Dileepbhai Nanubhai Sanghani vs State Of Gujarat on 27 February, 2025

Author: Sudhanshu Dhulia

Bench: Sudhanshu Dhulia

2025 INSC 280

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO._____ OF 2025
(@S.L.P (Crl.) No. of 2025
@ Diary No.46289 of 2024)

Dileepbhai Nanubhai Sanghani …Appellant

Versus

State of Gujarat & Anr. ...Respondents

JUDGMENT

K. VINOD CHANDRAN, J.

Leave granted.

2. The appellant was a Minister in the Government of the State of Gujarat, who after his resignation was proceeded with under the Prevention of Corruption Act, 1988 1. The allegation 1 For brevity 'the Act' fishing contracts in the reservoirs vested with the State were allotted without following the policy of the Government; mandating tender proceedings. The appellant is before us challenging the Order of the High Court refusing to quash the criminal proceeding initiated against him. The complainant, first respondent herein, inter-alia engaged in trading of fish, was desirous of obtaining fishing contracts by participating in the tender process, approached the High Court challenging the illegal grant by way of allocation, without any tender process. The High Court cancelled the grants and the State was directed to proceed to make such grants through a proper tender process. The complainant asserted that the tender process culminated in grants to successful bidders which

clearly generated more consideration for the State; indicating the attempt of accused Nos. 1 to 7 to obtain illegal gratification by making such peremptory grants to those who promised them to pay the demanded amounts from the proceeds received from the grants; resulting in huge loss to the State. The appellant herein who was arraigned as accused No.2 asserted that the grants were made to help the tribal community and the beneficial distribution of largesse of the State, to the marginalised sections of society was not with any intent of receiving or obtaining illegal gratification.

3. The Additional Sessions Judge (Anti- Corruption Bureau)2 rejected the discharge application which was sought to be challenged under Section 482 of the Code of Criminal Procedure3 before the High Court; unsuccessfully.

4. Shri Mukul Rohatgi, learned Senior Counsel appearing for the appellant pointed out that the records indicated that there is not an iota of material to allege corruption by the appellant, who is the second accused. The complainant had approached the High Court in the year 2008, with a writ petition to cancel the grants and the first complaint alleging corruption was made far later, in the year 2012; that too only against the Minister of State, who is the first accused. It was later that the Special Court issued summons to the accused 2 "Special Court" 3 For brevity "Cr.P.C." Nos.2 to 7 alleging offences under Sections 7, 8, 13(1)(a), 13(1)(d) and 13(2) of the Act; based on an investigation report which clearly found that there was no case made out, of corruption, against the second accused. There is not even an allegation that the appellant demanded or accepted bribe, for the purpose of issuing the grants, in the investigation report or in the statements recorded from the persons questioned by the investigating team. The grants made on pre-fixed upset price was to benefit the Padhar Adivasi Community which is made possible by the Policy framed by the Fisheries Department approved by the Cabinet and the Chief Minister as found in the investigation report itself (page 109 to 113 of the memorandum of SLP).

5. According to the learned Senior Counsel the High Court erred also on two counts, one, insofar as the finding that the earlier judgment in a similar application filed before the High Court, had pulled the shutters down on a subsequent challenge on the same ground. It is pointed out from the earlier order that the learned Single Judge of the High Court had specifically left liberty to the petitioner to file an appropriate application for discharge, after pre-charge evidence is recorded, while also holding that there was no good ground to interfere at that stage. The second error committed by the High Court is, insofar as peremptorily coming to a finding of corruption, without looking at the material collected by the investigating agency and without examining the records properly; specifically, the pre-charge evidence recorded which clearly indicated that there was no corruption in the grants made by the department of the Government, which was also only to ensure distribution of State largesse to the marginalised sections of society; specifically the tribal groups. The allegation of violation of policy or a mere peremptory grant made, without following the tender process cannot lead to an allegation of corruption under the Act as has been held in Neeraj Dutta v. State (NCT of Delhi) 4, by a Constitution Bench of five Judges. It is also argued that the suspicion, which restrains the Court from discharging an accused without a trial, 4 (2023) 4 SCC 731 should be premised on some material which commends itself to the Court as sufficient to entertain a prima-facie view that the offence is committed, as held in Dipakbhai Jagdishchandra Patel v. State of Gujarat 5. Reliance

is also placed on Sajjan Kumar v. CBI6 to contend that a prima-facie opinion cannot be formed on a mere suspicion as distinguished from a grave suspicion.

6. Shri Iqbal Syed, learned Senior Counsel appearing for the complainant/respondent at the outset referred to Section 20 of the Act to point out that there is a statutory presumption against the accused and in the present case there is a demand of bribe made by the Minister of State as evident from the statements recorded in the investigation report. Neeraj Dutta4 was quoted to urge that in the absence of direct oral or documentary evidence, the Court could draw inference from the evidence available, including circumstantial, to bring home the guilt of the accused. The policy deviation is a clear pointer to the avaricious intent 5 (2019) 16 SCC 547 6 (2010) 9 SCC 368 of the accused; to illegally profit, at the expense of the State which demonstrably suffered huge losses. The learned Senior Counsel would take us to the statements recorded by the investigation team as available in the voluminous report to argue that there has been allegation of demands made and at this stage there cannot be an abrupt closure of the case under Section 482 of the Cr.P.C.

7. The findings of the High Court at the earlier instance, that there is a prima-facie case against the accused still has relevance and cannot be easily upset. The Sessions Court and the High Court have clearly found that there is prima-facie case against the accused from the available materials in the investigation report. The complainant was examined and also the three police officers of the investigation team. It was looking at the investigation report that the court has entered on the prima-facie finding to reject the prayer for discharge. Reliance is also placed on the order of the High Court, in a Writ Petition moved by the complainant, where the illegal grants were cancelled and the State was directed to proceed in a proper tendering process. The clear policy of the Government mandated tendering insofar as distribution of State projects which could not have been deviated from by the Minister or the department. It was under the Minister's order that the department proceeded to make the grants without resorting to a tender process. Invocation of Section 482 at this stage would send a wrong message to the society, concludes the learned Senior Counsel.

8. Ms. Swati Ghildiyal, learned Counsel appearing for the State refuses to take sides and points out that while there is nothing found clearly as to the acceptance of bribe, by the investigation team, there is a statement recorded of a demand made by the 1st accused. The investigation report discloses that there was a meeting convened, of the Zonal Officers of the Fisheries Department in the Chambers of the 1st accused, in which the decision was taken to allocate water bodies, which decision was approved by the 2nd accused.

9. The entire controversy arose by reason of the grant of fishing rights in the reservoirs owned by the State. The second accused at that time was the Minister of Fisheries in the Government of Gujarat, when the grant was made. The complainant filed a Special Civil Application No. 9958 of 2009 in which the High Court quashed the fishing grants enabling fishing rights in the individual reservoirs and directed a tender process to be followed. Pursuant to the orders of the High Court of Gujarat a tender process was initiated and the complainant had also specifically pointed out the vast difference in the bids made pursuant to the tender process, which was, far more than that for which the grants were made illegally by the Minister and the departmental officers. According to the

respondent/complainant, this raises a presumption that there was an attempt to obtain undue advantage as a motive or reward under Section 7, for performing a public duty improperly and dishonestly.

10. The learned Senior Counsel appearing for the appellant had clearly pointed out that at this stage no presumption can be raised under Section 20 especially when the provision speaks of proof offered at a trial; that the public servant accused of an offence, has demanded, accepted or obtained or attempted to obtain for himself or for any other person any undue advantage from any person. Only on such proof offered, the presumption can be raised that the demand or receipt of illegal gratification was as a motive or reward such as is mentioned in Section 7; without consideration or inadequate consideration. In the present case from the materials produced before the Special Court there is nothing indicating even an allegation of demand of bribe by the second accused which would clearly indicate that there is no question of any proof being offered, on that aspect, at the trial. In this context, we have to look at the Constitution Bench decision in Neeraj Dutta4.

11. Neeraj Dutta3 held so, in paragraph 88 :

> "88. What emerges from the aforesaid discussion is summarised as under:
>
> 88.1. (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. 88.2. (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.
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> 88.3. (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.
>
> 88.4. (d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:
>
> (i) if there is an offer to pay by the bribe-giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.
>
> (ii) On the other hand, if the public servant makes a demand and the bribe-giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence

under Sections 13(1)

(d)(i) and (ii) of the Act.

(iii) In both cases of (i) and (ii) above, the offer by the bribe-giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Sections 13(1)(d)(i) and (ii), respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe-giver which is accepted by the public servant which would make it an offence.

Similarly, a prior demand by the public servant when accepted by the bribe- giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Sections 13(1)(d)(i) and (ii) of the Act.

88.5. (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.

88.6. (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.

88.7. (g) Insofar 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 Sections 13(1)(d)(i) and (ii) of the Act.

88.8. (h) We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to above in sub-para 88.5(e), above, as the former is a mandatory presumption while the latter is discretionary in nature."

12. It has been categorically held by the Constitution Bench that the proof of demand (or an offer) and acceptance of illegal gratification by a public servant is a fact in issue in the criminal proceeding and is a sine qua non to establish the guilt of the accused public servant under Sections 7 and 13 of the Act. Unless proof is offered to the satisfaction of the Court that there is a demand and

acceptance of illegal gratification, the presumption would not arise. The presumption under Section 20 of the Act cannot arise on the mere allegation of a demand and acceptance of illegal gratification as rightly pointed out by the appellant. The question of presumption does not arise in the present case where the Special Court had merely examined the complainant and also summoned three witnesses, the officers of the investigation team, under Section 311 of the Cr.P.C. for the purpose of recording their statements. This is pre-charge evidence based on which summons have been issued to the accused Nos.2 to 7. However, even a prima-facie finding has to be on the basis of allegations containing the definite ingredients for which proof could be offered at the trial, giving rise to the presumption under Section 20 of the Act, which presumption is also rebuttable.

13. Immediately, we come to the judgment of the High Court which specifically looked at the earlier judgment in the Special Criminal Application filed by the very same appellant. It is clearly indicated from paragraph 68 of the earlier judgment, which is extracted in the presently impugned judgment, that the learned Single Judge while finding no ground to interfere with the rejection of the discharge application at that stage, noticed that the pre-charge evidence is being recorded by the Special Judge; at which stage also the accused will be entitled to cross examine the witnesses and on conclusion of such recording of evidence, if the writ applicant so desires or is of the opinion that no case is made out, he could prefer an appropriate application for discharge under the provisions of Section 245 of the Cr.P.C. This clearly left liberty to the appellant to once again seek discharge if there is no material found from the evidence recorded. Hence, we do not think that the opinion expressed by the learned Single Judge; at this stage, that the petitions are required to be dismissed since at the earlier point of time the High Court had found a prima facie case made out against the accused, is correct. Earlier, there was the allegation coupled with the fact of the grants having been made, without a tender process, which also stood cancelled by the High Court and there was no worthwhile investigation carried out. At this stage a detailed report on investigation is placed before Court and the Officers who conducted the investigation, examined too. This gives rise to a fresh cause for examination of the evidence garnered at the investigation, so as to satisfy the Court about the grave suspicion as arising from the material collated and enter upon a finding of prima-facie case.

14. As pointed out by the learned Senior Counsel for the complainant, we see that the High Court after making such observation has proceeded to consider the matter on merits based on decisions of this Court, delineating the scope for discharge, prior to a full-fledged trial. It was also pointed out that the High Court has agreed with the observations made by the Special Court to proceed with the trial and hence we have to necessarily consider the issue on merits.

15. We see from the impugned judgment of the High Court that the learned Single Judge after referring to the decisions of this Court in State of T.N. v. N. Suresh Rajan7, State of Rajasthan v. Ashok Kumar Kashyap8, State of Karnataka v. M.R. Hiremath9 and State of T.N. v. R. Soundirarasu10 extracted the operative portion of the order of the Special Court to reject the application of the appellant. As has been found by the Special Court; at the initial stage considering the discharge application, the Court has to only prima facie, consider the material on record and if a strong suspicion arises from the materials produced; that the accused has committed an offence, then there can be no sufficient ground for discharge. Immediately, we have to notice that this is not

the presumption under Section 20 of the Act, but only the prima facie satisfaction, based on the materials available with the Court at the initial stage so as to not appropriately discharge the accused, but proceed to examine the evidence in a full-fledged trial. We have no quarrel with the above proposition, but we are unable to find any such material having been specified by the Special 7 (2014) 11 SCC 709 8 (2021) 11 SCC 191 9 (2019) 7 SCC 515 10 (2023) 6 SCC 768 Court, in the present case, in its order, especially regarding even an accusation against the appellant herein, as to the demand of bribe for the purpose of making the grant of fishing rights. The learned Single Judge also in the impugned order merely extracts the operative portion of the order of the Special Court, to give its imprimatur.

16. In this context, we have to specifically notice that the allegation initially was only against the first accused who was the Minister of State in the Government of Gujarat. There was an allegation that the complainant had delayed the initiation of prosecution, which we find to be not valid especially since the complainant after approaching the High Court, against the peremptory grants made of fishing rights, also had approached the State Government for sanction to prosecute the Minister of State. The State once rejected the application and the petitioner moved a Writ Petition and it was in compliance of the order passed therein that a sanction was granted to prosecute the Minister of State. The complainant at no point of time had any allegation against the Minister, the appellant herein, nor does the statement recorded at the pre-evidence stage before the Special Judge raise such an allegation. The allegation was only that the Minister of State had granted the rights on an upset price, without following the Government Policy of 2004, thus causing loss to the State exchequer, running to crores of rupees.

17. The Special Judge refused to look at the statements recorded and jumped to the conclusion of a prima facie case made out. The Special Judge refused to discuss the evidence placed before it by way of the statements and the investigation report finding that there need not be any detailed evaluation of material on record, regarding the guilt of the applicants for considering an application for discharge. The Special Judge referred to the voluminous enquiry report filed along with the documentary evidence and opined that the grants were made on an upset price without following the policy of 2004 and without calling any tender and ultimately the same were cancelled as per the order of Hon'ble High Court of Gujarat (sic); which we have to pertinently observe is not an allegation either under Section 7 or Section 13 of the Act.

18. The Special Judge then went on to look at the complaint, wherein accused no. 1 alone was blamed as responsible for making the illegal grants of reservoirs without calling tenders, after demanding illegal gratification to be paid during the period of the grant, which resulted in an abuse and misuse of the public office held by the Minister of State. It was again brazenly found, without anything further, based only on the statements recorded, that the enquiry report establishes a prima facie case against the accused and that none of the parties thought it fit to cross examine the complainant on this material point. It was also found that the Court had issued summons under Section 311 against the three officers constituting the investigation team considering the evidence of the complainant which remained unshaken. According to us, the refusal to avail the opportunity to cross-examine cannot be put against the accused, if actually there is no case coming out against them.

19. We cannot but notice that even in the order of the Special Court there is no reference to any allegation made by the complainant as against accused no. 2; the appellant herein. We cannot but observe, as seen from the records produced before us, that the complainant had once sought for withdrawal of the complaint by way of an application; which application itself was later withdrawn. The investigation at the first stage was carried out by the Superintendent of Police, Gandhi Nagar, who was relieved from the case and the Special Judge himself had directed the Anti- Corruption Bureau, Gujarat State to take over the investigation. It was the Anti-Corruption Bureau, Gujarat who filed the enquiry report which is produced as Annexure P-3 along with the memorandum.

20. We have to immediately notice the conclusion of the report as available from the records which is extracted herein below.

"According to section-13(1)d, and 13(2) of Prevention of Corruption Act-1988 and section-107 and 116 of I.P.C in such a way that the accused has used water bodies owned by the Government.

Regarding giving on lease, 12- reservoirs on 30/06/2008 and 38- reservoirs on 30/07/2008 total-50 reservoirs have been authorised by tender method to allocate at upset price. Government of Gujarat Ports and Fisheries Department Resolution No:

> FDX-112003-1648-8, Tenancy policy resolution dated 25.02/2004 has been approved by Honorable Chief Minister Shree. As per Clause No-3(b)(3) of the provisions all water bodies above 200 hectares in non-tribal areas. Provision is made to award it to the highest bidder through tender method. As well as copyright. In accordance with the provisions of Clause No. 25 (6) and (7) of the Resolution, the power to grant relaxation of monopoly in special cases. The State Government (Honorable Chief Minister) is ne. Gujarat Government Rules of Procedure, Schedule-2 of 1990 (see Rule-9 of Schedule-1) points No. 14 (Proposals involving any important change of policy or practice), 75 (Proposals to vary or reverse a decision previously taken by the council) /cabinet) Although the accused did not have the authority to change the resolution of Bhu45 Tenancy Policy, he misused his authority to work on the applications of the petitioners in his office on 30/06/2008 and 38- reservoirs on 30/07/2008.- 50 reservoirs, apart from authorizing the tender method, they themselves put notes on the files to allocate at the upset price. And the then Minister Shree Dilipbhai Sanghani, the then Secretary Shree Arun Kumar S. Sutaria, the then Deputy Secretary Shree V.T. Kharadi, with the help of the then Deputy Secretary Shree K. L. Tabiyar, Section Officer Mrs. Chandrikaben and Deputy Section Officer Shree PC Bhatt , on 05/07/2008, it was decided to allocate 12 reservoirs to the lessees at the upset price for five years. And on 04/08/2008 it was decided to allocate 38 reservoirs to the lessees for five years at the upset price.

That. 38 In the file with reservoir, the Deputy Secretary of the Department, Mr. V. T. Kharadi, dated 01/08/2008, as per the instruction of the above note of the section page no. In the above note from N to 8/N, in the note dated 01/08/2008, according to the provisions of Clause No. 25(6) and (7) of the Monopoly Policy Resolution, the State Government (Honorable Chief Minister) has the

authority to grant exemptions in the monopoly policy in special cases. So that before the orders regarding the lease of the reservoirs, respect the matter. There was a clear mention of bringing it to the attention of the Chief Minister." Deputy Secretary of that file department K.L. On going to Tabiyar, the accused misused his authority by instructing his personal assistant Mr. Virendra Maniyar and the then secretary Mr. Arun S. Sutaria to make the lease orders of the reservoir today (on 01/08/2008) and forced Deputy Secretary K.L. Tabiyar was forced through Mr. Maniyar and Secretary Arun S. Sutaria and ordered to give the lease of the reservoirs at the upset price. But Name. According to the order dated 29/09/2008 of Gujarat High Court, all the leases were cancelled from 02/12/08 and leases of reservoirs were given through tender system. Thus the total amount of one year lease to the government was Rs. 26,36,835/- was earned. And giving leases of reservoirs through tender process for one year lease amount of Rs. 4,47,29,738/- was earned i.e. in a period of one year Rs. 4,20,92,903/- appears to be the difference (excess income). The leases of the above reservoirs were granted for a period of five years. Therefore, a difference (additional income) of Rs. 21,04,64,515/- is seen for a period of five years. In this work, leases of 12 reservoirs on 05/07/2008 and 38 reservoirs on 04/08/2008 were given at upset price. Which was cancelled from 02/12/08. So, considering the time difference, the annual difference of 12 reservoirs is Rs. 3,25,92,681/-. The difference of five months is Rs.

1,35,80,283/-. Also, the annual difference of 38 reservoirs is Rs.

95,00,222/-. Four of which the month difference is found to be Rs.

32,06,740/-. That is, the total difference (additional income) is Rs. 1,67,87,023/- to the tune of Rs, seems that is, the lessees benefited and the government suffered a loss. Thus the accused, Minister Shree Dilipbhai Sanghani, the then Secretary. Shree Arun Kumar S. Sutaria the then Deputy Secretary Shree. V. T. Kharadi, the then Deputy Secretary K. L. Tabiyar, Section Officer Mrs. Chandrikaben and Deputy Section Officer. Shree P.C. Bhatt Misused his authority by misusing his authority and paying Rs. 21,04,64,515/- to the Government for five years.

1,67,87,023/-) for committing crimes by causing loss." (underlining by us for emphasis)

21. We have looked at the Policy of 2004 which, as pointed out by the learned Senior Counsel for the appellant, is extracted in the report (available in page 109 to 113 of the memorandum of SLP). The said policy framed by the Fisheries Department is approved by the Cabinet and the Chief Minister of the State. The policy speaks of beneficial allotments of reservoirs in tribal areas; upto 20 hectares to local tribal individuals, after providing wide advertisement, at an upset price. Those having area between 21 to 200 hectares to local tribal societies and in its absence to individuals, which applies even to reservoirs with area between 200 to 10000 hectares but alternate measure entitling the grant only to societies under the sub plan in case of absence of a willing local society. Even those reservoirs in excess of 1000 hectares within tribal area can be allotted on an upset price. The tendering process is a mandate only in reservoirs outside the tribal areas, with provision for reservations and relaxation in so far as tribals and societies. We do not find any enquiry having been carried out as to the location or area of the various reservoirs for which the grant is made. Be that as it may, even if the grants have been made, all in non-tribal areas, even then the ingredients of the

offences alleged under the Prevention of Corruption Act is absent.

22. The only charge is with respect to misuse of authority which does not come under the provisions of the Prevention of Corruption Act and none of the ingredients regarding demand or obtaining or acceptance of bribe or any illegal gratification has come out. The accusation was only that the policy of the State required a tender process to be adopted but the Minister had sanctioned the grant of fishing rights on an upset price, which is alleged to be misuse of authority especially since the Policy can be deviated from, only on orders of the Chief Minister or the Cabinet as per the policy document and the Rules of Business framed. The investigation report, as we observed, speaks only of an allegation of misuse of authority, without any allegation of demand and acceptance of bribe as against the appellant. The presumption under Section 20 of the Act is that, if there is a demand and acceptance of bribe, then there is a presumption that it is to dishonestly carry out some activity by a public servant, for which, first, proof will have to be offered of the demand and acceptance. It is not otherwise that, if there is a misuse of authority then there is always a presumption of a demand and acceptance of bribe, resulting in a valid allegation of corruption.

23. The learned Counsel for the respondent also led us to the statements recorded, as coming out from the investigation report, which are only with respect to such demands made by the Minister for State, the first accused and not as against the second accused. We accept the contention raised by the appellant that there is not even an iota of material available from the investigation report, the pre-charge statements recorded from the complainant or the police officers or even the statements of persons questioned by the investigation team, as available in the report, to attract the ingredients of the provisions under the Prevention of Corruption Act. We are of the opinion that the discharge application of the appellant ought to have been allowed by the Special Court especially since there is not even an allegation of demand and acceptance of bribe, by the second accused/appellant.

24. We make it clear that the observations made by us with respect to the first accused, insofar as the allegations having been raised, is only to emphasise that even such an accusation is not available as against the appellant herein. We merely spoke of the statements without looking at its veracity and our reference to such allegation should not govern the trial against the first accused, if it is proceeded with.

25. We allow the appeal and direct that the proceedings initiated against the second accused be dropped.

26. The appeal, thus, stands allowed.

27. Pending applications, if any, shall stand disposed of.

....., J.

[SUDHANSHU DHULIA] ....., J.

[K. VINOD CHANDRAN] NEW DELHI;

FEBRUARY 27, 2025.