informed the Raid Officer about any demand for Rs. 12/- instead of Rs. 10/-. Further, the Raid Officer deposed that he did not hear the conversation regarding the demand and acceptance of Rs. 2/-. The prosecution did not examine any other witness on the allegation of demand by the appellant.

60. Further, the *panch* witness, when confronted with a specific query regarding the demand, deposed that he could not recollect whether the appellant had demanded Rs. 12/- for a stamp paper valued at Rs. 10/-. He also did not indicate the presence of any implied demand.

61. We also find ourselves compelled to express doubt regarding the unexplained delay of approximately three hours between the apprehension and seizure of the appellant and the calling of the IO to the spot. According to the complainant and the Raid Officer, they arrived at the Office of the Sub-Registrar at around 3:45 PM, and the Raid Officer received the pre-arranged signal from the *panch* witness at approximately 4:00 PM. The seizure memo of the currency notes shows the time of seizure as 4:15 PM. However, the IO stated that he was called to the scene by the Raid Officer only at 7:15 PM. Further, the seizure memo of the stamp papers and sale register do not mention the time of seizure.

62. Further, we are conscious of the fact that only two currency notes were recovered, both of which had been smeared with phenolphthalein powder. Notably, even accepting the prosecution's case for the sake of argument, the appellant was lawfully entitled to receive Rs. 10/- for the stamp paper, irrespective of any demand for bribe. Since, the Rs. 10/- note itself was tainted it becomes difficult to determine whether the change in the colour of the solution was triggered by the handling of the Rs. 10/- note or the Rs. 2/- note. Hence, the mere turning of the solution pink cannot, by itself, establish the acceptance of illegal gratification.

v. Presumption under Section 20 of the PC Act

63. Insofar as the presumption under Section 20 of the PC Act is concerned, such presumption is drawn only *qua* the offence under Sections 7 and 11 respectively and not *qua* the offence under Section 13(1)(d) of the PC Act. The presumption is contingent upon the proof of acceptance of illegal gratification to the effect that the gratification was demanded and accepted as a motive or reward as contemplated under Section 7 of the PC Act. Such proof of acceptance can follow only when the demand is proved.

64. In that case, the prosecution evidence alone cannot be considered for the purpose of coming to the conclusion. The evidence led by the prosecution and, the suggestions made by the defence witnesses, if any, are also required to be considered. It is then to be seen as to whether the total effect of the entire evidence led before the court is of a nature by which the only conclusion possible was that the public servant accepted the amount. If the answer is in affirmative, then

alone it can be held that the prosecution established the case beyond reasonable doubt.

65. Undoubtedly, the presumption under Section 20 arises once it is established that the public servant accepted the gratification. However, in determining whether such acceptance occurred, the totality of the evidence led at the trial must be appreciated. The evidence led by the prosecution, the suggestions made by the defence witnesses, if any, the entire record is required to be considered. Only if the cumulative effect of all the evidence is such that the sole possible conclusion is that the public servant accepted the gratification can it be said that the prosecution has established its case beyond reasonable doubt.

66. On examination of the entire evidence, we are of the opinion that the prosecution has failed to establish beyond all reasonable doubt, the demand of bribe and its acceptance, in a trap laid by the ACB. In such circumstances, there is no question of a presumption under Section 20. Consequently, we find ourselves compelled to conclude that it would be entirely illegal to uphold the conviction of the appellant under Sections 13(1)(d)(i) and (ii) read with Section 13(2) of the Act.

G. CONCLUSION

67. In light of the aforesaid discussion, we have reached the following conclusion:

67.1 The legislature has used a comprehensive definition of "public servant" to achieve the purpose of punishing and curbing the

growing menace of corruption. Keeping this intention of the legislature in mind, we are of the view that the definition of "public servant" as defined under the PC Act should be given a purposive and wide interpretation so as to advance the object underlying the statute.

67.2 It is the nature of duty being discharged by a person which assumes paramount importance when determining whether such a person falls within the ambit of the definition of public servant as defined under the PC Act.

67.3 Stamp vendors across the country, by virtue of performing an important public duty and receiving remuneration from the Government for the discharge of such duty, are undoubtedly public servants within the ambit of Section 2(c)(i) of the PC Act.

67.4 In the case at hand, the appellant was eligible for receiving discount on the purchase of stamp papers owing to the license that he was holding. Further, the discount is traceable to and is governed by the 1934 Rules framed by the State Government. Thus, the appellant, without a doubt, could be said to be "*remunerated by the government*" for the purposes of Section 2(c)(i) of the PC Act.

67.5 Further, the prosecution has failed in establishing the allegation of demand for illegal gratification and acceptance thereof beyond reasonable doubt. Therefore, the conviction of the appellant for the offences under Section 7 and 13(1)(d) read with Section 13(2) of the PC Act cannot be sustained and is, thus, liable to be set aside.

68. In the result, the appeal succeeds and is hereby allowed. The conviction and sentence of the accused, as awarded by the Trial Court and affirmed by the High Court is set aside.

69. Bail bond(s), if any, shall stand discharged.

70. Pending application(s), if any, shall also stand disposed of.

.....J.

(J.B. PARDIWALA)

.....J.

(R. MAHADEVAN)

New Delhi,

2nd May, 2025