

**IN THE COURT OF SH. SANJEEV AGGARWAL
SPECIAL JUDGE : (CBI)-10 : (PC ACT)
ROUSE AVENUE DISTRICT COURT, NEW DELHI**

**CNR No. DLCT11-001904-2019
CBI Case No. 425/2019
RC NO. DAI-2019-A-0007
PS : CBI/ACB/New Delhi
U/S : 7 of PC Act, 1988 (as amended in 2018)**

Central Bureau of Investigation (CBI)

Vs.

**G. Ravichandran
S/o. Late Sh. K. Guruswamy
R/o. H. No. 466, Hawa Singh Block
Asian Game Village, New Delhi**

**Date of institution : 25.11.2019
Judgment reserved : 05.04.2024
Judgment delivered : 22.04.2024**

JUDGMENT

1. Brief facts as set out in the chargesheet are as under:-

“The instant FIR RC-07(A)/2019 was registered on 20/03/2019 u/s 7 of PC Act 1988 (as amended in 2018) on the basis of typed complaint dated 16/03/2019 in English filed by Sh. V. Venkatesh Chief Executive Officer (CEO), M/s Bright Shine Services Chennai located at No. 2, 1st floor, Sarathy Street, Pallavaram, Chennai-600043 against Sh. G. Ravichandran, Executive Director (Finance) II, Airports Authority of India, Delhi on the allegations that Sh. G. Ravichandran had demanded bribe from the

complainant for awarding the contract of Ground Handling Services to M/s Bright Shine Services of the complainant for Group D airports.

It was alleged in the complaint that the complainant was the CEO of M/s Bright Shine Services, Chennai, Tamilnadu. It was a partnership firm and it participated in the tendering process floated by Airport Authority of India, Rajiv Gandhi Bhawan, New Delhi for airport ground handling tender for Group D airports.

It was also alleged in the complaint that Sh. G. Ravichandran, Executive Director (Finance), Airports Authority of India, Rajiv Gandhi Bhawan, New Delhi visited Chennai on 13.03.2019 and contacted the complainant. Sh. G. Ravichandran demanded bribe from the complainant for awarding the contract to M/s Bright Shine Services of the complainant for Group D airports. Accused has also further directed the complainant to come to Delhi and meet him personally. The complainant did not want to pay bribe and hence he lodged the complaint with SP, CBI, ACB, Delhi for taking legal action.

Investigation revealed that after receiving the complaint in CBI, the verification of the complaint dtd. 16.03.2019 was carried out by Sub-Inspector Sh. Umesh Vasisth, CBI, ACB, Delhi in presence of the independent witness Sh. Sh. R. Senthil Kumar, Sr. Manager, Vijaya Bank, Delhi Cantt. Branch, Delhi on 16/03/2019, 17/03/2019, 18/03/2019 and 19/03/2019. The conversation between accused Sh. G. Ravichandran, Executive Director, Airports Authority of India Delhi and

the complainant Sh. V. Venkatesh were recorded during the verifications in separate memory cards everyday with the help of a DVR. The conversation confirmed demand of bribe/undue advantage of Rs. 2,00,000/- by accused G. Ravichandran from the complainant. The memory cards containing the said conversations were duly sealed, signed and marked as Q-1, Q-2, Q-3 and Q-4. Verification Memos in respect of the proceedings of verifications were prepared. Verification memos were read over and explained to all present. The instant case RC-DAI-2019-A-0007 was registered on 20/03/2019 u/s 7 of PC Act 1988 (as amended in 2018) against accused G. Ravichandran on the basis of the complaint dated 16/03/2019 filed by the complainant Sh. V. Venkatesh and the verifications done on 16/03/2019, 17/03/2019, 18/03/2019 and 19/03/2019 by Sub-Inspector Sh. Umesh Kaushik.

Investigation also revealed that a trap team was constituted on 20/03/2019 comprising CBI officers, complainant Sh. V. Venkatesh and independent witnesses Sh. R. Senthil Kumar, Senior Manager, Vijaya Bank, Delhi Cantonment Branch, Gopinath Bazar, New Delhi and Sh. Shrinarayan Meena, UDC, BSNL Corporate Office, Bharat Sanchar Bhawan, Janpath, New Delhi. The purpose of assembly for laying a trap on the accused was explained to all the members present. The complainant produced an amount of Rs. 2,00,000/- consisting of 100 GC notes of Rs. 2,000/- denomination to be used as bribe money. The number and denomination of said G.C. notes were recorded in the Handing Over Memo. The said G.C.

Notes were treated with Phenolphthalein Powder. A demonstration was also given to explain the purpose and significance of use of phenolphthalein powder and its chemical reaction with the colourless solution of sodium carbonate prepared in fresh water. The tainted bribe amount of Rs. 2,00,000/- was then put in the right side front pocket of the khaki colour pant worn by the complainant after taking his personal search. The pre trap proceedings were conducted and mentioned in a Handing Over Memo dated 20.03.2019 in CBI office.

Investigation revealed that in furtherance of the Handing Over Memo dated 20.03.2019, trap team alongwith independent witnesses and the complainant left for the spot at about 0750 hrs and reached near Green Park Metro Station Gate No. 3 at about 0800 hrs. On reaching at the spot, DVR in switched on mode duly fitted with a memory card was kept in the left side upper pocket of the Sleeveless Nehru Jacket of the complainant. The complainant along with shadow witness Sh. R. Senthil Kumar started walking towards Gurudwara located on Aurbindo Marg. The remaining trap team members including other independent witness Sh. Shrinarayan Meena also reached near Gurudwara and took position in disguise manner.

After few minutes, the complainant received a call on his mobile from the mobile of the accused and the accused informed the complainant that he was reaching within 20 minutes. The complainant and shadow witness waited on Foot Path in front of Union Bank of

India, Green Park Branch. After some time one Cherry Colour Honda City car bearing registration No. TN 72-AD-10 stopped on the main road. The accused G. Ravichandran was seen sitting on the driver seat. He called the complainant by gesture in the car by opening the glass of door. The complainant reached near the car and seated in the car beside the accused on the front passenger seat and had conversations with the accused. The shadow witness remained outside in close proximity of the front left side gate of the car. The window glass was partially down. During conversation the accused directed the complainant to put the money indicating in the middle of console dash board near Gear lever of the car. Accordingly, the complainant put the bribe amount of Rs 2 lacs as indicated by the accused. The accused also told the complainant that he should have offered the money in an envelope. The complainant enquired about the tender, on which the accused informed that the tender will come/open within 10-12 days.

The shadow witness Sh. R. Senthil Kumar also corroborated the version of the complainant. He also stated that he has seen that the accused instructed the complainant by gesture to put the bribe amount in the middle consol dash board near Gear lever. At this moment, the shadow witness Sh. R. Senthil gave pre decided signal by moving his right hand over his head. The TLO alerted the CBI trap team and other independent witness. The trap team officials reached near the car of the accused G. Ravichandran, Executive Director (Finance). Airport

Authority of India, Rajiv Gandhi Bhawan, New Delhi who was seating on Driver seat. Seeing the CBI team around the car, the complainant also came out of the car of the accused. The DVR was taken back from the complainant and switched off. The door of the car was opened by Sh. Kuldeep Sharma, Inspector and the right hand of the accused was caught hold by Sh. Kuldeep Sharma, and after getting him down from the car the left hand was caught hold by Dharmendra Kumar, Inspector, TLO. The TLO challenged the accused for demanding and accepting of bribe amount of Rs. 2,00,000/- from the complainant Sh. V. Venkatesh. The accused got perplexed and kept mum for some moments.

The independent witness Sh. Shrinarayan Meena recovered the bribe money (tainted currency notes) from the middle of console dash Board near Gear lever of the car of the accused G. Ravichnadrán. The distinctive numbers and denominations were found matching with the numbers and denomination mentioned in Handing Over Memo dtd. 20/03/2019. The said GC notes (bribe money) were kept in a brown colour envelope and marked as "TRAP MONEY of Rs 2,00,000/-in RC-07(A)/2019" and sealed with CBI brass seal.

The wash of the dash board of the car of the accused G. Ravichandran was taken in a freshly prepared solution of Sodium Carbonate and water which turned pink The wash was stored in a bottle which was signed and sealed. It was marked as CDBW in RC-07(A)/2019' denoting Car Dash Board Wash.

Investigation further revealed that a rough site plan showing the position of the accused, complainant, independent witnesses and CBI Trap Team members was also prepared at the spot. CBI Trap team left the spot at about 0930 hrs to CBI office for further proceedings as the trap laid on the main road and lot of people started gathering and reached CBI office at about 0945 hrs.

The recorded conversation was heard and explained by the independent witness R. Senthil Kumar as the conversation was in Tamil language. The conversation corroborated the demand and acceptance of RS. 2,00,000/- by accused G. Ravichandran from the complainant Sh. V. Venkatesh, Rough transcription of the relevant portion of the conversation held between accused and complainant was also prepared.

A copy of recorded conversation in memory card was prepared by using Write Blocker in the official lap top for investigation purpose. The said memory card was signed and sealed with CBI seal and marked as "Q-5 in RC-07/2019/DLI" Specimen voice of the accused G. Ravichandran was recorded in a new memory card in presence of independent witnesses, which were signed and sealed and marked as "S-1 in RC-07(A)/2019". The DVR used in recording the conversations during the course of verification and trap proceeding was also signed and sealed with CBI seal and marked as "DVR in RC-07(A)/2019-DLI" Recovery Memo incorporating trap proceedings was prepared and signed by trap team members including

witnesses which was concluded at about 1645 Hrs on 20.03.2019

During the course of investigation exhibits i.e. Car dashboard wash of the car of the accused G. Ravichandran was taken into police possession during the trap proceedings and was sent to CFSL. The chemical examination Report No. CFSL-2019/C-313 dated 11/04/2019 received from CFSL on the above said wash confirmed positive test for presence of Phenolphthalein,

During the course of investigation, the transcription has been prepared word to word as audible from the investigation copy of the recordings done during verification and trap proceedings by Sh. S. Dharni Kumar, Constable, CBI, ACB, Delhi alongwith Sh. R. Senthil Kumar, the independent witness as the conversations are in Tamil and both of them are from Tamilnadu and well conversant with Tamil language. The said transcriptions prepared in Tamil language was translated in English language by Sh. R. Senthil Kumar, the Independent witness. The transcriptions and its translations has been verified and authenticated by Sh. S. Srinivasan, Asstt. Director, Central Hindi Directorate. Department of Higher Education, MHRD.

The complainant identified his voice and the voice of the accused and confirmed that the said conversation was held between him and the accused. The independent witnesses confirmed their introductory voices at the start of the recordings. Sh. R. Senthil Kumar, the independent witness further confirmed that this was the

same conversation which he heard on respective dates. The voice of the accused G. Ravichandrna has also been identified by Sh. R. Ramani, GM(Finance), AAI as he had conversations with accused during official work and also heard the accused telephonically.

During investigation, exhibits Q1, Q2, Q3, Q4, Q5 and S1 containing questioned and specimen voice of the conversations between the accused person and the complainant has been sent to CFSL for comparing and expert opinion. The CFSL report no. CFSL-2019/P-449 dated 18/11/2019 received from CFSL confirmed the questioned voices similar to specimen voice of accused G. Ravichandran.

During investigation it was established that M/s Bright Shine Services was a partnership firm for which Sh. V. Krishnan and Smt. Jaculin are the partners and they authorized him to act as the representative of the consortium with M/s Airbay Services for which M/s Bright Shine Services was the Lead Member to participate in the said bidding process and also authorized him to submit the RFP.

Investigation also established that Sh. Mahavikram, Partner, M/s Airbay Services met accused G. Ravichandran in Trident Hotel, Chennai on 13/03/2019 and discussed the tender of Ground Handling Services, on which accused G. Ravichandran told that he could not discuss it now and asked Sh. Mahavikram to send Chief Executive Officer of the consortium was the complainant to ach to mest him. Documents collected from Airport

Authority of India, Dathi and Trident Hotel, Chennai also established the fact that accused G. Ravichandran was on official tour to Chennai for 12/03/2019 and 13/03/2019 and stayed in Trident Hotel, Chennai for the said dates.

Investigation revealed that the firm of the complainant M/s Bright Shine Services had applied the tender for ground handling services for three categories of airports is Group C, Group C1 and Group D. The said firm of the complainant had got disqualified during technical evaluation in case of Group C and Group D airports. Though the complainant had got qualified in the technical evaluation for Group D airports but he was not selected at the initial stage of financial evaluation. Emails were sent on 17.01.2019 to all bidders for all groups of airports whose financial bids were opened to give them an opportunity to give their willingness through email to match the royalty quoted by the highest bidder. It has come on record during investigation that M/s Bright Shine Services had submitted its willingness to match the highest royalty for all group D airports on 22.01.2019.

Based on the highest royalty data, willingness to match the royalty and permissible number of airports in each category to one bidder and all other clauses of RFP, proposal for financial concurrence was put up by DGM (Operations), AAI on 29.01.2019 to Financial Directorate: Accused Shri G Ravichandran, being posted as Executive Director (Finance) in Airport Authority of India, was dealing with these matters. It has also been found during the investigation that the results of this exercise

were yet to be conveyed to the various bidders including this complainant. This may also be seen in conjunction with the facts established during verification that accused Shri G. Ravichandran had told Shri V. Venkatesh that he would help the firm of the complainant in securing contract in rebidding for ground handling services of two airports of Group C1 i.e. Imphal and Agartala which were pending at the time of demand of bribe. The accused has also assured to help the complainant in future contracts also.

Investigation has also revealed that Mobile number 9444486666 (used by the complainant to call accused person during relevant period) was issued in the name of Sh. V. Venkatesh, the complainant and Mobile No. 9500057987 (used by accused G. Ravichandran during relevant period) was issued in the name of Sh. G. Ravichandran, accused itself. The call details also established the fact that the conversation was held between the mobile numbers which were in the name of the accused G. Ravichandran and the complainant V. Venkatesh.

From the facts and circumstances discussed above, it was established that accused G. Ravichandran was posted and functioning as Executive Director (Finance)-II, Airports Authority of India, Delhi had demanded, agreed to accept and accepted the undue advantage i.e. bribe money of Rs. 2,00,000/- from the complainant Sh. V. Venkatesh, CEO, M/s Bright Shine Services, Chennai for securing contract of Ground Handling Services issued by Airports Authority of India. Further, the said bribe amount was kept by the

complainant on the dash board of the car near gear lever on the directions of the accused G. Ravichandran which was recovered from the middle of console dash board of the car of the accused by the independent witness during trap proceedings and the said transaction was seen by the independent witness, Sh. R. Senthil Kumar Call details also established the fact that the conversation was held between the mobile numbers which were in the name of the accused G. Ravichandran and the complainant V. Venkatesh. There are recorded conversations supported by its translations in English which have been authenticated by Sh. S. Srinivasan, Asstt. Director, Central Hindi Directorate, Department of Higher Education, MHRD and the voice Identification memos which will prove the demand and acceptance of the bribe money. The chemical examination Report No. CFSL- 2019/C-313 dated 11/04/2019 has been received from CFSL which reveals the presence of phenolphthalein in the wash. Therefore, all the ingredients of section 7 of PC Act, 1988 (as amended in 2018) i.e. demand of undue advantage, acceptance, recovery of bribe money and motive behind demand have been established against accused G. Ravichandran.

The aforesaid criminal acts of the accused, facts and circumstances of the case discloses commission of offence punishable under section 7 of PC Act 1988 (as amended in 2018) against accused G. Ravichandran.

The sanction for prosecution in respect of accused G. Ravichandran has been obtained from

competent authority and sanction order was enclosed herewith in original.

It is, therefore, prayed that the aforesaid accused Sh. G. Ravichandran, Executive Director (Finance), Airports Authority of India, Delhi may kindly be summoned and tried as per provisions of law."

2. Vide order dated 25.11.2019, chargesheet was filed in the Court and vide order dated 15.01.2020, cognizance of the offence(s) mentioned in the chargesheet was taken. After supply of the copies and documents to the accused u/S. 207 CrPC, charge(s) were framed vide order dated 26.10.2020 / 29.10.2020, u/S 7 of Prevention of Corruption Act, 1988 (as amended in 2018), to which accused pleaded not guilty and claimed trial.

3. Thereafter, prosecution has examined 22 witnesses in support of its case, the description of which is given as under :

a) **PW1 is Sh. Ajay Kumar**, Nodal Officer, Bharti Airtel Limited, who has proved letter dated 11.04.2019 Ex. PW1/A (D-10), certificate u/S. 65B of Indian Evidence Act, pertaining to mobile no. 9500057987 from 16.03.219 to 20.03.2019 Ex. PW1/E (D-10), certified copy of call details and Cell ID chart Ex. PW1/D (D-10), customer application form in the name of G. Ravichandran Ex. PW1/F (D-10), customer application form original in the name of G. Ravichandran Ex. PW1/G (D-25), copy of letter dated 07.03.2017 for proof of residential / building address of accused Ex. PW1/H (D-10), copy of mobile bill Ex. PW1/J (D-10), attested bill of Airtel mobile Ex. PW1/K (D-25), original letter dated 07.03.2017 for proof of residential / billing address of accused Ex. PW1/I (D-25).

b) **PW2 is Sh. Mukut Bhandari**, Sub Divisional Engineer, BSNL, who has proved letter dated 08.04.2019 Ex. PW2/A (D-11), certified copy of SDR, CAF, CDR related to mobile no. 94444486666 in the name of complainant Sh. V. Venketesh Ex. PW2/B (Colly.) through the above letter. He also proved letter dated 25.04.2019 regarding certificate u/S. 65B of Indian Evidence Act in respect of the above said mobile number and letter also stating Cell ID Network Ex. PW2/C (D-11).

c) **PW3 is Sh. Surender Kumar**, Nodal Officer, Bharti Airtel Limited, who has proved letter dated 21.06.2019 along with enclosures Ex. PW3/A (D-24), certificate u/S. 65 B of Indian Evidence Act Ex. PW3/B. He also proved the forwarded certified copy of application form in respect of mobile no. 9500057987 pertaining to accused, certified copy of ownership details of the said mobile, certified copy of the CDR for the period 10.03.2019 to 15.03.2019 Ex. PW3/A (D-24) (colly). He further proved production cum seizure memo dated 11.07.2019 Ex. PW3/C (D-25), by the said seizure memo, he has provided original CAF in respect of above mobile number pertaining to accused. He also provided CAF Ex. PW1/G (D-25), my plan form Ex. PW3/D (D-25), letter dated 07.03.2017 Ex. PW1/I (D-25), copy of mobile service form of accused Ex. PW1/K (D-25).

He also proved letter dated 05.09.2019 Ex. PW3/E (D-31). Vide this letter he had forwarded certified copy of CAF and related documents in respect of mobile no. 984006124, listed in the name of Deepak. R Ex. PW3/F (colly) (D-31) and copy of CAF of mobile no. 9840055119 pertaining to Arivazhagan M along with its enclosure Ex. PW3/G (Colly), certified copies of ownership details of both the above said mobile numbers, certified copy of CDR pertaining to mobile no. 9840061324 Ex. PW3/H (Colly) (D-31) and CDR of the same mobile number 9840055119 Ex. PW3/I (Colly) (D-31), both for the period 10.03.2019 to 20.03.2019, cell ID charts of both above

said mobile numbers Ex. PW3/J (Colly) (D-31), certificate u/S. 65 B of Indian Evidence Act pertaining to above said mobile nos. Ex. PW3/K (Colly) (D-31) for the said period.

d) **PW4 is Sh. Rajesh Sharma**, the then Assistant Manager, HR, Airport Authority of India, Rajiv Gandhi Bhawan, New Delhi, who has proved letter dated 11.04.2019 Ex. PW4/A (D-12). Vide this letter he had handed over the documents mentioned at serial no. 1 to 6 in the said letter. He has proved the appointment letter dated 18.01.2017 Ex. PW4/B, joining reports dated 02.03.2017 Ex. PW4/C, establishment order dated 10.03.2017 Ex. PW4/D, promotion order dated 20.12.2018 Ex. PW4/E, joining report dated 02.01.2019 Ex. PW4/F and establishment order dated 14.01.2019 Ex. PW4/G in respect of accused.

e) **PW5 is Sh. Mahavikram**, partner M/s. Airbay Services Chennai, who has proved the fact that the complainant V. Venkatesh is the CEO of M/s. Bright Shine Services which is a partnership firm and Sh. V. Krishnan and Ms. Jaculin are the partners of the firm and they had authorized Sh. V. Venketesh to act as a representative of the consortium. He also deposed the incident happened on 13.03.2019, on which date accused met him at Trident Hotel, Chennai where accused asked to send the complainant at Delhi for the alleged tender. He also proved that mobile no. 9840061324 in the name of Deepak. R (his brother) which was used by him. He also proved statement of legal capacity Ex. PW5/A as well as extract of the board resolution dated 02.06.2018 of M/s. Bright Shine Service Ex. PW5/B (D-27).

f) **PW6 is Dr. Subrat Kumar Choudhary**, Sr. Scientific Officer Grade I, HOD (CFD) cum Assistant Chemical Examiner, Govt. of India, CFSL, New Delhi, who had compared the parcels received by him containing

the questioned voice contained in SD cards Q1 to Q5 and the specimen voice recording of the accused contained in S1. He stated that after detailed scientific examination, specimen voice(s) contained in exhibit S-1 was found tallying with respective questioned voices contained in exhibits Q-1 to Q-5. Further no form of tampering was detected in the audio recordings contained in exhibits Q-1 to Q-5.

He has proved the letter dated 01.04.2019 which was received along with six sealed parcel in photo division Ex. PW6/A (D-9). He also proved the forwarding letter dated 13.05.2019 which was received in physics division along with six sealed parcels Ex. PW6/B and he also proved his forensic voice examination report dated 18.11.2019 Ex. PW6/C.

g) **PW7 is Smt. Deepti Bhargava**, Sr. Scientific Officer-II, (Chemistry), CFSL, New Delhi. She had examined one sealed glass bottle marked as "CDBW" (car dash board wash), which were sent to her for chemical examination. She after analyzing the same by physico-chemical method, chemical test and thin layer chromatography technique gave positive test for the presence of phenolphthalein and sodium carbonate. She proved her detailed report i.e. the chemical examination report dated 11.04.2019 Ex. PW7/A.

h) **PW8 is Inspector Umesh Kaushik**, verification officer, who has proved the complaint dated 16.03.2019 Ex. PW8/A (D-2) and deposed that this complaint was marked to him by Senior Officer for verification. He also proved his verification report dated 16.03.2019 Ex. PW8/B (D-3) and deposed that on that day accused had informed the complainant that he was out of Delhi and can meet him on the next day. Therefore, it was decided to further verify the complaint on 17.03.2019. He further deposed that on 17.03.2019, the accused discussed about ground handling of Group D Airport with the

complainant and assured him that he will help him and proved his verification report dated 17.03.2019 Ex. PW8/C (D-3).

He further deposed that on 18.03.2019, accused had informed the complainant that he was very busy in the entire day and could not pursue the paper relating to his matter, that is why he directed to complainant and independent witness to reassemble on 19.03.2019 for further verification and he proved his verification report dated 18.03.2019 Ex. PW8/D (D-3).

He further deposed that on 19.03.2019, accused met with complainant and spoken in Tamil language which was later on translated by the independent witness, which accused has stated that "Ten Lakhs each for Group D Airport, as it is for ten years". On this the complainant inquired "Ten Lakhs for each airport?" On this the accused informed the complainant that it was expectation and the complainant may do whatever he wishes. Further complainant asked "what for Group D Airport" on this, accused replied that "Four Lakhs for Group D Airport". On this, complainant informed that accused that he can give advance of Rs. 2 Lakhs as token. He proved his verification report dated 19.03.2019 Ex. PW8/E (D-3). He also proved handing over memo dated 20.03.2019 Ex. PW8/F (D-4) and recovery memo dated 20.03.2019 Ex. PW8/G (D-5).

i) **PW9 is Sh. R. Ramani**, the then AG-I (Accounts), posted at Chennai Airport, who has identified the voice of accused in the recorded conversation and proved the voice identification memo dated 08.07.2019 Ex. PW9/A. He deposed that he knew the accused as an official of Airport Authority of India and accused was his senior at that time. He also deposed that he visited CBI office as directed by Airport Authority of India in connection with the present matter and CBI official showed him English translation and he heard the voice recording of accused and after hearing the voice, he identified the voice of accused. He also proved that he was well

versed with Tamil and English language and he correctly identified the accused in the Court.

j) **PW10 is Sh. S. Srinivasan**, the then Assistant Director in the Central Hindi Directorate, Department of Higher Education, Govt. of India, Ministry of Human Resource and Development, who has proved the memo regarding the authentication of transcription and translation from Tamil to English language. He also deposed that he was well versed in Tamil, English and Hindi language and graduate in Tamil language. He has proved the memo regarding transcription and translation, preparation of voice recording Ex. PW10/A (D-20).

He also proved the Tamil transcription of recording in memory cards Q-1 and Q-2 Ex. PW10/B (colly) (D-13, page nos. 2 to 25). The English translation of Tamil transcription of recording in memory cards Q-1 and Q-2 Ex. PW10/C (Colly) (from page no. 2 to 18, D-16). He also proved the memo regarding transcription and translation prepared of voice recording Ex. PW10/D. He also proved Tamil transcription of recording in memory cards Q-3 and Q-4 Ex. PW10/E (Colly) (page no. 2 to 15, D-14). He further proved Tamil transcription of recording in memory card Q-5 and S-1 Ex. PW10/F (colly) (page no. 2 to 4, D-15). He further proved the English translation of Tamil transcription of recording in memory cards Q-3, Q-4, Q-5 & S-1 (page no. 2 to 19) Ex. PW10/G (colly.)(D-17).

k) **PW11 is Sh. R. Senthil Kumar**, shadow witness, posted as Senior Manager, Bank of Baroda. He has proved initial demand by the accused on 19.03.2023 as well as demand, acceptance and recovery on the date of the trap i.e. 20.03.2019 from the spot. He is the star witness of the prosecution to the trap. He has also proved complaint Ex. PW8 (D-2), verification report(s) dated 16.03.2019 Ex. PW8/B (D-3), 17.03.2019 Ex.

PW8/C, 18.03.2019 Ex. PW8/D and 19.03.2019 Ex. PW8/E. He also corroborated the facts of the complainant and deposed that on 19.03.2019, complainant called the accused and appointment was confirmed for the evening at Green Park.

He has proved the handing over memo dated 20.03.2019 Ex. PW8/F (D-4), recovery memo Ex. PW8/G (D-5), site plan Ex. PW11/A (D-6), arrest cum personal search memo Ex. PW11/B (D-7), DVR Ex. PW11/E, memo regarding transcription prepared of voice recording dated 22.04.2019 Ex. PW11/F (D-13), memo regarding transcription prepared of voice recording dated 23.04.2019 Ex. PW11/G (D-14), memo regarding transcription prepared of voice recording dated 24.04.2019 Ex. PW11/H (D-15) and memo regarding translation of transcription prepared of voice recording dated 24.04.2019 Ex. PW11/I (D-16), memo regarding translation of transcription prepared of voice recording dated 26.04.2019 Ex. PW11/J (D-17), memo dated 02.05.2019 regarding voice identification cum transcription memo Ex. PW11/K (D-18), office note Ex. PW11/DX1.

l) **PW12 is Sh. V. Venkatesh**, the complainant who has deposed regarding the prosecution story in the court regarding the initial demand by the accused on 19.03.2023 as well as demand, acceptance and recovery of the bribe money from the accused on the date of the trap from his car i.e. on 20.03.2019. He has also proved his complaint dated 16.03.2019 Ex. PW8/A (D-2) and various other relevant documents on the record.

m) **PW13 is Sh. Mahender Singh Dahiya**, the then Joint General Manager (Operations), Airport Authority of India, New Delhi, who deposed about the procedure of contract regarding ground handling service for the category Group A, B, C, C1 and D and handed over 23 files, which are mentioned in Annexure A in D-29 Ex. PW13/A (Colly) and other documents

Ex PW13/B (D-29 A) to Ex. PW13/Z38 (D-29 J).

n) **PW14 is Inspector Dharmendra Kumar**, TLO (Trap Laying Officer), who deposed regarding the laying of trap, the demand, acceptance of the bribe and the recovery of the bribe money from the middle console of car dashboard of the accused and the Apple Mobile Phone of the accused Ex. MO-1/PW14 and also the entire process and proceedings of the trap on 20.03.2019.

o) **PW15 is Sh. M. Arivazhagan**, who is partner of M/s. Airbay Services, Chennai. He is the partner in the firm M/s. Airbay Services and his company along with M/s. Bright Shine Services had made a consortium to apply for a tender for ground handling services, issued by AAI for category C, C1 and D Airports. He also proved the documents already Ex. PW12/C to Ex. PW12/Z3 (colly) (D-30A, D-30B D-30C).

p) **PW16 is Sh. Dharni Kumar**, the then constable posted in ACB, who heard the conversation recorded in Tamil language and after hearing the said conversation in Tamil, he prepared the transcripts of the said conversation. He proved the memo regarding transcription prepared of voice recordings already Ex. PW11/F (Page No. 1) along with transcriptions (page Nos. 2 to 25) (D-13). He also proved memo regarding transcription prepared of voice recording already Ex. PW11/G (page no. 1 along with transcriptions (page Nos. 2 to 15) (D-14), Ex. PW10/E (Colly) and memo regarding transcription prepared of voice recordings already Ex. PW11/H (page no. 1) along with transcription (page no. 2 to 4) (D-15) Ex. PW10/F (Colly).

q) **PW17 is Sh. Srinarayan Meena**, posted as UDC in BSNL, is another independent witness to the trap as well as recovery witness, who has proved the recovery of the bribe money and recovered the bribe amount from

the middle console of dashboard near gear lever of the car of accused and after recovery of the said amount he as well as R. Santhil Kumar, the other independent witness counted the said recovered bribe amount after comparing with the GC currency note numbers, mentioned in the handing over memo. He also corroborated the facts regarding the recovery of the bribe money from the accused.

r) **PW18 is Sh. Rajender Kanojia**, who was working as Assistant Manager (HR) in Airport Authority of India. In the present case, it had come during the course of arguments, which was not even disputed by the defence that the sanctioning authority Sh. Anuj Aggarwal, the then Chairman of Airport Authority of India had expired during the trial and the said witness identified the signature of Sh. Anuj Aggarwal, the sanctioning authority, as he had worked under him during the said period. He also proved that during the particular period, Sh. Anuj Aggarwal was the Chairman of Airport Authority of India, who was competent authority to remove / terminate the Executive Director (Finance) and he proved sanction order Ex. PW13/DX-3. He also proved the sanction order along with CBI report i.e. list of evidence, list of documents, facts of the investigation received by his department and put up before the sanctioning authority and after examining all the documents, Sh. Anuj Aggarwal had granted sanction to prosecute the accused.

s) **PW19 is Smt. T. Nalini**, DGM(B & CCS), Alternate Nodal Officer-1, BSNL, Chennai, who has proved certificate u/S. 65B of Indian Evidence Act Ex. PW2/D (D-11) along with certified copy of CAF, part of Ex. PW2/B (Colly) (D-11), certified copy of SDR, part of Ex. PW2/B (Colly) and certified copy of CDR (part of Ex. PW2/B)(colly) and Cell ID chart in respect of mobile no. 9444486666 for the period 16.03.2019 to 20.03.2019 Ex. P-1/PW19 in respect of complainant Sh. V. Venkatesh.

t) **PW20 is Sh. Krishnan Veerabhadran**, Managing Partner of the firm M/s. Bright Shine Services, who has proved that he had applied for tender in Airport Authority of India for the C, C1 and D category along with M/s. Airbay Service and M/s. Elite Properties and Facilities. His firm was the leading member of the said consortium and he also authorized to complainant to act as a representative of the said consortium and also authorized him to submit the tender documents in AAI. He also proved the letter dated 29.07.2019 Ex. PW12/Z-10 and other tender related documents Ex. PW12/B to PW12/Z-10.

u) **PW21 is Sh. Mohammed Uvais**, the then Head, Human Resources, working in Trident Hotel, Chennai and who has proved the factum of stay of accused G. Ravichandran in Room No. 253, Trident Hotel, Chennai during the period 12.03.2019 to 13.03.2019 and has proved letter dated 29.07.2019 along with enclosed documents Ex. P-1/PW21 (colly). He also proved the registration details of the guest mentioned in the registration card Ex. P-1/PW21 (colly). He also proved that the accused had arrived in Hotel Trident on 12.03.2019 at 18:11 hours and left on 13.03.2019 at 16:03 hours.

v) **PW22 is Inspector Veer Jyoti**, the IO in this case, to whom the investigations were handed over on 26.03.2019. After the trap proceedings, she sent the relevant exhibits to the CFSL for voice examination as well as chemical analysis and collected the CDRs / CAF of the mobile phones and got prepared the transcriptions of the recordings and also got translated the transcripts from Tamil to English language as well as also got recorded the voice memo(s) and also obtained the sanction for prosecution of the accused and filed the charge sheet after completion of investigations in the Court. She has deposed regarding the investigations, as were carried out by

her during the course of the present case.

4. Thereafter, statement of accused u/S. 313 CrPC was recorded, in which the entire incriminating evidence appearing against the accused during the trial was put to the accused, to which he stated that it is a false case against him. In the relevant para(s) of his written statement filed u/S. 313(5) CrPC, he has stated as under :

“3. I am a victim of a false case being initiated and orchestrated by a party namely, M. Veeraraghavan Veeraraghavelu acting through his company M/s Global Flight Handling Services Pvt Ltd, who was aggrieved over an interpretation of tender clause by Finance Directorate due to which they could not qualify for the award of ground handling contract for Chennai Airport. Initial recommendation from Operations Directorate was in favour of the M/s Global Flight Handling Services Pvt Ltd. However, during financial scrutiny of tenders, certain discrepancies were brought out by Finance Directorate which included a point regarding the selection and sequencing of H1, H2, tenderers as per tender conditions. Discrepancies were rectified by the Operations Directorate and the file was resubmitted for financial scrutiny. In the revised list prepared by Operations Directorate, the party referred to above did not qualify for allotment of Ground Handling Services for Group A Airport.

4. The above named person, after gaining knowledge about the said change and the rejection of his bid, started complaining and brought pressures from different sources and contended that they should be qualified for Chennai Airport. The matter was deliberated at Members/ Chairman level (even at MOCA

level) on different occasions after seeking opinion of Tender consultants and legal opinion which were in affirmative with the views of Finance. As ED (Finance), I was required to present finance views on the issue at different meetings, which I did and gave presentations at different levels. This was not my individual view but based on the Finance scrutiny involving three layers of officers below me, which again is subject to further review and acceptance at Member/Chairman level. The file had been disposed of by me on 29.02.2019 after financial scrutiny.

5. Agitated over not getting Chennai Airport as per the original expectation, the party met me, Members and the Chairman and vehemently argued that their case for Chennai Airport should be considered as per the original proposal of Operations Directorate and even veiled threats to me to alter my views as the party perceived me to be responsible for the changed matrix and urged me to go back to the original position wherein the party would be eligible for Chennai airport. Unable to accept this, the above named person acting in concert with others including the Complainant conspired to rope me into a false criminal charge of corruption.

6. After this, the above-named person conspired to falsely implicate me through a false complaint to CBI on 16.03.2019. The complainant Mr. Venkatesh representing one 'Bright Shine Enterprises' was planted by the above named person M/s G. Veera Raghavelu to falsely implicate me by making a false complaint for the alleged demand of bribe for award of contract for Group D Airport. The party used the contact of one of my friend namely Jeykumar at Chennai who referred

to the name of Mr. Venkatesh who was camping at Delhi seeking to meet me for some help. I agreed to meet him as he was referred to by a known friend Jeykumar thinking it to be a personal meeting. I was duped into believing his assertion that he had language barrier at Delhi as he was neither familiar with Hindi nor seemingly fluent in English and I got carried away by language sentiment with an intent to help someone.

7. I neither have the power to invite nor award tenders for ground handling. Bright Shine Enterprises was nowhere in the zone of consideration in the ongoing tender. The contentious tender file had been disposed from my office after financial scrutiny much before, i.e. on 29.02.2019. Even otherwise, the Company Bright Shine Services stood disqualified for all the applied airports as early as on 10.01.2019.

8. I am a victim of conspiracy and revenge taken by the party by using an otherwise a personal meeting which was sought through a known friend at Chennai to trick me and implicate me in this case through a false complaint.

9. In order to substantiate the aforesaid submission with the help of documents and testimonies which has come on record, I am reproducing the necessary evidence for the convenience of this Hon'ble Court. Please note, the term 'Accused' mentioned below or anywhere in the present statement refers to me, Mr. G. Ravichandran.....

XXXX	XXXX	XXXX
XXXX	XXXX	XXXX

32. That in the present case, the sanction to prosecute the accused has been granted illegally, without application of

mind and suffers from several glaring legal and factual inaccuracies. The Sanction, as confirmed by the PW 13, M.S. Dahiya clearly reflects inaccuracies to establish that the sanctioning authority has passed the sanction order with complete non application of mind and has wrongly mentioned in the Sanction Order that there was a possibility of rebidding without even perusing the tender documents and its terms and conditions.

XXXX XXXX XXXX
XXXX XXXX XXXX

35. Thus, basis the aforesaid, I state that no case has been made out against me in the instant matter under Section 7 (offence of Public servant taking gratification other than legal remuneration in respect of an official act) Prevention of Corruption Act, 1988 for there was no acceptance or attempt to obtain any gratification as a motive and reward for favour in the exercise of my official function as (a) I had no powers whatsoever in the tendering and retendering process of the ground handling tenders of different categories of airports. Furthermore, it has come on record that M/s Bright Shine Services stood already technically disqualified for C and C1 airports as early as 20.11.2018 and so far as Group D is concerned, the company was financially disqualified on 10.01.2019 and thus for all the applied airports the complainant and his company was disqualified and was ineligible for any proposed rebidding. It has also come on record that at no point of time introduced a proposal for either retendering or rebidding for any of the airports for ground handling services thus the complaint dated 16.03.2019 on the

basis of which the present case was Initiated was knowingly a false complaint and first step towards laying an illegitimate trap (b) I am a victim of criminal conspiracy hatched by an party whose tenders for A and A1 airports were rejected, with a misconceived notion that I had a role in it. (c) On the behest of the aforesaid party a false complaint had been filed and an illegitimate trap was setup. In this process I was constantly chased, cajoled and coaxed so as to induce a demand from me (d) the entire pre-trap, post-trap proceedings and the investigation thereafter had not followed the prerequisite due diligence that has been legally mandated to be followed by the worthy investigation agency and (e) lastly, I have neither made any demand or accepted any illegal gratification or extended any favour to anyone and have always acted bonafidely in furtherance of my public duty. Thus, there was no attempt much less with an intention to accept or obtain any gratification from the Complainant and therefore, I humbly pray to be acquitted of the alleged offence.”

The accused has also examined one witness i.e. Sh. Suresh Seshadri as DW1 in support of his defence that he has been falsely implicated in this case, as he had given adverse finance opinion with regard to the matter, while noting that operation department had erred in the valuation process relating to Chennai Airport qua M/s. Global Flight Handling Services Pvt. Ltd., who had participated for Group A, B and C Airports for ground handling services.

Finally the operation department rectified the error and put up the revised valuation for concurrence by the finance and approval of competent authority and in the said revised recommendation M/s. Global Flight Handling Services Pvt. Ltd. were not found to be H2 bidder. For this

they had also filed complaint and the matter was also discussed in the chamber of DW1 in the presence of accused and the representative of the said company and the matter was even accelerated to the Minister of State of Civil Aviation.

5. I have heard Ms. Jyoti Solanki, Ld. PP for CBI and Sh. Tanveer Ahmed Mir along with Sh. Vaibhav Suri, Sh. Shikhar Sharma and Sh. R. Jude Rohit, Ld. Counsel(s) for the accused at length and perused the record. I have also gone through the written synopsis filed on behalf of the accused.

6. The Ld. Defence Counsel has argued that the accused is a victim of a false case being initiated and orchestrated by a party, namely, Mr. Veeraraghavan/Mr. Veeraraghavelu acting through his company M/s Global Flight Handling Services Pvt Ltd. The said party was aggrieved by the recommendations regarding interpretation of tender clause by Finance Directorate resulting in its disqualification for the award of ground handling contract for Chennai Airport. It is true that the initial recommendation from Operations Directorate was in favour of the M/s Global Flight Handling Services Pvt Ltd. However, during financial scrutiny of tenders, certain discrepancies were brought out by Finance Directorate which included a point regarding the selection and sequencing of H1, H2, tenderers as per tender conditions. Discrepancies were rectified by the Operations Directorate and the file was resubmitted for financial scrutiny. In the revised list prepared by Operations Directorate, the party referred to above did not qualify for allotment of Ground Handling Services for Group A Airport.

It is further stated that the above named person, after gaining knowledge about the said change and the rejection of his bid, started complaining and brought pressures from different sources and contended that they should be qualified for Chennai Airport. The matter was deliberated at

Members/ Chairman level (even at MOCA level) on different occasions after seeking opinion of Tender consultants and legal opinion which were in affirmative with the views of Finance. As ED (Finance), the accused was required to present finance views on the issue at different meetings, which he did and gave presentations at different levels. It is pertinent to note that this was not his individual view, but based on the Finance scrutiny involving three layers of officers subordinate to him, which again was subjected to further review and acceptance at Member/ Chairman level. The file was disposed off by him on 29.02.2019 after financial scrutiny.

It is further stated that apparently, the disgruntled party agitated over not getting Chennai Airport as per their original expectation, met the accused, Members and the Chairman and vehemently argued that their case for Chennai Airport should be considered as per the original proposal of Operations Directorate. They even issued veiled threats to the accused to alter his views as the party perceived him to be responsible for the changed matrix and urged the accused to go back to the original position, wherein the party would be eligible for Chennai airport. Unable to accept this, the above named person acting in concert with others including the Complainant conspired to rope the accused into a false criminal charge of corruption.

It is further stated that after this above named person i.e. Mr. Veeraraghavan / Mr. Veeraraghavelu conspired to falsely implicate the accused through a false complaint to CBI on 16.03.2019 and Mr. Vankatesh, representing one “Bright Shine Enterprises” was planted by the above named person to falsely implicate the accused for the alleged demand of bribe for award of contract of Group D Airport. The accused agreed to meet the complainant, as he was referred to by a known friend Jai Kumar, thinking it to be a personal meeting and was tricked into believing that complainant’s assertion that he had a language barrier at Delhi, as he was neither familiar with Hindi nor fluent in English.

It is stated that complainant M/s. Bright Shine Services Pvt. Ltd. was technically disqualified in Group C and C-1 Categories of Airports, as the above company was technically disqualified, it could not even participate in financial bidding process for any of the group C or C-1 Airports which is borne by the testimony of PW13 M.S. Dahiya, who stated that Group D bid was invited in two covers, cover 1 was technical bid and cover 2 financial bid, first technical bid was opened and evaluated for technical criteria of the agencies, the cover 2 comprising of financial bid was opened only for the agencies who had qualified in technical bid. He further deposed that M/s. Bright Shine Services had applied for ground handling services for Group C and C1 Airports and was technically disqualified and they were duly intimated in this regard vide letter dated 20.11.2018 and he also admitted in his cross-examination that only the bidders who had qualified in technical evaluation were allowed to participate in financial bids, therefore, there was no possibility of M/s. Bright Shine Services to participate in re-bidding in the present tender.

It is further stated that there was no possibility of rebidding in any of the Group D airport as H1 and H2 bidders were already selected in each of the 45 group D airports, therefore, there was no possibility or requirement of re-bidding in any of the group D airport, as wrongly claimed by the complainant which fact has also been admitted by PW13 M.S. Dahiya that the list of H1, H2, H3 bidders of group D airport shows that M/s. Bright Shine Services was neither H1 nor H2 at any of the 45 group D airports.

It is also contended that accused had no role in the decision making process, the entire bidding process was done through E-portal and only after both H1 and H2 bidders were selected, the concerned file was put before the accused for financial concurrence. Moreover, the final decision as to the financial concurrence was not taken by the accused, the entire bidding process was transparent and was visible on the Govt. of India E portal.

It is stated that illegitimate trap was laid by filing a false complaint by key conspirators – PW12 V Venkatesh, PW5 Mahavikram, PW15 Arivazhagan, PW20 Krishan Veerabhadran and Mr. G. Veeraraghavan, which is evident from the CDRs available on the record of the aforesaid accused persons as well as from the cross-examination of PW12 V. Venkatesh and PW15 Capt. Arivazhagan.

It is further argued that the sanction to prosecute the accused has been granted illegally without application of mind and suffers from several legal and factual inaccuracies, as is reflected from the cross-examination of PW13 M.S. Dahiya, as he has admitted that it is mentioned in the sanction order dated 05.11.2019 that M/s. Bright Shine Services was technically disqualified and there was possibilities to participate again in rebidding, whereas, this witness admitted that this fact was factually incorrect as M/s. Bright Shine Service was technically disqualified and there was no possibility to participate again in rebidding in the present tender.

He further contended that PW22 IO admitted in her cross-examination that she did not sent the voice examination report to the sanctioning authority as the same was not available at the time when she sent the documents to the sanctioning authority. She also admitted that the voice examination report was an important piece of evidence, therefore, the sanctioning authority had passed the sanction for prosecution by solely relying upon the draft sanction order prepared by CBI without due application of mind vitiating the entire prosecution sanction.

He has further argued that no case has been made out against the accused in the instant matter under Section 7 (offence related to public servant being bribed) Prevention of Corruption Act, 1988 for there was no acceptance or attempt to obtain any gratification as a motive and reward for favour in the exercise of his official function as (a) The accused had no powers whatsoever in the tendering and re-tendering process of the ground

handling tenders of different categories of airports. Furthermore, it has come on record that M/s Bright Shine Services stood already technically disqualified for C and C1 airports as early as 20.11.2018 and so far as Group D is concerned, the company was financially disqualified on 10.01.2019 and thus for all the applied airports the complainant and his company were disqualified and was ineligible for any proposed rebidding. It is a matter of record that at no point of time AAI introduced a proposal for either re-tendering or rebidding for any of the airports for ground handling services thus the complaint dated 16.03.2019 on the basis of which the present case was initiated was knowingly a false complaint and first step towards laying an illegitimate trap (b) The accused is a victim of criminal conspiracy hatched by a disgruntled party whose tenders for Group A Chennai Airport was rejected, with a misconceived notion that accused had a role in the rejection. (c) On the behest of the aforesaid party, a false complaint had been filed and an illegitimate trap was setup. In this process, he had been constantly chased, cajoled and coaxed so as to induce a demand from the accused (d) the entire pre-trap, post-trap proceedings and the investigation thereafter had not followed the prerequisite due diligence that has been legally mandated to be followed by the worthy investigation agency and (e) lastly, the accused had neither made any demand or accepted any illegal act with bona fide in furtherance of his public duty. Thus, there was no attempt much less with an intention to accept or obtain any gratification from the Complainant and therefore, it is stated that the accused be acquitted of the charge u/S. 7 of the PC Act (as amended in 2018).

7. Ld. counsel for the accused has relied upon following judgments in support of his contentions :

a) *Shridhar Chavan v. State of Maharashtra 2015 SCC OnLine Bom 5057;*

b) *Ramjanam Singh v. State of Bihar 1954 SCC OnLine SC 55;*

- c) *G.V. Nanjundiah v. State (Delhi Administration) 1987(Supp) SCC 266;*
- d) *Soundarajan v. State Criminal Appeal No. 1592 of 2022;*
- e) *Mukhtiar Singh v. State of Punjab (2017) 8 SCC 136;*
- f) *Mansukhlal Vithaldas Chauhan v. State of Gujarat (1997) 7 SCC 622;*
- g) *Tirath Prakash (deceased) v. State 2001 SCC OnLine Del 646;*
- h) *CBI v. Ashok Kumar Aggarwal (2014) 14 SCC 295;*
- i) *State of Karnataka v. Ameerjan (2007) 11 SCC 273;*
- j) *Dharmendra v. State 2022 SCC OnLine Raj 923;*
- k) *Vasant v. State of Maharashtra 2015 SCC OnLine Bom 3412;*
- l) *Raju Shantaram Kakphale v. State of Maharashtra 2021 SCC OnLine Bom 85;*
- m) *V. Subbaiah v. State of Karnataka 2012 SCC OnLine Kar 3250;*
- n) *Kanhaiyalal v. State of Rajasthan 1998 SCC OnLine Raj 342;*
- o) *Babu Lal Bajpai v. State of U.P. AIR 1994 SC 1538;*
- p) *KP Kolanthai v. State Crl.A. No. 693 of 2018;*
- q) *K. Shanthamma v. The State of Telangana SLP (Crl) No. 7182 of 2019;*
- r) *State of Karnataka v. Ramesh Appanna Mareppagol 2021 SCC OnLine Kar 12791;*
- s) *CBI v. Dr. AS Narayan Rao 2019 SCC OnLine Del 8956;*
- t) *H. Prakash Pai V. State Of Kerala 2015 SCC OnLine Ker 12249;*
- u) *Vineet Narain v. Union of India & Anr. (1998) 1 SCC 226;*
- v) *CBI v. Thommandru Hannah Vijaylazami 2021 SCC OnLine SC 923.*

8. On the other hand, Ld. PP for the CBI has refuted the above arguments of the Ld. Defence Counsel and has argued that the prosecution has been able to prove all the ingredients which are necessary to make out a case u/S. 7 of the PC Act 1988 (as amended in 2018) as from the testimonies of PW5 Sh. Mahavikram and PW13 Sh. Mahender Singh Dahiya, the prosecution has been able to prove the participation of M/s. Bright Shine

Services in the tender process as well as rejection of the tender of the above firm as well as the participation and rejection of tender of M/s. Global Flight Handling Services. Further from the testimony of PW5 and PW12 complainant Sh. V. Venkatesh, the prosecution has been able to prove the demand dated 13.03.2019 made by the accused during the meeting at Trident Hotel, Chennai.

Regarding the verification, she has relied upon the testimony of PW8 verification officer Inspector Umesh Kaushik, who has proved the verification memo(s) of 16th, 17th, 18th and 19th March, 2019, which is corroborated by the testimony of complainant PW12 as well as by the testimony of PW11 Sh. R. Senthil Kumar (shadow witness). From their testimonies it has also been proved by the prosecution regarding the pre trap demand made by the accused on 19.03.2019, which is also corroborated by the voice identification report, which has been duly proved by the voice expert from CFSL Sh. Subrat Kumar Chaudhary.

Regarding the transcription of the verification proceedings and the trap proceedings which were in Tamil, she has relied upon the testimony of PW10 Sh. S. Srinivasan (Assistant Director in Central Hindi Directorate), who had done true translation of the said transcription of the voice recording with regard to the voice memos of 16th, 17th, 18th, 19th and that of date of trap i.e. 20th March, 2019.

Regarding the trap, she has relied upon the testimony of PW14 Inspector Dharmendra Kumar, TLO who constituted the trap team and has also proved FIR dated 20.03.2019, who has also proved the handing over and recovery memos dated 20.03.2019, who has proved the taking of voice sample of the accused and his testimony is corroborated by the independent witness PW17 Sh. Srinarayan Meena, who is an independent recovery witness to the trap, which is further supported and corroborated by the testimony of PW11 shadow witness and the complainant PW12 regarding the trap which took

place on 20.03.2019.

Further the accused came in his own car near Green Park area on the day of trap on his own to collect the bribe money and the conversation at the time of the trap has also been recorded in which the accused is asking the complainant to put the envelop containing the bribe money into the dash board of his car which was being driven by him, thereby accepting the bribe. He also demanded the money, which is evident from the recorded conversation, as also by way of gestures, which is corroborated by the testimonies of PW11 and PW12. Further, the recovery of bribe money has been proved as per the testimonies of PW11, PW12, PW14 and PW17, as the accused after accepting the bribe money had kept the same in the gear console of his car, which he was driving, therefore, the said bribe money can be said to be in the power and possession of the accused.

Regarding the sanction for the prosecution, she has relied upon the testimony of PW18 Sh. Rajendra Kanojia, who had identified the signatures of the sanctioning authority on the sanction for prosecution order Ex. PW13/DX3 dated 05.11.2019. She stated that the sanctioning authority Sh. Anuj Aggarwal, who was the Chairman of Airport Authority of India had accorded the sanction, who was competent to remove the accused from the post of Executive Director (Finance) after due application of mind and after perusal of the entire material against the accused. She has argued that though unfortunately Sh. Anuj Aggarwal died during the trial and the said sanction was proved by PW18. The said sanction is duly admissible in evidence as per Section 32(2) of The Indian Evidence Act.

Regarding the legitimacy of the trap, she has argued that the contention of the Ld. Defence Counsel that the entire trap was illegal and illegitimate has no force, as it was expected of the accused as a public servant to have highest moral standards and levels of probity and it is no part of any duties of the accused to be tempted by the bribe or asked for the bribe,

therefore, the same has no bearing on the outcome of the present case.

Regarding the alleged conspiracy between PW12, PW5, PW15 and PW20, it is argued that the same has not been proved by any cogent piece of evidence. Even otherwise, even if for the sake of argument, it is assumed it was so, even then it does not make any difference to the outcome of the present case, as the accused had demanded, accepted the bribe money which was also recovered from him. Therefore, the conspiracy argument does not have any merit.

Therefore, it is stated that all the ingredients for making out a case u/S. 7 of the PC Act, 1988 (as amended in 2018) are made out i.e. demand, acceptance as well as recovery of bribe money on the date of trap, which is further corroborated by the recorded conversation recorded in the DVR, which was duly identified by the complainant and the other witnesses, when played in the court in which those witnesses had identified the voice of the accused and that of the complainant and other persons involved. Therefore, she submits that the accused is liable to be convicted u/S. 7 of the PC Act (as amended in 2018).

9. Ld. PP for CBI has relied upon following judgments in support of her contentions :

a) C. S. Krishnamurthy Vs. State of Karnataka Appeal Crl. 462 of 2005 decided on 29.03.2005;

b) Prithi Chand Vs. State of Himachal Pradesh 1989 SCC (1) 432;

c) Neeraj Dutta VS. State (Govt. of N.C.T. of Delhi), Crl. Appeal No. 1669 of 2009, decided on 17.03.2023.

10. I have gone through the rival contentions.

11. Before proceeding further, it would be pertinent to discuss the changes, if any in old Section 7 of PC Act 1988 as well as new Section 7 of the PC Act,

1988 (as amended in 2018).

It would be useful to reproduce both the old and new Section(s) 7 of PC Act :

Before Amendment.

7. Public servant taking gratification other than legal remuneration in respect of an official act.—Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than 1[three years] but which may extend to 2[seven years] and shall also be liable to fine.

Explanations.—(a) “Expecting to be a public servant.” If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

(b) “Gratification.” The word “gratification” is not restricted to pecuniary gratifications or to gratifications estimable in

money.

(c) “Legal remuneration.” The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organization, which he serves, to accept.

(d) “A motive or reward for doing.” A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.

(e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section.

After amendment:-

For sections 7, 8, 9 and 10 of the principal Act, the following sections shall be substituted, namely:—“7. 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.

12. In the absence of any judgments of the Hon'ble Supreme Court and

Hon'ble High Courts on recent changes made in Section 7 of the PC Act **(as amended in 2018)**, an humble attempt is being made hereunder to decipher the true import of Section 7 of PC Act 2018, the new Section 7 can be siloed into three different parts as follows :

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 any 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) [ditto], as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself i.e. by another public servant or

(c) Performs or induces another perform 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.

Further :

2(d) defines “undue advantage” means gratification whatever, other than legal remuneration.

Explanation - For the purposes of this clause -

(a) The word “gratification” is not limited to pecuniary gratification or to gratification estimable in money;

From the aforesaid Section 7, it appears to punish three kind of bribery transactions between public servants and others involving undue advantage, changing hands / about to change hands. The term gratification is any benefit or reward given to influence one in once behaviour in office and inclines one to act contrary to the rules of honesty and integrity, anything whether a sum of money, an object which appeals to one's senses, a dinner, a

plate full of fruit, a medicinal pill is gratification in the meaning of the term though recipient may not be punishable on that account.

13. It has been held in *judgment Mubarak Ali Vs. State AIR 1958 MP 157* that *mere demand or solicitation of illegal gratification by public servant amounts to commission of an offence u/S. 161 Indian Penal Code (Section 7 of PC Act, 1988)*. Further, it has been held in judgment *C.L. Emden Vs. State of Uttar Pradesh AIR 1960 SC 541* “*para 3 Section 161 Indian Penal Code provides the word “gratification” is not restricted to pecuniary gratification or gratification estimable in money, therefore, gratification mentioned in Section 4(1)(Section 20 of PC Act 1988) cannot be confined only to payment of money.*”

14. The Section 7 can be further broken into / sub divided as under :

7(a) requires that the exchange or transaction be accompanied by the public servant intending to perform / cause performance / for bear performance of a public duty either improperly or dishonestly be it her duty or that of another public servant.

7(b) requires that the exchange or transaction to be as reward for improper or dishonest performance / forbear performance of a public duty in the past by a public servant, as you get reward for anything already done or performed by you.

7(c) requires the improper or dishonest performance / for forbearance of public duty, or inducing such conduct in another public servant in anticipation or in consequence of accepting an undue advantage.

15. Section 7(a), as dissected above intends to punish contemporary or concomitant acts of bribery, whereas Section 7(b) as above attempts to punish

the past act of bribery i.e. because one gets reward only for the thing already done or accomplished for the bribe given, whereas Section 7(c) seems to punish the acts done in anticipation of reward or bribery for illustration, **a public servant may perform his public duties improperly for a very large corporate entity dealing in defence weapons, where he has heard that the getting defence kick backs is a norm, consequently he forbears to do his official duties improperly or does not perform his official duties properly thinking that if he does so, the corporate person for whom it is so done may be pleased and may lead to receipt of facilitation fee in return.**

Further the above transaction(s) can be described as transaction(s) between bribe giver and bribe taker, which is akin to demand side and supply side in any economic transaction, albeit brimmed with culpability, which would be necessary to complete the transaction of bribe, without there being demand side, there cannot be supply side to go through the transaction of bribe.

16. From the reading of new Section 7 **(as amended in 2018)** as a whole, it is not merely accepting or obtaining or attempt thereof to obtain undue advantage from any person, but same has to have nexus with the improper or dishonest performance or forbearance from performing such a duty.

Mere obtaining of some advantage without any intention to improperly perform public duty or forbearance to do so or by abusing his position as a public servant will not attract provisions of Section 7 of New Act. For this, following illustration may be given :

Suppose a high ranking Minister ‘M’ purchases a very costly Rolex watch on credit from a high street store. The store owner ‘S’ generally does not sells such costly watches on credit basis, but thinking of his high influential position i.e. ‘M’ he sells the highly priced watch on

credit to 'M' without 'M' promising any official act or forbearance or abuse of position in return. If 'M' does not later on pays for the watch, then same will not attract penal provisions of Section 7 of PC Act, 2018.

The prosecution must not only establish a financial or other undue advantage has been offered, promised or given, it must then also show that there is sufficient connection / co-relation between the undue advantage so obtained and intention to perform any public duty improperly or forbearance / abstinence from performance of said duty or abuse or position as a public servant.

Though explanation I and illustration therewith of the new Section 7 may look incongruous to this afore interpretation, however, on closer look / scrutiny, it is apparent that explanation I to Section 7 and illustration thereto is merely an corollary to explanation II or the main substantive provision of Section 7 of PC Act 2018, as if 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.

In this illustration, demand of illegal gratification or undue advantage by public servant, irrespective of fact, whether performance of public duty was proper or not, i.e. for routine processing of ration card application by demanding sort of facilitation fee can only be said to be obtained by the public servant, by abusing his position as a public servant, otherwise why would 'P' give facilitation money to 'S' which would fall under explanation II to Section 7 of PC Act 2018.

In this illustration also obtaining of undue advantage has nexus with the abuse of his position as a public servant by 'S'.

In this context, another illustration can be given. **Suppose a trader 'T' gives a substantial sum of money as a loan to very high ranking public servant 'S' on 2 percentage points less than the market lending rate / banking rate thinking that he may utilize the relations so made in view of**

said transactions in getting his work done in future. However, the public servant 'S' has no such consideration or indulgence in his mind entering at the time of such a transaction, who enters into said transaction professionally in a business like manner nor he has linked the same with performance of his public duty improperly or forbearance from the same or has thoughts of abusing his position as a public servant. Then it cannot be said 'S' obtained any undue advantage from 'T' by abuse of his position as public servant.

17. Further, there was overlapping in the old Section 7 of PC Act, 1988 as well as Section 13(1)(d) of the said Act and it appears that the Legislature has chosen to resolve the issue by deleting half of Section 13(1)(d), this has been done through explanation II to Section 7 which carries large chunks of the old Section 13(1)(d) PC Act. Therefore, there are no substantive changes in Section 7 of PC Act, 2018 vis-a-vis older Section 7 of PC Act, 1988 with regard to basic ingredients of demand of bribe, acceptance of bribe or recovery thereof, consequently the following judgments of the Hon'ble Supreme Court and Hon'ble High Courts would be guiding beacons for deciding a case under this Act as well.

18. The law with regard to Section 7 of the PC Act 1988 has been laid down in the relevant para(s) of the following judgments of the Hon'ble Supreme Court :

i) B. Jayaraj vs. State of AP, 2014, Cr. L J 2433

7. In so far as the offence under Section 7 is concerned, it is a settled position in law that demand of illegal gratification is sine qua non to constitute the said offence and mere recovery of currency notes cannot constitute the offence under Section 7 unless it is proved beyond all

reasonable doubt that the accused voluntarily accepted the money knowing it to be a bribe. The above position has been succinctly laid down in several judgments of this Court. By way of illustration reference may be made to the decision in C.M. Sharma Vs. State of A.P.[1] and C.M. Girish Babu Vs. C.B.I.[2]

8. In the present case, the complainant did not support the prosecution case in so far as demand by the accused is concerned. The prosecution has not examined any other witness, present at the time when the money was allegedly handed over to the accused by the complainant, to prove that the same was pursuant to any demand made by the accused. When the complainant himself had disowned what he had stated in the initial complaint.

9. In so far as the presumption permissible to be drawn under Section 20 of the Act is concerned, such presumption can only be in respect of the offence under Section 7 and not the offences under Section 13(1)(d)(i)(ii) of the Act. In any event, it is only on proof of acceptance of illegal gratification that presumption can be drawn under Section 20 of the Act that such gratification was received for doing or forbearing to do any official act. Proof of acceptance of illegal gratification can follow only if there is proof of demand. As the same is lacking in the present case the primary facts on the basis of which the legal presumption under Section 20 can be drawn are wholly absent.

ii) SeJappa vs. State, AIR 2016, SC 2045

10. In order to constitute an offence under Section 7 of the Prevention of Corruption Act, 'proof of demand' is a sine quo non. This has been affirmed in several judgments including a recent judgment of this Court in B. Jayaraj v. State of Andhra Pradesh (2014) 13 SCC 55, wherein this Court held as under :

'7. Insofar as the offence under Section 7 is concerned, it is a settled position in law that demand of illegal gratification

is sine qua non to constitute the said offence and mere recovery of currency notes cannot constitute the offence under Section 7 unless it is proved beyond all reasonable doubt that the accused voluntarily accepted the money knowing it to be a bribe. The above position has been succinctly laid down in several judgments of this Court. By way of illustration reference may be made to the decision in C.M. Sharma v. State of A.P.(2010) 15 SCC 1 and C.M. Girish Babu v. CBI(2009)3.SCC.779.'

The same view was reiterated in P.Satyanarayana Murthy v. District Inspector of Police, State of Andhra Pradesh and Anr. (2015) 10 SCC 152.

11. It is the case of the prosecution that on 09.12.1997, the appellant demanded a sum of Rs.5,000/- as illegal gratification from PW-1 to discharge the official act of forwarding PW-1's application for pension and for release of retiral benefits. PW-1-Ramakrishnappa has deposed that on 09.12.1997, the appellant demanded a sum of Rs.5,000/- as illegal gratification for sending 'No Objection Certificate' to the office of Accountant General at Bangalore for processing the appellant's pension papers. On the contrary, the appellant has taken the plea of alibi. The appellant contended that on 09.12.1997, when he is alleged to have demanded illegal gratification in his office at Chitradurga, he was actually on official tour in Bangalore from 07.12.1997 to 10.12.1997 for attending a seminar and that after attending the seminar, on 10.12.1997, he along with PW-7 took delivery of a van allotted to Chitradurga PHE, Sub-Division.

iii) Mukhtiar Singh (Since deceased) Through his LR vs. State of Punjab.

14. The indispensability of the proof of demand and illegal gratification in establishing a charge under Sections 7 and 13 of the Act, has by now engaged the attention of this Court on umpteen occasions. In A. Subair vs. State of Kerala⁴, this Court propounded that the prosecution in

order to prove the charge under the above provisions has to establish by proper proof, the demand and acceptance of the illegal gratification and till that is accomplished, the accused should be considered to be innocent.

Carrying this enunciation further, it was expounded in [State of Kerala vs. C.P. Rao](#)⁵ that mere recovery by itself of the amount said to have been paid by way of illegal gratification would not prove the charge against the accused and in absence of any evidence to prove payment of bribe or to show that the accused had voluntarily accepted the money knowing it to be bribe, conviction cannot be sustained.

4 (2009) 6 SCC 587

5 (2011) 6 SCC 450

15. In *P. Satyanarayana Murthy (supra)*, this Court took note of its verdict in *B. Jayaraj vs. State of A.P.*⁶ underlining that mere possession and recovery of currency notes from an accused without proof of demand would not establish an offence under [Section 7](#) as well as [Section 13\(1\)\(d\)](#) (i) and (ii) of the Act. It was recounted as well that in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to be proved. Not only the proof of demand thus was held to be an indispensable essentiality and an inflexible statutory mandate for an offence under [Sections 7 and 13](#) of the Act, it was held as well qua [Section 20](#) of the Act, that any presumption thereunder would arise only on such proof of demand. This Court thus in *P. Satyanarayana Murthy (supra)* on a survey of its earlier decisions on the pre-requisites of [Sections 7 and 13](#) and the proof thereof summed up its conclusions as hereunder:

“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 [6 \(2014\) 13 SCC 55](#) 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 Sections 7 and 13 of the Act would not entail his conviction thereunder.” (emphasis supplied).

19. Admittedly the accused is a public servant, therefore, sanction to prosecute him would be required u/s.19 of the PC Act. As per the testimony of PW4 Sh. Rajesh Sharma, Assistant Manager (HR), Airport Authority of India, he has proved the appointment letter dated 18.01.2017 whereby the accused was appointed as Executive Director (JVC & Tariff), the said letter is Ex. PW4/B and subsequent promotion to the post of Executive Director (Finance) vide letter Ex. PW4/E. He has also proved the other letters regarding the appointment, promotion etc. of this accused to other post(s) which is Ex. PW4/C to Ex. PW4/G. It is admitted case of both the accused and the prosecution that the Airport(s) Authority of India is the instrumentality of the Govt. of India. Therefore, accused is a public servant.

20. The relevant sanction has been proved by PW18 Sh. Rajiv Kanojia, who was working as Manager (HR) with the Airports Authority of India. He has deposed that he knew Mr. Anuj Aggarwal, who was the Chairman of Airports Authority of India. They were both posted in Rajiv Gandhi Bhawan during the period 2014 to 2021 and he had worked under him during the said period, in the year 2019 Mr. Anuj Aggarwal was the Chairman of the said authority and he was competent to remove / terminate Executive Director (Finance). He identified the signatures of said Anuj Aggarwal as he stated that he had seen his signatures number of time during his tenure as number of files were routed through their department. He has also proved the sanction order Ex. PW13/DX3 bearing the signatures of Sh. Anuj Aggarwal at point A at page 6 and his initials at point B on pages no. 1 to 5.

He also deposed that the sanction order along with CBI report, list of evidence, list of documents, facts of investigation were received by them

and were put before Sh. Anuj Aggarwal, who after examining all the documents granted sanction to prosecute the accused G. Ravichandaran.

He was cross-examined, during which he admitted as correct that he had never seen Mr. Anuj Aggarwal signing in front of him and the sanction order was not signed by him in his presence and he also admitted that he never called him to see any clarification or discussed the matter relating to grant of sanction.

21. The Ld. Defence Counsel has assailed the sanction of the accused on the ground that the same is defective, as the same is based on non application of mind, as PW13 has admitted that M/s. Bright Shine Service was technically disqualified and there was no possibility to participate again in rebidding in the present tender, however, the concluding paragraph of the sanction order is based on wrong facts saying that the M/s. Bright Shine Services could have participate in potential rebidding and further the IO PW22 Ms. Veer Jyoti admitted that she did not sent the Voice Sample report to the sanctioning authority as the same was not available at that time. She also admitted as correct that the same was important piece of evidence.

22. In the present case, PW18 has identified the signatures of Sh. Anuj Aggarwal, the sanctioning authority, as he stated that he had worked under him during the period 2014 to 2021 and he had seen his signatures number of times, as number of files used to be routed through their department. Therefore, this testimony of PW18 meets the requirements of Section 47 of the Evidence Act, as Sh. Anuj Aggarwal had died, which fact was not disputed by the defence at the time of examination of PW18 or during the course of the oral arguments. Therefore, PW18 who had been receiving the files signed by deceased Anuj Aggarwal during the course of official duties was competent to identify the signatures of Sh. Anuj Aggarwal, the deceased.

23. Further in this regard, Section 32 (2) of The Indian Evidence Act is relevant which is reproduced as under :

32. Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant.

Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the Court unreasonable, are themselves relevant facts in the following cases:

XXXX XXXX XXXX XXXX

(2) or is made in course of business. : When the statement was made by such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business, or in the discharge of professional duty; or of an acknowledgement written or signed by him of the receipt of money, goods, securities or property of any kind; or of a document used in commerce written or signed by him; or of the date of a letter or other document usually dated, written or signed by him.

24. In the present case, the sanctioning authority had unfortunately died, therefore, any statement i.e. statement in the form of written sanction, which has been made in the ordinary course of business or in discharge of his professional duties which has been proved to be in his handwriting are

relevant and are admissible in evidence, as the said sanction order has been passed by him during the course of business and discharge of professional duties and he had been dead, therefore, there is no reason to discard the said important piece of evidence.

25. Nothing has come out in the cross examination of PW18, which could show that the said sanction has been accorded in a mechanical manner without due application of mind. In this regard the relevant law has been laid down in the judgment of the Hon'ble Supreme Court in **(2013) 8 SCC 119 State of Maharashtra Vs Mahesh G.Jain**, as under:-

16. Presently, we shall proceed to deal with the contents of the sanction order. The sanctioning authority has referred to the demand of the gratification for handing over TDS certificate in Form 16A of the Income-Tax Act, the acceptance of illegal gratification by the accused before the panch witnesses and how the accused was caught red handed. That apart, as the order would reveal, he has fully examined the material documents, namely, the FIR, CFSL report and other relevant documents placed in regard to the allegations and the statements of witnesses recorded under Section 161 of the Code and, thereafter, being satisfied he has passed the order of sanction. The learned trial judge, as it seems, apart from other reasons has found that the sanctioning authority has not referred to the elementary facts and there is no objective material to justify a subjective satisfaction. The reasonings, in our considered opinion, are absolutely hyper-technical and, in fact, can always be used by an accused as a magic trick to pave the escape route. The reasons ascribed by the learned trial judge appear as if he is sitting in appeal over the order of sanction. True it is, grant of sanction is a sacrosanct and sacred act and is intended to provide a safeguard to the public servant against vexatious litigation but simultaneously when there is an order of sanction by the competent authority indicating application of mind, the same should not be lightly dealt with. The flimsy technicalities cannot be

allowed to become tools in the hands of an accused. In the obtaining factual matrix, we must say without any iota of hesitation that the approach of the learned trial judge as well as that of the learned single judge is wholly incorrect and does not deserve acceptance.

The ratio of said judgment is squarely applicable to the facts of the present case.

26. I have gone through the said sanction order. The said sanction order is explicit. The said sanction order has been passed after going through the entire material. With regard to the arguments of the Ld. Defence Counsel that the relevant CFSL report pertaining to the voice examination was not forwarded to the sanctioning authority at the time of sanction, therefore, the same will vitiate the sanction. The said argument is also without any substance, as the CFSL reports pertaining to voice examination / recorded conversations would only be relevant for proof of the charge against the accused during the trial and the same would not have been necessary for according or not according sanction u/S. 19 of the PC Act.

27. With regard to the sanction 197 CrPC the same was not necessary, as it was no part of the official duties of the present accused who was working as Executive Director (Finance) to accept undue advantage from a public person, as alleged by the prosecution in its case.

28. With regard to the charge in hand, it would be useful to break up the case and discuss the same under the following two sub-headings :

a) Facts prior to the event / transaction of bribe;

b) Facts contemporary to or concomitant facts i.e. the facts at the time of transaction of bribe;

29. **With regard to the first sub heading a) i.e. facts prior to the event / transaction of bribe**, it has been proved by the testimony of PW5 Sh. Mahavikram, who has deposed as under :

At present we are doing Aviation Consultancy under the name and style M/s. Airbay Services. WE had applied for ground handling services tender floated by Airport authority of India for the category C, C-1 and D Groups, in the year 2019. We had applied as a consortium with M/s. Bright Shine Services.

I know Sh. V. Venkatesh who is the CEO of M/s. Bright Shine Services. M/s. Bright Shine Services is a partnership firm and Sh. V. Krishnan and Sh. Jacquelin are the partners of this firm and they had authorized Sh. V. Venkatesh, CEO to act as a representative of the consortium. Sh. V. Krishnan authorized Sh. V. Venkatesh to submit the tender documents t the Airport Authority of India. I know G. Ravichandren through Sh. V. Venkatesh. On 13.03.2019 I have met G. Ravichandren at Trident Hotel, Chennai and Sh. V. Venkatesh was already there in the lobby of the said Hotel. I was asking Sh. G. Ravichandran about the aforesaid tender but he said he was on official visit and he asked me to send the CEO Sh. V. Venkatesh to meet him at Delhi.

From his testimony, it is clear that M/s. Airbay Services formed a consortium with M/s. Bright Shine Services and applied for ground handling services of the tender, floated by Airport Authority of India for category C, C-1 and D groups in the year 2019. He has also proved the relevant documents in this regard, which are Ex. PW5/A and Ex. PW5/B. His

testimony in this regard is corroborated by PW12 Sh. V. Venkatesh that they had applied for Airport contracts in category C, C-1 and D.

30. Further the testimonies of PW5 Sh. Mahavikram and PW12 V. Venkatesh in this regard is corroborated by testimony of PW12 Sh. Krishnan Veerabhadran, who in his testimony recorded on 04.10.2023 has deposed as under :

I am running a man power agency namely M/s. Bright Shine Services. I am the managing partner in the said firm. My wife Mrs. Jaculin is another partner in the said firm. M/s. Bright Shine Services had applied for tender in Airport Authority of India for C, C-1 and D category. M/s. Bright Shine Services had applied for tender along with M/s. Elite Properties & Facilities and M/s. Airbay Services. Mr. Maha Vikram, Ms. Renu and Mr. Arivazhaghan are the partners in M/s. Airbay Services. M/s. Bright Shine Services was the leading member of the above said consortium. Mr. V. Venkatesh s the CEO of M/s. Bright Shine Services. I had authorised Sh. V. Venkatesh to act as representative of the consortium and I authroised him to submit the tender documents in Airport Authority of India. I visited CBI office located at Chennai on 29.07.2019 for submission of some documents.

Nothing material has come out in the testimonies of PW5 and PW12 and the testimony of PW20 has gone unrebutted, unchallenged in the cross-examination, with respect to the aspects deposed by him in his examination-in-chief.

31. Regarding the testimony of PW12 complainant V. Venkatesh that Mr. Ravichandran had contacted him and stated that he would help him in re-tender, as his company was not selected in the tender and on 13.03.2019 in Chennai he was struck in traffic, so his friend met him earlier and after half an hour, he also met Mr. Ravichandran who told him that he would help him in re-tender and on the said day, Mr. Ravichandran also informed him that he had spoken to his friend, who has asked him to come to Delhi and asked him to be ready with some amount, which he did not like asking money for the contract.

32. Therefore, both PW12 and PW5 have claimed that on 13.03.2019 they had met Ravichandran at Trident Hotel, Chennai. Regarding this, the prosecution has also relied upon the testimony of PW21 Mohd. Uvaish, who was working at Trident Hotel, Chennai at the relevant time as Head (Human Resources). As per his testimony and the documents proved by him Mr. G. Ravichandran had arrived the said hotel on 12.03.2019 and left on 13.03.2019 at 16:03 hours and stayed in room no. 253. He has proved the relevant document Ex. P1/PW21 (colly).

33. From the testimony of PW21, it is proved that the accused was there / staying in Trident Hotel, Chennai on 13.02.2019, however, the Ld. Defence Counsel has denied that accused ever met PW5 or PW12 at any point of time. In this regard, there is no independent corroboration to the testimonies of PW5 and PW12 regarding their meeting with accused in the hotel lobby on 13.03.2019, as neither any videography has been produced or proved nor any independent witness including any waiter or any other person who may have served them has been examined. In the absence of any independent corroboration to the testimonies of PW5 and PW12 to their self serving statement(s), the probative force of the said fact is quite low and has not been proved.

34. The prosecution has claimed that the re-tender was possible and that is why the accused was demanding illegal gratification from the complainant, whereas the defence counsel relying upon the testimony of PW13 has argued that M/s. Bright Shine Services was technically disqualified in C and C-1 category, whereas it was financially disqualified in Group D, therefore, there was no possibility of any rebidding.

35. In view of the rival contentions, the following relevant testimony of PW13 Sh. M. S. Dahiya, in his examination in chief, recorded on 11.04.2023 is being discussed as under :

Group D bid was invited in two covers. Cover 1 Technical bid and Cover Financial bid. First technical bid was opened and evaluated for technical criteria of the agencies. The Cover No. 2 comprising of financial bid was opened only for the agencies who had qualified in technical bid (at page 10)

M/s. Bright Shine Services had applied for ground handling services for Group C and C-1 Airports and was technically disqualified. (page 12).

The letter dated 20.11.2018 was written by Sh. J.P. Alex, Executive Director to Bright Shine Service, Chennai to inform regarding disqualification of said company in technical bid for Group C-1 Airport. The photocopy of the letter dated 20.11.2018 bears photo impression of signature of Sh. J.P. Alex is at point A. The copy of the letter dated 20.11.2018 is marked as Mark PW13/1 (page 14).

The letter dated 20.11.2018 was written by

Sh. J. P. Alex, Executive Director to Bright Shine Service, Chennai to inform regarding disqualification of said company in technical bid for Group C Airport. The photocopy of the letter dated 20.11.2018 bears photo impression of signature of Sh. J.P. Alex is at point A. The copy of the letter dated 20.11.2018 is marked as Mark PW13/2 (page 14).

In further examination in chief recorded on 04.05.2023, he has deposed as under :

The list of H-1, H-2 and H-3 bidders of Group D Airports shows that M/s. Bright Shine Services was neither H-1 nor H-2 at any of 45 Group D Airports.

Further in his cross-examination dated 09.05.2023, he has deposed as under :

It is correct that H-1 and H-2 bidders for all 45 Airports under Group D were identified by Airport Authority of India. It is correct that M/s. Bright Shine was neither H-1 nor H-2 bidder in any of the 45 Airports under Group D. It is correct that since H1 and H2 bidders were identified for all the 45 Group D Airports, there was no possibility of rebidding. It is correct that the result of bidding and the details of financial quote of every successful bidders were displayed on Government of India e-portal and same was accessible to every one / every bidder. It is correct that the position of Member (Finance) is below Chairman and above ED (Finance) in the hierarchy.

It is correct that the proposal containing

the list of successful bidders was recommended by Member (Operations) Sh. I.N. Murty vide a note dated 25.02.2019 for financial concurrence. The note dated 25.02.2019 is Ex. PW13/DX-1. Same is also reflecting in my note dated 08.03.2019. The note dated 08.03.2019 is Ex. PW13/DX-2. It is correct that financial concurrence was accorded by Member (Finance) Sh. S. Suresh on 28.02.2019 and the file was put up before Chairman for his approval, as clear from note dated 28.02.2019, already Ex. PW13/Z-28.

It is correct that only the bidders who had qualified in technical evaluation, were allowed to participate in financial bid.

To a question put to him, he has answered that it is correct. M/s. Bright Shine Services was technically disqualified and there were not possibility to participate again in rebidding in the present tender. The sanction order dated 05.11.2019 is Ex. PW13/DX-3.

36. In the cross-examination, PW12 in response to the question put by Ld. Defence Counsel stated that he was not aware if the bid submitted by M/s. Bright Shine Services was Group C and Group C1 Airport were rejected or that M/s. Bright Shine Services did not meet the eligibility criteria as per clause 3.2 of RFP. However, his attention was drawn towards the relevant letters Ex. PW12/DX1 and Ex. PW12/DX2 sent to their office. Further in response to the following question, he has answered as under :

Q. On 16.03.2019, when you submitted your written complaint to Superintendent of Police, CBI, did you inform

him that the bid of M/s. Bright Shine Services for categories C and C1 had already been rejected in November, 2018 and for category D, its bid for group D also stood rejected in January, 2019 and no process of any rebidding had been initiated either by M/s. Bright Shine Services or advertised / communicated by Airport Authority of India ?

Ans. Whatever I had written in my complaint was told to the CBI official when I gave my complaint. I do not remember whether I had orally informed to CBI official that the bid of M/s Bright Shine Services for categories C and C1 had already been rejected in November, 2018 and for category D, its bid for group D also stood rejected in January, 2019 and no process of any re-bidding had been initiated either by M/s. Bright Shine Services or advertised communicated by Airport Authority of India.

37. Relying upon the above testimonies of PW12 and PW13, Ld. Defence Counsel has argued that since Bright Shine Services was technically disqualified for Group C and C-1 Airports, therefore, there was no possibility of rebidding, which has been admitted by PW13, as discussed above. As regard Group D, PW13 has also stated that H1 and H2 bidders for all 45 airports were identified by Airports Authority of India and M/s. Bright Shine was neither H1 nor H2 bidder in any of the 45 airports under Group D so there was not possibility of rebidding.

38. Therefore, he has argued that the entire trap was illegitimate, as the motive for trap was on the basis of conspiracy by PW12, PW5 and PW15 and PW20, who were in regular touch with each other as per the CDRs of PW12 and PW15 proved on the record, to take revenge regarding the

failure of tender of M/s. Global Flight Handling Services, who had failed in their tender bid for Group A, Chennai Airport as during financial scrutiny of tenders, certain discrepancies were brought out by Finance Directorate and finally they lodged a complaint which was escalated to the higher authorities and ultimately, the bid of Global Flight Handling Services was rejected and the accused being ED (Finance) was required to present the finance views on different issues at meeting, which he did and in order to take revenge the accused was falsely implicated in this case.

39. On the other hand, Ld. PP for CBI has refuted the above contentions and has argued that the rebidding was very much possible that was the reason why the accused was repeatedly calling and asking the complainant to give illegal gratification / undue advantage, which is also evident from page no. 65N of Ex. PW13/DX-7. In this regard, she has relied upon a note which is as under :

Accordingly, it is requested that the finalized list of Ground Handling Agencies at airports under Group A,B,C, C1 & D placed on file at page from 476/c to 486/c (Flag B), as also concurred by Dte. of Finance on page 44/N & 45/N and submitted vide noting on page 46/N by the undersigned, are recommended for kind consideration and approval of competent authority for award of concession. Also the revised financial bids to be invited in respect of the Airports at Ahmedabad, Calicut, Trichy, Mangalore, Chandigarh, Imphal & Agartala be kindly approved by the competent authority.

40. Relying upon the said note, she has argued that rebidding was permissible in Group C-1 airports of Imphal and Agartala, which belies the

claim of the Ld. Defence Counsel that the rebidding was not permissible and therefore, the entire trap was illegitimate. She has further argued that if the rebidding was not permissible, why the accused was contacting the complainant repeatedly on telephone or otherwise, which shows that there was nothing illegitimate in the trap in question, which had been laid down in a legitimate and proper manner.

41. Though from the testimony of PW13 as discussed above in detail, it is apparent that M/s. Bright Shine Services were technically disqualified in Group C and C-1 and therefore, could not participate in rebidding and in Group D they were financially disqualified, therefore, could not have participated in rebidding. PW13 has categorically admitted so that there was no possibility of rebidding in the case of M/s. Bright Shine Services who were technically disqualified in Group C and C1 and financially disqualified in Group D as M/s. Bright Shine Services was neither H1 or H2 in any of 45 group D airports.

42. On the other hand, Ld. PP for the CBI has argued that rebidding was indeed possible in view of the note 65N Ex. PW13/DX-1 for Imphal and Agartala airport, be that as it may, whether rebidding was possible or not, it is immaterial, as the public servant cannot ask for illegal gratification / undue advantage for the act, which he cannot do or perform or is not possible to be done by him or for an act which in any case will be done by him in a routine manner.

43. Further it may be possible that both accused and the complainant may be playing games with each other for inducement and counter deceit upon the other, one thinking that he will extract illegal gratification / undue advantage from the other, even if rebidding was not

possible, other very well knowing the same was not possible kept flowing in the game in order to trap him.

44. With regard to the verification memos of dated 16th, 17th, 18th and 19.03.2019, the relevant witness is PW8 Inspector Umesh Kaushik, who was posted in ACB, CBI on the relevant date. He has deposed that on 16.03.2019, a complaint was lodged by Sh. D. Venkatesh, CEO of M/s. Bright Shine Services, Chennai, which was marked to him for verification. He has deposed in his examination in chief dated 26.09.2022 as under :

It was alleged in the complaint that the complainant is CEO of the above said firm which is a partnership firm engaged in work of ground handling services at Airports. It was further alleged that on 13.03.2019 the complainant met G. Ravichandren, Executive Director (Finance), Airport Authority of India who had demanded bribe from the complainant for helping him in the tendering of ground handling services at the various Airports. Complainant did not want to pay the bribe so he lodged the complaint at CBI, ACB, New Delhi. It was revealed to me that the complainant did not understand Hindi well so it was decided to arrange a Tamilian independent witness to understand the true facts. Accordingly, the Duty Officer, CBI, ACB, Delhi arranged an independent witness namely Sh. R. Senthil Kumar, Manager in Vijaya Bank, Delhi Cantt. Branch.

He has also proved the said complaint Ex PW8/A. He has also proved the verification report dated 16.03.2019 Ex. PW8/B, as also the verification report dated 17.03.2019 Ex. PW8/C, as also the verification report dated 18.03.2019 Ex. PW8/D. On the said dates nothing incriminating could

be recorded in the conversation between the complainant and the accused.

The said verification report has also been proved by PW11 R. Senthil Kumar and the complainant PW12 V. Venkatesh, as all the said verification memo(s) also bears the signatures of the said witnesses.

45. The aforesaid witnesses have also proved the verification report dated 19.03.2019. With regard to the same, PW8 in his testimony dated 26.09.2022 has deposed as under :

Thereafter, on 19.03.2019 at about 6.00 pm, the CBI team including myself, independent witness and the complainant left CBI office for the spot. After reaching the spot, i.e. Evergreen Restaurant, Green Park New Delhi, the complainant made a call to the suspect officer and the said call was made in loud speaker mode and simultaneously, recorded in the memory card through DVR. In the said call, the complainant and the suspect officer conversed in Tamil Language. The independent witness was asked as to what conversation had taken place between them. He informed that the suspect officer has directed the complainant to meet him at the same spot, where they had already met i.e. Evergreen Restaurant, Green Park, New Delhi. Accordingly, the DVR in recording mode was given to the complainant after briefing him and the independent witness. The complainant moved towards the said spot and as directed, the independent witness also followed him from a safe distance. After sometime, it was seen that a person was coming to the said spot, this person was identified as Shri G. Ravichandran by the independent witness. The complainant and the suspect officer had a

meeting. After some time, the complainant met me. The DVR was taken back from him and was switched off. The complainant, Independent witness and myself left from the said spot for CBI office.

46. The testimony of PW8 verification officer in this regard is corroborated by the complainant PW12 V. Venkatesh, who has deposed in his testimony recorded on 22.02.2023 as under :

I went to CBI office on 19.03.2019. Sh. Senthil and Umesh were also present in the CBI office. I was given the recording device alongwith the new memory card inserted in the recording device. Introductory voice of Sh. Senthil was recorded in the device. I was asked to call Mr. Ravichandran and I kept my mobile phone on speaker mode for recording. I called G. Ravichandran from my mobile no. 9444486666. He picked up the call and asked me to meet him in Green Park area in the evening. In the evening, myself, Senthil and Umesh left for Green Park area at about 06:30 PM and after reaching there our vehicle stopped in the vicinity of Green Park. The recording device was on-mode kept in my jacket. I went alone to meet Mr. Ravichandran in a tea shop in Green Park Sh. Senthil was 100 ft. far from me. I met Mr. G. Ravichandran in the tea shop and we discussed about the tender of airport. He said that re-tender for C-1 and D Group airport ground handling is supposed to be called. He asked me that for finalization of tender in my favour the amount was Rs. 10 lakhs for one airport and Rs. 50 laks for 5 airports. Mr. Ravichandran asked me to

pay the said amount to him. Then, I told that Rs. 10 lakhs is very hue amount and he replied that it is a ten year contract so it is reasonable. I negotiated for Rs. 4 lakhs for each airport and he agreed to the above negotiated amount. I said that I will give Rs. 2 lakh as a token advance. He asked me if I could give token advance now, I said I will give tomorrow.

47. The testimonies of the above witnesses with regard to the verification memo dated 19.03.2019 is corroborated by the testimony of PW11 R. Senthil Kumar. Regarding the presence of the complainant and the accused at a restaurant in Green Park area. Though, he had not listen to the conversation between them as he was little away, as stated by him but the same was recorded in the DVR by the complainant.

48. It is pertinent to mention herein that the testimony of PW12 was recorded through a translator / interpretor Sh. S. Abdul Rehman, who was posted at Superintendent in Tamilnadu House, who was well competent to translate from Tamil to English and from English to Tamil language, as the complainant Sh. V. Venkatesh only knew Tamil and Telgu knowledge and he was not well versed with English or Hindi language. The entire conversation between the complainant and accused took place in Tamil language, which was recorded in the DVR.

49. The aforesaid witnesses were subjected to cross-examination by the Ld. Defence Counsel, however, nothing material emerged in their cross-examination barring some minor contradictions, which does not dilute the probative force of the testimonial depositions of the said witnesses with regard to the verification dated 19.03.2019. Further the translation of the

recorded conversation was done by PW10 Sh. S.Srinivasan who was posted as Assistant Director. He in his testimony recorded on 05.12.2022 has deposed as under :

In August, 2019 I was posted as Assistant Director in Central Hindi Directorate, Department of Higher Education, Government of India, Ministry of Human Resources and Development, Est Block-7, R.K. Puram, Delhi. My birth place is Trichy, Tamil Nadu. I am post graduate in Hindi literature. My mother tongue is Tamil. I am well verse in Tamil, Hindi and English languages. I have studied Tamil language, as subject ill my graduation.

I visited CBI office on the request of the then Insp. Veer Jyoti, ACB. She asked me to verify the transcription of Tamil language and also its translation in English. Some recoding was played by Insp. Veer Jyoti on a laptop. The said recording contained the conversation between the complainant and the accused and in between there was some other voices also. I was shown the transcription as well as translation of said transcription from Tamil to English language prepared by R. Senthil Kumar, Manager, Vijaya Bank. I authenticated the said transcription as well as translation.

50. He has proved the memos regarding the authentication of transcription and translation of voice recordings, which are Ex. PW10/A, Ex. PW10/B (colly) Ex. PW10/C (colly) Ex. PW10/D, Ex. PW10/E (colly). Ex. PW10/F(colly) and Ex. PW10/G (colly) and the same have not been disputed

by the Ld. Defence Counsel as the cross-examination qua this witness is NIL, opportunity given. Therefore, the authenticity and translation of the above voice transcripts have not been disputed by the defence.

51. PW6 is Dr. Subrat Kumar Chaudhary from the CFSL, CBI, Voice Expert, who after comparing the questioned voice exhibits Q-1 to Q-5 and the specimen voice of G. Ravichandran has opined in his report Ex PW6/C as under :

Hence, the voices marked exhibits Q-1(2)(R), Q-2(4)(R), Q-2(6)(R) to Q-2(8)(R), Q-3(4)(R), Q-3(5)(R), Q-3(7)(R), Q-3(8)(R), Q-3(10)(R), Q-4(7)(R), Q-4(8)(R) & Q-5(3)V are the probable voices of the person {Sh. G. Ravichandran} whose specimen voice is marked exhibit S-1(3)(R).

The aforesaid witness was cross-examined at length, in which he admitted that he cannot speak or understand Tamil language and it was correct that during the voice examination, they compared questioned voice with the sample / specimen voice. He also stated that he did not requisitioned photocopy of transcription of recorded conversation (questioned and specimen) in Tamil language comprising of 41 pages. However, his above cross-examination has not been able to dilute the probative force of the deposition of PW6, as it appears that PW6 being expert has carried out his independent assessment regarding the voice identity of the accused after comparing the same with the questioned voice and the specimen voice.

Moreso, as he has deposed that he has examined more than 610 cases and deposed in more than 170 cases in different courts all over the country and has undergone training in the area of forensic examination of audio and video. He was also awarded national level fellowship in the year 2002 from Bureau of Police Research & Development, Ministry of Home Affairs, Government of India for carrying out research in the field of physical

forensic science leading to Ph.D. Therefore, his credentials as voice expert remains undeniable, which makes his voice expert report highly reliable and lends assurance to the case of the prosecution which has been duly proved by the prosecution, as per law.

52. Further the voice of accused G. Ravichandran has also been identified by his office colleague PW9 Sh. R. Ramani, who stated that he was working at Chennai airport and later on transferred to Delhi in Airport Authority of India. He knew G. Ravichandran who worked with him in Chennai. In the voice from the recorded conversation from the SD card played in the court, he identified the voice of accused G. Ravichandran and he also stated that he talked to accused G. Ravichandran on phone many times, hence he recognized his voice. Nothing material has come out in his cross-examination as well to show that this witness was not truthful or the probative force of the testimonial deposition of this witness had been reduced after his cross-examination. This also lends independent assurance that the voice in the recorded conversation in question belonged to the accused G. Ravichandran.

53. PW12 V. Venkatesh in his testimony recorded on 09.05.2023 has deposed as under :

I visited CBI office in May, 2019 to verify the translation of the recorded conversation between myself and Ravi Chandren. There IO Veer Jyoti was present along with Senthil. I heard the recorded conversation which was in Tamil language. I was to verify the voice of Ravi Chandren and my voice. I recognized the voices in the recorded conversation. The conversation was already transcribed in Tamil language. Mr. Senthil readover the Tamil transcription

to me. The transcription was correct and I signed the document containing the transcription in Tamil language. The document was prepared by the CBI official before me and I put my signature on the said document.

(At this stage attention of the witness is drawn to voice identification cum transcription memo dated 02.05.2019, Ex. PW11/K at page no. 1 and transcription in Tamil language from page no. 2 to 42 in D-18).

The voice identification cum transcription memo dated 02.05.2019, Ex. PW11/K bears my signature at Point B. This document was prepared in CBI office on 02.05.2019. The transcription i.e. Q1, Q2, Q3,Q4, Q5 and S1 which are in Tamil language bear my signature on all the pages at Point A. The transcription i.e. Q1, Q2, Q3,Q4, Q5 and S1 at page no. 2 to 42 in D-18 are collectively exhibited as Ex. PW12/Z9.

Therefore, PW12 also identified his voice in the CBI office in the voice identification-cum-transcription memo Ex. PW11/K with regard to the verification proceedings recorded on 16.03.2019, 17.03.2019, 18.03.2019 and 19.03.2019 qua the conversation with the accused.

54. The testimony of PW12 with regard to the demand of Rs. 10 Lakhs, with advance of Rs. 2 Lakhs is also corroborated by the voice recording translation Ex. PW10/C, which has been proved to be authentic by PW6 vide his report Ex. PW6/C, in which the accused made the demand as

under :

A – yes... no first come in the airport bidding then you see me.. it is not necessary for me to do now

C – no sir you need to pay somebody now.. they are all there...formalities... your formalities one side... I will be confident to continue the process if I finish the formality... ok... if you committed in open you will not commit to anybody else... I am confident that I will seemingly

A – In this it depends upon the other person what he quotes

C – I am just telling that... it is not in our hand... if that is not the option I am telling another one... ok... your next level contract it's already coming isn't it.. you just pint your fingers we will supply the manpower ...just your help... if it not comes as per your words we well go to next level... we can be confident... no problem... we can do work... when the bidding starts we will come... we will see then...

A – ok

C – we will see... no problem.. just show your hands...

A – see yourself... if got in C1... give 10 10 lacs per airport

C – 10 lac 10 lac

A – if we get

C – for each airport?

A – because it is for 10 years permanently

C – 10 lac for each airport

A – no you asked me to tell that's why told but you can do what you wish

C – ok sir ok sir for every airport we get 10 10 lacs will give... now advance Rs. 2 lacs I will give

A – see I am not insisting you... you are particular about it...

ok... do it.. we will see... C me ektaraf... D me ektaraf.... If it is D category do it for less also....

C – how much you will tell for that... just for confirmation otherwise you my ...

A – that... that is half or one third....

C – 5 lacs one third 5 lacs

A – that is half of 10 otherwise if it seems expensive let it be 4 lacs

C – 4 lacs

A – do it without any difficulty

C – ok sir... if this bidding gets ok... as you said 5 lacs... will give happily... sir you have said 10 years... will see... ok sir... morning I have kept it in Senthil's house please wait I will bring in 1 or 2 hours.

55. Nothing material has come out in the cross-examination of PW12 with regard to the said demand of Rs. 10 Lakhs and an advance of Rs. 2 Lakhs, which was the precursor for the trap, which eventually took place on 20.03.2019. As discussed above PW11 R. Senthil Kumar and PW8 have deposed regarding the presence of the accused and the complainant in the restaurant in the Green Park area armed with DVR for recording the conversation between the accused and the complainant. Therefore, the prosecution has been able to establish the initial demand which took place on 19.03.2019 prior to the trap.

56. **With regard to the second sub-heading b) i.e. contemporary / concomitant facts at the time of transaction of bribe,** in this regard, the prosecution in order to make out a case u/S. 7 of PC Act (as amended in 2018) has to prove the following ingredients :

- i). Demand;**
- ii). Acceptance; and**
- iii). Recovery.**

57. In this regard testimonial deposition of PW14 Inspector Dharmendra Kumar, Trap Laying Officer (TLO) is relevant. He has deposed that on 20.03.2019, he was posted as Inspector in CBI, ACB. On that day an FIR was marked to him bearing no. 7A/2019 against accused G. Ravichandran who was posted as ED (Finance) in Airport Authority of India. Thereafter, he constituted a trap team consisting of himself as TLO, Ins. Harnam, Insp. N. C. Naval, Insp. Kuldeep Sharma, Insp. Vikas Pannu, SI Dinesh, SI Satvir and SI Umesh. Apart from the CBI officials, complainant Sh. V. Venkatesh and two independent witnesses namely Sh Senthil and Sh. Shrinarayan Meena also joined the trap team.

After formal introduction with each other, copy of FIR was shown to the both the independent witnesses and the team members. He further deposed that he had also seen the complainant and came to know that accused had demanded bribe from the complainant for awarding tenders of Group D Airports ground handling services. On the basis of verification conducted on 19.03.2019, it was revealed that accused has demanded Rs. 10 Lac for each Airport to be allotted to complainant and accused G. Ravichandran demanded Rs. 2 Lac as token money on 20.03.2019. He started the pre-trap proceedings.

Thereafter, he deposed that SI Umesh conducted verification on 16, 17, 18, 19/03/2019 and the demand of bribe on the part of the accused was confirmed. The sealed memory cards Q1, Q2, Q3, Q4 were handed over to him. The complainant handed over Rs. 2 Lakhs in the denomination of Rs. 2,000/- each. The number of GC notes along with the denomination were noted in the handing over memo and on his directions, Sh. Kuldeep Shrama, the then Inspector CBI gave demonstration to all the trap members including

both the independent witnesses and the complainant that all the currency notes were treated with phenolphthalein powder and independent witness Sh. Senthil was asked to touch the said currency notes and a separate solution of sodium carbonate in water was prepared and the witness mentioned above was asked to dip the same in the said solution which turned pink. This was explained to every member of the trap team.

Thereafter, personal search of complainant was conducted and it was ensured that nothing was left except for mobile phone and thereafter Rs. 2 Lakhs were put in the right pocket pant of the complainant by Sh. R. Senthil and he was also directed to shadow and remain close to the complainant in order to see and over hear the likely conversation between the accused and the complainant. Thereafter, the sealed memory card was opened in the presence of the independent witnesses after ensuring its emptiness and after recording the introductory voices of independent witnesses, memory card was inserted in the said DVR. The handing over memo is Ex. PW8/F bearing signatures of all the members of the trap team. Thereafter, all the team members along with the complainant and both independent witnesses left CBI office in two CBI vehicles and reached Green Park Metro Station gate no. 3, Arbindo Marg at 8:00 am, as it was told by the complainant that accused would meet him at Green Park Metro Station on 20.03.2019.

58. He further deposed that after reaching the spot, the shadow witness and the complainant were briefed again by him in respect of the transaction of bribe and the signal thereafter. The DVR containing the memory card was handed over to the complainant which he had kept in the left side upper pocket of his sleeveless Nehru jacket which he was wearing. The DVR was kept in switch on mode in order to record the likely conversation between the complainant and accused. The complainant was directed to leave and to wait for the accused to come. The shadow witness R. Senthil was also directed to

follow the complainant and to remain close to the complainant. Other team members also took their positions near Gurudwara at Arbindo Marg in a discreet manner and the team waited nearby for the pre-decided signal by the complainant or by the shadow witness.

59. The testimony of PW12 regarding the laying of the trap and handing over of Rs. 2 Lakhs in the denomination of Rs. 2,000/- to the TLO and the procedure how the trap was to be laid and that the phenolphthalein powder was put on those currency notes and the factum that the said currency notes were kept in right side pocket of his pant by independent witness has been corroborated by PW12 complainant, who further deposed that a new memory card was inserted in the recording machine and introductory voices were recorded and the same was kept in his jacket pocket in on mode and thereafter they started from the CBI office and went straight to the Green Park Metro Station.

60. The testimony of PW14 and PW12 regarding the constitution of the trap team, the procedure for laying the trap and the trap team leaving the CBI office for Green Park metro station has also been supported by shadow witness PW11 R. Senthil Kumar, who also deposed regarding the treating of the currency notes with the phenolphthalein powder and that the currency notes were kept in the complainant's right side pocket by him.

61. Therefore from the testimonial deposition of PW14, PW12 and PW11 as discussed above, the prosecution has been able to prove the constitution of the trap team, as also how the trap team members were explained about the procedure of the trap, as also the spraying of the currency notes of Rs. 2 Lakhs of the denomination of Rs. 2,000/- each brought by the complainant with phenolphthalein powder and keeping of the currency notes

in the right side pocket of the complainant by PW11, as also putting a new memory card in the DVR in the on mode in the pocket of complainant to record whatever conversation takes place between him and the accused. Nothing material has emerged in the cross-examination of the above witnesses, which could dilute the credibility or the veracity of the above witnesses or which could denude the probative force of the testimonial deposition of the above witnesses. Therefore, the prosecution has also been able to prove the presence of the trap team members including PW11, PW12 and PW14 near the Green Park Metro station on the date and time of the trap i.e. on 20.03.2019 around 8:00 AM.

62. PW17 Sh. Sri Narain Meena has also deposed regarding the same facts, as discussed above. His presence at the spot has also been proved in view of the corroborative testimonies of the above witnesses at the date and time of the trap.

63. Regarding the actual trap, PW12 has deposed that after reaching the spot i.e. Green Park Metro Station, CBI official Dharmendra showed him a demonstration how to handover the cash to Mr. Ravichandran or anyone who Mr. Ravichandran directs. Then Mr. Dharmendra instructed him to not to switch off the recording device. He and Senthil went to the tea shop near the Union Bank and Gurudwara Temple. After some time, he called Mr. Ravichandran over phone which was on speaker mode. G. Ravichandran picked up the phone and said that he would be reaching within 10-15 minutes. He came by Honda City car of red colour.

He stopped where they were waiting for him near Union Bank. He opened the left front door of the car. Senthil was along with him at that time. Mr. G. Ravichandran called him by hand gesture. He sat on the front seat of the car. Mr. G. Ravichandran was on driver seat. Mr. Senthil was near the

bonnet of the car. He took out the money from his right side pant pocket. He asked him why he had not brought the money in cover. He kept mum. Mr. Ravichandraan instructed him to keep the money near the gear rod. After keeping the money, he signaled by moving his hand on his head. The glass window of the left side front door of the car was slightly opened. Senthil gave signal to other officials. Then, the CBI officials quickly came and grabbed the hands of Mr. Ravichandran. After grabbing hands of Mr. G. Ravichandran, another CBI official asked him whether he had given money to G. Ravichandran or not and he said yes and he showed where the money was placed.

64. The testimony of PW12 the complainant regarding the presence of the accused in his Honda City car and the manner of the trap is corroborated by the testimony of PW11 R. Senthil Kumar, who has also deposed that accused came in red colour Honda City car. Complainant sat besides driver seat in the car. The accused was driving the car and he was alone in the car. The front left door of the car was kept little open and the window was also half open where the complainant was sitting. He was standing at front left side of car and observing them. Accused was instructing to the complainant by gesture to keep the money in front of gear at the dash board console. He could see their body language and the complainant kept the money at the dash board console. He waived the pre-decided signal to the TLO and the team. Nothing material has emerged in the cross-examination of the above witnesses which could toned down the probative force of the testimonial deposition of the above witnesses on the anvil of credibility, veracity and objectivity.

65. From the testimonies of the above witnesses i.e. PW12 the complainant and the shadow witness PW11, the presence of the accused in his Red colour Honda City car as well as the presence of the complainant in the

same car, sitting besides the accused near the Green Park Metro Station has been clearly established. It has also been established by PW12 that at the instance of accused that he sat on the front seat of the car, adjacent to the seat of the driver being driven by the accused G. Ravichandran and the complainant took out the money from the right side pocket of his pant, to this the accused asked him why he has not brought the money in cover, to which he kept mum and thereafter, on his instructions, he kept the money near the gear rod of the car.

66. The testimony of PW12 regarding the above trap transaction is also corroborated by the transcription of the trap, which was recorded by the complainant in his DVR and the above transcription which was translated by PW10 S. Srinivasan, the authenticity of which is even otherwise not challenged by the defence, which is Ex. PW10/G (colly).

The PW12 complainant also corroborated the same, as he stated that he visited the CBI office in May, 2019 to verify the translation of the recorded conversation between him and Ravichandran and there IO was present along with Senthil. He heard the same, which was in Tamil language. He recognized the voices in the said recorded conversation. The same was already transcribed in Tamil language. The same was read over to him in Tamil by Senthil. The said transcription was correct. His attention was drawn to voice identification-cum-transcription memo dated 02.05.2019 Ex. PW11/K at page 1 and transcription in Tamil language from page 2 to 42 in D-18 and he identified his signatures at point B and he also stated that the transcription i.e. Q-1, Q-2, Q-3, Q-4, Q-5 and S-1, which was in Tamil language bears his signatures on all pages at point A. The said transcriptions at pages nos. 2 to 42 in D-18 are collectively Ex. PW12/Z-9.

67. PW6, the voice expert Sh. Subrat Kumar Chaudhary in his report

Ex. PW6/C has opined that the said voice was the voice of the accused G. Ravichandran. The same also corroborates the testimonial deposition of PW12 regarding what actually transpired at the time of trap in the car of the accused, when the accused and complainant were conversing with each other. The relevant portion of the said transcript is as under :

C – He had arrived... sir...sir...

A – where he need to go

C – what sir

A – where you need to go... are you fine...

C – he will take an auto from here

A – Oh is it... then you...

C – I will leave from here only...

A – ok ok if you need I will drop you in front of metro

C - I will go from here

A – why are you troubling him

C – because I don't know the address that's why... then sir.. two lacs is here sir

A – keep it here

C – shall I keep it here

A – keep it there only... you should have brought it in a cover because it is visible

C – ok sir

A – ok

C – when the tender will come

A – yet

C – tender 10 to 15 days...

A – yes it will happen after decision 10 to 15 days may take I suppose

W – are you going to home

A – yes I am now my...

W – I am on permission

A – is it you are going now

W – yes sir

A – ok

C – Ok sir

68. Though PW11 has also stated that he could see this transaction, as the window was half opened, where the complainant was sitting, as he was standing near the left side of the car and was observing them and accused instructed the complainant by gesture to keep the money in front of gear at dash board console. This testimony of PW11 that he could be present so near the place of transaction of trap appears to be bit doubtful, as it is hard to imagine that the presence of PW11 so near the car at the time of trap transaction would not have alarmed the accused that something was wrong or something was amiss, thereby putting doubts in his head regarding the bribe / trap transaction, as if would have seen PW11 so near the car in the hearing distance, this would have made him uncomfortable that someone else was watching him, more so as he was already acquainted with PW11, as PW11 had himself deposed that he had met him along with the complainant at a restaurant near Green Park earlier.

69. Regarding the recovery, the testimony of PW11 Sh. R. Senthil Kumar is relevant, who has deposed in his examination in chief recorded on 19.01.2023 as under :

Accused was instructing to the complainant by gesture to keep the money in front of gear at the dash board console. I could see their body language and the complainant kept the money at the dash board console.

I waived the pre-decided signal to the TLO and the team. The team came near the car and the CBI official Sh. Kuldeep Singh by holding his right hand took him away from the car. TLO Dharmender holded his left wrist of the accused. Immediately the complainant got away from the car and recording device was switched off by the CBI official. CBI official asked the accused why he has taken the bribe. Accused got stunned and kept mum for some time. Accused told that complainant had himself kept the money there. Mr. Meena, independent witness collected the money from dash board console near gear lever on the instructions of TLO Sh. Dharmender.

I and Mr. Meena counted and tallied the currency notes in toto with handing over memo.

XXXX

XXXX

XXXX

Thereafter one small piece of wet cloth was rubbed at the spot where money was kept. It was treated with sodium carbonate solution and the solution turned pink. The solution was kept in one empty bottle and wrapped with white cloth and was sealed with the brass seal. I, Meena and TLO signed on the sealed bottle. After counting the recovered currency notes, it was kept in an envelope and the envelope was signed by myself, Meena and TLO. The envelope was also sealed. Rough site plan was prepared on the spot and I, Meena and TLO signed it.

70. The testimony of PW11 regarding the recovery of Rs. 2 Lakhs

currency notes from the dash board console of the car of the accused is corroborated by the testimony of PW17 Sh. Narayan Meena, as also by the testimonies of PW14 TLO Sh. Dharmendra Kumar and the complainant PW12 Sh. V. Venkatesh in material particulars, which have not been diluted after their cross-examination.

71. From the testimonies of the above witnesses, it has been established that the bribe money was recovered by the witness PW17 Sh. Narayan Meena from the dash board / console of the car of the accused, which was counted by both the independent witnesses and tallied with the specific number mentioned in the handing over memo. All the currency notes were found intact. The said recovery memo is Ex. PW8/G.

72. From the testimony of PW14 TLO, which is corroborated by the testimonies of above witnesses, it has also been established that the wash of the said place, where the money was kept as directed by the complainant was taken with the piece of cloth, which was then dipped in freshly prepared sodium carbonate solution which on doing so turned into pink confirming the fact that the bribe amount was kept on the dash board near the gear lever by the complainant on the directions of the accused.

The said pink solution was then transferred in a transparent bottle including the said piece of cloth which was used for taking the wash/swab of the dashboard. The said transparent bottle was properly capped, tied and sealed with the CBI brass seal. White paper label was also pasted on the said sealed bottle and same was signed by both the witnesses and myself after mentioning the RC number and marked as CDBW.

73. Nothing material has emerged in the cross-examination of the aforesaid witnesses putting on doubt the recovery of bribe money or the wash /

swab taken from the dashboard console of the car of accused. The fact that the same contained phenolphthalein powder is also corroborated by the CFSL chemical examination expert PW7 Ms. Deepti Bhargava, who has proved her chemical examination report as Ex. PW7/A dated 11.04.2019. As per her report **“The exhibit CDBW gave positive tests for the presence of Phenolphthalein and Sodium Carbonate.”**

74. Nothing material has come out in her cross-examination. Though, she has admitted that the bottle Ex. PW7/D contains colour less liquid in her cross-examination, however, she explained that with the passage of time the solution containing phenolphthalein and sodium carbonate become colour less due to chemical changes.

75. Now the question which has to be decided is whether in the above transaction, as deposed by PW12 complainant and corroborated by the voice transcription recorded in the DVR Ex. PW10/G (colly) and also verified by PW12 complainant vide Ex. PW11/K and Ex. 12/Z-9, which are the Tamil transcription of the voice recorded in Q1, Q2, Q3, Q4 and S1, there was an element of demand, acceptance and recovery or there was only acceptance and recovery and no demand on the date of the trap. As culled out in the afore mentioned judgment(s), to make out an offence u/S. 7 of the PC Act (as amended in 2018) as all the ingredients of demand, acceptance and recovery of bribe are sine qua non, which have to be proved beyond reasonable doubt by the prosecution. Even one is missing, the offence would not be made out.

76. From the relevant transcription and the testimony of PW12 with regard to the trap dated 20.03.2019, the complainant when asked “Sir.. two lacs is here sir”, the accused says, “keep it here”. Thereafter, the following conversation took place :

C – shall I keep it here

A – Keep it there only... you should have brought it in a cover... because it is visible

C – ok sir

A – ok

From the said recorded conversation in the DVR and the testimony of PW12, it appears that there is only acceptance of the bribe money on the date of the trap, as the demand is nowhere evident in the said conversation whereby it could be concluded that the accused demanded the said amount of Rs. 2 Lakhs as bribe from the complainant PW12, no such logical inference can be drawn from the afore said conversation.

77. The Ld. PP for CBI had argued that the accused made demand through gestures, therefore, the prosecution has been able to make out a case u/S. 7 of the PC Act. No doubt the demand can be made through gestures also, but in that case there has to be evidence to that effect, which is not there. The same could have been proved to be so, if there was videography of the above transaction of bribe, which could have easily done by the prosecution by keeping a hidden camera in the custody of the complainant, as he had recorded the conversation between him and the accused covertly by using the DVR, then why the videography of the same could not have been done to show that the accused demanded the bribe money on the day of the trap by gestures.

In the absence of any such evidence, no such conclusion can be drawn from the foregoing discussion, the prosecution has only been able to prove acceptance and recovery of the bribe money on the date of trap. It has categorically failed to prove demand of bribe money on the date of trap by the accused.

78. The Ld. PP for CBI has further argued that once acceptance has been proved then the presumption u/S. 20 of the PC Act is triggered, which reads if it is proved that public servant accused of an offence u/S. 7 of PC Act has accepted any undue advantage from any person, then it shall be presumed unless the contrary is proved that he accepted that undue advantage as a motive or reward u/S. 7 for performing of the public duty in properly or dishonestly. In view of the said presumption, ingredients of Sec. 7 are duly proved by the prosecution, therefore, the accused is liable to be convicted u/S. 7 of the PC Act 1988 (as amended in 2018).

79. On the other hand, Ld. Defence Counsel has argued that no such presumption has been triggered u/S. 20 of the PC Act in this case, as an illegitimate trap was laid by the prosecution by knowingly filing a false complaint in conspiracy with PW5, PW12, PW15 and PW20 and one Veera Raghvan. In this regard he has relied upon the testimony of DW1, cross-examination of PW12 and that of IO PW22 to claim that all these persons were in constant touch with each other during verification proceedings and PW12 was set up by M/s. Global Flight Handling Services, who lost tender for ground handling services for Group A Chennai Airport, accused who was in finance department gave his views, which was not favourable to them, they tried to regain that tender, but in vain.

80. In order to seek revenge, they conspired and planted PW12 to make a false complaint in order to falsely implicate the accused. Therefore, he has argued that ill motives of the complainant and other persons coupled with no demand on 20.03.2019 raises probability of false implication, which itself casts doubt regarding the manner of trap being bonafide, which in turn casts doubt upon the manner of acceptance or acceptance being genuine and the entire circumstances surrounding the acceptance has been shrouded with

suspicion, therefore, the same dispels the presumption u/S. 20 or the same is not triggered in this case, thereby the accused is liable to be acquitted.

81. I have examined the rival pleas on this aspect.

82. Whether the trap was legitimate or illegitimate or whether the accused was entrapped does not make any difference to the outcome of the present case, as some sort of sly or enticement will always be there in a trap, whatever will the motive good or bad whether actuated by someone else, it does not matter, as it is for the public servant not to be tempted by the allurements of illegal gratification.

83. Section 20 of The Prevention of Corruption Act, 1988 (as amended in the year 2018) is reproduced as under :

20. [Presumption where public servant accepts any undue advantage. [Substituted by Act No. 16 of 2018, dated 26.7.2018.]

- Where, in any trial of an offence punishable under section 7 or under section 11, it is proved that a public servant accused of an offence has accepted or obtained or attempted to obtain for himself, or for any other person, any undue advantage from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or attempted to obtain that undue advantage, as a motive or reward under section 7 for performing or to cause performance of a public duty improperly or dishonestly either by himself or by another public servant or, as the case may be, any undue advantage without consideration or for a consideration which he knows to be inadequate under section 11.] [Inserted by Act No. 16 of 2018, dated 26.7.2018.]

Section 20 of the PC Act, 1988 before amendment in the year 2018 is reproduced as under :

20. Presumption where public servant accepts gratification other than legal remuneration.—

(1) Where, in any trial of an offence punishable under section 7 or section 11 or clause (a) or clause (b) of subsection (1) of section 13 it is proved that an accused person has accepted or obtained or has agreed to accept or attempted to obtain for himself, or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7 or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

84. On comparison of the old provision of Sec. 20 of the PC Act prior to amendment in the year 2018 with the new provision as amended in the year 2018, further it appears that Sec. 2(d) has been inserted in the year 2018 in the Amended Act, which defines undue advantage as under :

2[(d) “undue advantage” means any gratification whatever, other than legal remuneration.

**Explanation.—For the purposes of this clause,—
(a) the word “gratification” is not limited to pecuniary gratifications or to gratifications estimable in money;**

(b) the expression “legal remuneration” is not restricted to remuneration paid to a public servant, but includes all remuneration which he is permitted by the Government or the organisation, which he serves, to receive.]

Explanation 1.—Persons falling under any of the above sub-clauses are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation

Therefore, it appears that Section 2(d) has been inserted in the year 2018, wherein undue advantage means gratification whatever, other than legal remuneration. In the explanation the expression gratification has been further expanded as also the expression “legal remuneration”.

Earlier the words in the Section 20 were any gratification (other than legal remuneration), whereas it now reads as defined u/S. 2(d), the word undue advantage as any gratification whatever other than legal remuneration with the explanation to Section 2(d) of the expression gratification and legal remuneration. However, on comparison, it appear only the word whatever has been added in the definition of undue advantage in Section 2(d) along with explanation of the expression gratification and legal remuneration.

However, on comparison of Section 20 before amendment in the year 2018 and the new Section 20 after post amendment, it appears that both the said provisions are in pari materia with each other and there is no major change in the same and substantially they are the one and same.

85. The relevant law with regard to Section 20 is being discussed hereunder :

It has been held by the *Hon’ble Supreme Court in recent Constitutional Bench judgment titled as Neeraj Dutta Vs. State (Government of NCT of Delhi) in Criminal Appeal No. 1669 of 2009 decided on 15.12.2022* as under :

68. What emerges from the aforesaid discussion is summarised as under:

(a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13 (1)(d) (i) and(ii) of the Act.

(b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.

(c) Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.

(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 [Section 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 [Section 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 inturn there is a payment made which is received by the public servant, would be an offence of obtainment under [Section 13 \(1\)\(d\)](#) and (i) and (ii) of the Act.

(e) The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the material on record, the Court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands.

(f) In the event the complainant turns 'hostile', or has died or is unavailable to let in his evidence during trial, demand of illegal gratification can be proved by letting in the evidence of any other witness who can again let in evidence, either orally or by

documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant.

(g) In so far as [Section 7](#) of the Act is concerned, on the proof of the facts in issue, [Section 20](#) mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law. Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Section 13 (1) (d) (i) and (ii) of the Act.

(h) We clarify that the presumption in law under [Section 20](#) of the Act is distinct from presumption of fact referred to above in point (e) as the former is a mandatory presumption while the latter is discretionary in nature.

69. In view of the aforesaid discussion and conclusions, we find that there is no conflict in the three judge Bench decisions of this Court in B. Jayaraj and P. Satyanarayana Murthy with the three judge Bench decision in M. Narasinga Rao, with regard to the nature and quality of proof necessary to sustain a conviction for offences under [Sections 7](#) or 13(1)(d)(i) and (ii) of the Act, when the direct evidence of the complainant or “primary evidence” of the complainant is unavailable owing to his death or any other reason. The position of law when a complainant or prosecution witness turns “hostile” is also discussed and the observations made above would accordingly apply in light of [Section 154](#) of the Evidence Act. In view of the aforesaid discussion, we hold that there is no conflict between the judgments in the aforesaid three cases.

70. Accordingly, the question referred for consideration of this Constitution Bench is answered as under:

In the absence of evidence of the complainant (direct/primary, oral/documentary evidence) it is permissible to draw an inferential deduction of culpability/guilt of a public servant under [Section 7](#) and [Section 13\(1\)\(d\)](#) read with [Section 13\(2\)](#) of the Act based on other evidence adduced by the prosecution.

71. We direct that individual cases may be considered before the appropriate Bench after seeking orders of the Hon’ble the Chief Justice of India.

86. Based on the law laid down by the Hon’ble Supreme Court in the above Constitutional Bench judgment, it has been held in the judgment **Neeraj Dutta Vs. State (Govt. of NCT of Delhi of Delhi) 2023 LiveLaw (SC) 211**, in the relevant paras as under :

11. Even the issue of presumption under Section 20 of the PC Act

has been answered by the Constitution Bench by holding that only on proof of the facts in issue, Section 20 mandates the Court to raise a presumption that illegal gratification was for the purpose of motive or reward as mentioned in Section 7 (as it existed prior to the amendment of 2018). In fact, the Constitution Bench has approved two decisions by the benches of three Hon'ble Judges in the cases of B. Jayaraj¹ and P. Satyanarayana Murthy². There is another decision of a three Judges' bench in the case of N. Vijayakumar v. State of Tamil Nadu⁵, which follows the view taken in the cases of B. Jayaraj¹ and P. Satyanarayana Murthy². In paragraph 9 of the decision in the case of B. Jayaraj¹, this Court has dealt with the presumption under Section 20 of the PC Act. In paragraph 9, this Court held thus:

“9. Insofar as the presumption permissible to be drawn under Section 20 of the Act is concerned, such presumption can only be in respect of the offence under Section 7 and not the offences under Sections 13(1)(d)(i) and (ii) of the Act. In any event, it is only on proof of acceptance of illegal gratification that presumption can be drawn under Section 20 of the Act that such gratification was received for doing or forbearing to do any official act. Proof of acceptance of illegal gratification can follow only if there is proof of demand. As the same is lacking in the present case the primary facts on the basis of which the legal presumption under Section 20 can be drawn are wholly absent.”

(emphasis added)

The presumption under Section 20 can be invoked only when the two basic facts required to be proved under Section 7, are proved. The said two basic facts are ‘demand’ and ‘acceptance’ of gratification. The presumption under Section 20 is that unless the contrary is proved, the acceptance of gratification shall be presumed to be for a motive or reward, as contemplated by Section 7. It means that once the basic facts of the demand of illegal gratification and acceptance thereof are proved, unless the contrary are proved, the Court will have to presume that the gratification was demanded and accepted as a motive or reward as contemplated by Section 7. However, this presumption is rebuttable. Even on the basis of the preponderance of probability, the accused can rebut the presumption.

12. In the case of N. Vijayakumar⁵, another bench of three Hon'ble Judges dealt with the issue of presumption under Section 20 and the degree of proof required to establish the offences punishable under Section 7 and clauses (i) and (ii) Section 13(1)(d) read with Section 13(2) of PC Act. In paragraph 26, the bench held thus:

“26. It is equally well settled that mere recovery by itself cannot prove the charge of the prosecution against the accused. Reference can be made to the judgments of this Court in C.M. Girish Babu v. CBI [C.M. Girish Babu v. CBI, (2009) 3 SCC 779 : (2009) 2 SCC (Cri) 1] and in B. Jayaraj v. State of A.P. [B. Jayaraj v. State of A.P., (2014) 13 SCC 55 : (2014) 5 SCC (Cri)

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In the aforesaid judgments of this Court while considering the case under Sections 7, 13(1)(d)(i) and (ii) of the Prevention of Corruption Act, 1988 it is reiterated that to prove the charge, it has to be proved beyond reasonable doubt that the accused voluntarily accepted money knowing it to be bribe. Absence of proof of demand for illegal gratification and mere possession or recovery of currency notes is not sufficient to constitute such offence. In the said judgments it is also held that even the presumption under Section 20 of the Act can be drawn only after demand for and acceptance of illegal gratification is proved. It is also fairly well settled that initial presumption of innocence in the criminal jurisprudence gets doubled by acquittal recorded by the trial court.”

(emphasis added)

Thus, the demand for gratification and its acceptance must be proved beyond a reasonable doubt.

13. Section 7, as existed prior to 26th July 2018, was different from the present Section 7. The unamended Section 7 which is applicable in the present case, specifically refers to “any gratification”. The substituted Section 7 does not use the word “gratification”, but it uses a wider term “undue advantage”. When the allegation is of demand of gratification and acceptance thereof by the accused, it must be as a motive or reward for doing or forbearing to do any official act. The fact that the demand and acceptance of gratification were for motive or reward as provided in Section 7 can be proved by invoking the presumption under Section 20 provided the basic allegations of the demand and acceptance are proved...”

87. In view of the ratio of law laid down in the aforesaid judgment, it is crystal clear that presumption u/S. 20 of the PC Act can only be invoked when two basic facts required to be proved u/S. 7 of PC Act are proved. The said basic facts are demand and acceptance of gratification. It means that once the basic facts of the demand of illegal gratification and acceptance thereof are proved, unless the contrary is proved, the Court will presume that the gratification was demanded and accepted as a motive or reward as contemplated by Sec. 7 of the PC Act. This presumption is rebuttable on preponderance of probabilities.

88. Since the basic ingredients of Sec. 7 before amendment of 2018 and post 2018 remain the same i.e. the prosecution has to prove demand,

acceptance and recovery of the bribe money on the day of trap. Further as discussed above, the Section 20 prior to amendment of 2018 and post 2018 are almost para materia with each other, therefore, the law with regard to the basic ingredients which leads to triggering of presumption u/S. 20 PC Act is the same as laid down in the aforesaid judgment of the Hon'ble Supreme Court.

Here in the case under discussion, the prosecution has failed to prove the demand of undue advantage, which in turn has been defined as any gratification whatever, other than legal remuneration. Though the prosecution has been able to prove the other ingredients of acceptance and recovery of the undue advantage or the illegal gratification other than legal remuneration, in view of the foregoing discussion therefore the presumption u/S. 20 of the PC Act post amendment of 2018 is not triggered or does not come into play for the benefit of the prosecution.

89. **TO SUM UP**

In view of the law laid down in the judgment(s) ***B. Jayaraj vs. State of AP, 2014, Cr. L J 2433, SeJappa vs. State, AIR 2016, SC 2045 and Mukhtiar Singh (Since deceased) Through his LR vs. State of Punjab (supra)***, the ingredient of demand of bribe is sine qua non of Section 7 of the PC Act (as amended in the year 2018), which has not been proved vide the above discussion and taking into account the overall evidence with regard to evidentiary facts, as discussed under the sub-headings (a) & (b), consequently the prosecution has failed to make out a case u/S. 7 of the PC Act (as amended in the year 2018).

90. Since the yardstick which is to be achieved by the prosecution in criminal trial is probalistic in nature i.e. the prosecution should prove its case against a accused beyond reasonable doubt i.e. the probabilities of the prosecution case or probative force of its case as a whole, or weigh thereof as

a whole should be beyond any sort of reasonable doubt against the accused, which the prosecution has failed to achieve in the present case.

91. As a resultant, the accused G. Ravichandran stands acquitted of the charge(s) u/S. 7 of the Prevention of Corruption Act, 1988 **(as amended in 2018)**.

The above accused is stated to have not furnished his bail bond(s) in compliance of Section 437-A CrPC. He is directed to do so immediately, which when furnished shall remain valid for a period of six months from such date, as per the provisions of Section 437-A CrPC.

File be thereafter consigned to record room.

**Announced in the Open Court
on this 22nd day of April, 2024.**

**(Sanjeev Aggarwal)
Special Judge (PC Act) (CBI)-10
Rouse Avenue District Courts
New Delhi/22.04.2024**