

2025 LiveLaw (SC) 310

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
SUDHANSHU DHULIA; J., K. VINOD CHANDRAN; J.**

MARCH 7, 2025.

CRIMINAL APPEAL NO. _____ OF 2025 (@Special Leave Petition (Crl.)

No. _____ 2025) (@ D. No.18552 of 2022)

MADAN LAL versus STATE OF RAJASTHAN

Prevention of Corruption Act, 1988; Section 20 - Demand and Acceptance of Bribe - Trap Case - Inconsistencies in Complainant's Testimony - Hostile Independent Witnesses - Reasonable Doubt – Acquittal - Where a trap was laid based on a complaint alleging demand and acceptance of bribe by public servants for processing a license application, and the complainant's testimony regarding the amount demanded was inconsistent and contradictory to the written complaint, and the independent witnesses turned hostile and contradicted the prosecution's version of the trap proceedings, and the evidence raised reasonable doubt as to the actual acceptance of the bribe, the conviction and sentence imposed by the Trial Court and affirmed by the High Court were set aside. The prosecution failed to establish the demand and acceptance of bribe beyond reasonable doubt, precluding the presumption under Section 20 of the Act. (Para 16)

W I T H CRIMINAL APPEAL NO. _____ OF 2025 (@Special Leave Petition (Crl.) No.6895 of 2022)

[Arising out of impugned final judgment and order dated 25-05-2022 in SBCRA No. 134/2000 passed by the High Court of Judicature for Rajasthan at Jodhpur]

For Petitioner(s): Mr. Braj Kishore Mishra, AOR Mr. Abhishek Yadav, Adv. Mr. Vikram Patralekh, Adv. Mr. Ajay Kumar Srivastava, Adv. Mr. Pradeep Kumar Yadav, Adv. Mr. Vishal Thakre, Adv. Ms. Anjale Kumari, Adv. Mr. Sadam Satya Narayana Raja Yadav, Adv. Mr. Gopal Singh, Adv. Mr. Sanjeev Malhotra, AOR

For Respondent(s): Mr. Hemendra Jaiiya, Adv. Mr. Sandeep Malik, Adv. Mr. Sanjay Baranwal, Adv. Mr. Milind Kumar, AOR

J U D G M E N T

K. VINOD CHANDRAN, J.

Leave granted.

2. A trap sprung, on a complaint lodged, led to the prosecution and conviction of an Enforcement Inspector and Office Assistant in the Supply Department for demand and acceptance of bribe under the Prevention of Corruption Act, 1988¹. Both the accused were sentenced under Section 13(i)(d) read with Section 13(2) with rigorous imprisonment for one year and fine of Rs. 1000/and a further sentence of R.I for six months under Section 7(2) of the Act, also with a fine of Rs. 1000/-, with default sentences for failure to pay the fine.

3. The complaint leading to the trap, was laid by PW 5, who applied for a Rajasthan Trade Authority (RTAL), at the District Supply Office, for carrying on sale of food grains and edible oils. Processing the said application, an inspection was conducted in the shop, for which the license was applied for, by the Enforcement Inspector; by name Madan Lal, the 2nd accused, who at the time of inspection demanded bribe for speeding up the

¹ "P.C. Act"

issuance of license. Following up with the demand, PW 5 reached the DSO at Sri Ganganagar on the very next day and met the Enforcement Officer as also the Office Assistant; Narendra Kumar, the 1st accused, when the latter demanded bribe for both the accused. PW 5 had paid the license fee of Rs. 1000/- and being distraught with the demand of bribe, approached the Anti-Corruption Bureau² who laid the trap on the very next day. The prosecution was built upon the demand alleged by PW 5 and the trap proceedings, which ensued the complaint to the ACB.

4. We have heard Mr. Manoj Swarup, learned Senior Counsel appearing for the 2nd accused, and Ms. Arundhati Katju, the learned Senior Counsel appearing for the 1st accused. For the State, arguments were put forth by Mr. Hemendra Jailiya, the learned Government Counsel.

5. PWs 1, 2, 6 and 7 were independent witnesses. PW 3, an Inspector of the ACB and PW 4, a Constable, comprised the trap team led by PW 8, the Deputy Superintendent of Police. The accused examined two witnesses as DW 1 and 2.

6. The Trial Court found that the statement recorded before the Magistrate under Section 164 of the Code of Criminal Procedure, 1973³ and Exhibit P-1, the complaint filed before the ACB, supports the statements made in relation to the demand. As far as the receipt of the amount, reliance was placed on the official witnesses; while the independent witnesses PWs 1 and 2, though declared hostile, have spoken in tandem with the official witnesses as to the setting up of the trap, who also confirmed their signatures on the mahazar drawn at the spot. The High Court also found the various contentions raised by the accused and affirmed the findings of the Trial Court, leading to the conviction of the accused and the sentence imposed.

7. Before us, it was argued that the demand was not proved since the statement of PW 5-complainant, had many inconsistencies and differs considerably from Exhibit P-1-complaint. It was argued that the demand is spoken only by PW-5 and it is unbelievable, especially since the 2nd accused had on the very same day of the inspection recommended the issuance of license, which, even according to the complainant was handed over to him at the venue of the trap, simultaneous to the trap. The contention of both the accused was that the money was thrust upon them and in the scuffle ensuing, some currency notes were scattered on the floor which the police team who entered the room directed the accused to pick up. Therefore, no reliance can be placed on washing the hands and dress of the accused, with the test solution. There is no demand or acceptance as coming out from the evidence led.

8. On the other hand, the learned Government Counsel asserts that the trap proceedings successfully caught the accused redhanded. The demand was spoken of by the complainant and all the official witnesses spoke of the receipt of the money, which was further validated by the test solution turning pink on washing the hands of the accused and their dress. The accused has failed to rebut the presumption under Section 20 of the Act especially when the demand and acceptance of bribe is unequivocally proved. The concurrent findings of the Courts below do not warrant any interference.

9. Annexure P-3 produced in I.A. No.101620 of 2023 is the complaint made by PW 5 before the ACB. In the complaint, the allegation was that the 2nd accused when he came for inspection to the shop of the complainant, demanded an amount of Rs. 200/- for

² "ACB"

³ "Cr.P.C."

approving maps, etc. and also spoke of the necessity to give money to the concerned clerk. The complainant then offered to speak to the accused in their office; when the 1st accused demanded Rs. 500/-; Rs. 300/- for himself and Rs. 200/- for the 2nd accused. The complainant protested, expressing inability to pay such an amount and eventually, the 1st accused agreed to settle for Rs. 400/-. The complainant agreed to pay the amount on the very next day i.e. 30.06.1994 and straightway approached the ACB.

10. In the deposition before Court, PW 5 submitted that while the 2nd accused visited his shop, he demanded Rs. 200 to 400 for expenses. The 2nd accused also asked him to meet both the accused next day in the office; where the 1st accused is stated to have asked for money, the exact amount of which, the complainant deposed, he was not sure of. The complainant then submits that the matter was settled for Rs. 400/- and he had approached the ACB immediately thereafter.

11. We have given anxious consideration to the evidence led. There are glaring inconsistencies insofar as the amount of money demanded. Further, in cross-examination, PW 5 again admitted that he does not remember the exact amount demanded by the 2nd accused. Hence, in the deposition before Court, the complainant was not able to speak of the exact amount demanded by the 1st accused or the 2nd accused, contrary to his assertion made in the complaint. The discrepancies raise serious doubts as to the demand having been made.

12. Insofar as the trap is concerned, PW 1 and 2 are the independent witnesses, government employees, who were accompanying the trap team. PW 1 stated that when he entered the scene of crime, which was the office room, two currency notes of Rs.100/- were lying scattered on the ground which he picked up on demand made by the officers of the ACB. He also deposed that the 1st accused had made a statement that the currency notes fell down from the hands of the complainant. He categorically, stated in cross-examination by the Prosecutor, after being declared hostile, that he did not see the physical transaction of bribe. PW 2, the other independent witness, also stated that he went into the scene of crime only after the complainant signalled. He also, hence, was not a witness to the handing over of the money. According to him, the 2nd accused was sitting in a chair and currency notes of Rs. 100/- was lying on the side of the chair on which the 2nd accused was sitting and the 2nd accused feigned ignorance as to how the notes were placed there. According to PW2, it was the statement of the complainant that he had given Rs.400/- to the 1st accused. He, specifically, denied in the cross-examination by the Prosecutor, that any statement was made by the complainant, that after handing over of Rs. 400/- to the 1st accused, the 1st accused handed over Rs 200/- to the 2nd accused. PW 6 was an employee of the district supply office who also turned hostile. He spoke of the scuffle that ensued when the complainant tried to thrust the money into the pocket of the accused.

13. PW 3, the Inspector included in the trap team deposed that after the complainant gave the signal, the trap team moved into the office room wherein the complainant had stated that he had given the 1st accused Rs. 400/- and Rs. 200/- was handed over by the 1st accused to the 2nd accused; which currency notes were put by both accused in their pant pocket. PW 3 had specifically stated that when he went inside the office room, PW 4 Constable and an independent witness was inside the room. The name of the independent witness is not specified, but we have already seen that both the independent witnesses who accompanied the trap team turned hostile. According to PW 4 Constable, he had accompanied the complainant into the room and had witnessed the entire transaction. However, PW 1-independent witness who was with the Constable has

specifically stated in his deposition that both of them entered the room after the complainant gave the signal; which was after the money had passed hands. The complainant gave the signal only after the alleged handing over of money and receipt of the license.

14. PW 6, as we noticed, was an employee in the office of the accused who did not subscribe to the prosecution story. PW 7 was an auto driver who also did not toe the line of the prosecution. PW 8 who led the trap team spoke of the proceedings in tandem with the prosecution story.

15. On an examination of the evidence, there is considerable doubt raised in our mind, which qualifies as reasonable doubt, as to whether there was acceptance of bribe amounts by both the accused. True, the officers of the trap team spoke about the handing over of the money by the complainant to the 1st accused who handed over half, to the 2nd accused; which amounts were said to have been put by both the accused in their trouser pockets. PW 8 who led the trap team merely spoke of a recovery of the bribe amounts from the possession of the accused and the hands and trousers of the accused having positively reacted to the test solution. The said deposition is contrary to the statements made by the independent witnesses that some notes were found thrown on the floor. None of the officers spoke of any of the accused having taken out the notes and thrown it on the floor.

16. On an examination of the entire evidence, we are of the opinion that the prosecution has failed to establish beyond all reasonable doubt, the demand of bribe and its acceptance, in a trap laid by the trap team of the ACB. In that circumstance there is no question of a presumption under Section 20 arising in this case. The conviction and sentence of the accused as brought out by the Trial Court and affirmed by the High Court, hence, is set aside. The bail bonds, if any executed by the accused, in these cases, shall stand cancelled.

17. Accordingly, the appeals stand allowed, acquitting the accused for reason of the prosecution having not established and proved the allegation of demand and acceptance of bribe by the accused beyond reasonable doubt.

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