SYED AHMED

v.

STATE OF KARNATAKA

(Criminal Appeal No. 1323 of 2007)

JULY 31, 2012

[A.K. PATNAIK AND MADAN B. LOKUR, JJ.]

Prevention of Corruption Act, 1988 - ss.7 & 13(1)(d) r/w s.13(2) - Offences under - Prosecution case that appellant- a police official, demanded and accepted illegal gratification from PW1 for inquiring into a complaint lodged by him against his neighbour - Trial court acquitted the appellant - High Court, however, reversed the acquittal of appellant and sentenced him to rigorous imprisonment for three months - On appeal, held: There was sufficient evidence of the appellant demanding illegal gratification from PW1 and receiving and accepting it when given by him - Testimony of PW1 was unshaken which was corroborated by the evidence of the independent eye witness PW2 - Case proved beyond any doubt - High Court justified in convicting the appellant - However, it erred in awarding a sentence of only three months rigorous imprisonment inasmuch as s.13(2) of the Act prescribes a minimum sentence of one year imprisonment - Nevertheless, since the State did not appeal against the quantum of sentence and the incident occurred about 19 years back, sentence imposed by High Court not interfered with.

The appellant, a police official, allegedly demanded and accepted illegal gratification from PW1 for inquiring into a complaint lodged by him against his neighbour. Two independent persons including PW2 allegedly witnessed the transaction of delivery of the tainted currency notes to the appellant. On these broad facts, the

A prosecution charged the appellant for committing offences under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. The trial court did not accept the version of the prosecution and acquitted the appellant. On appeal by the State, the High B Court held that there was no reason to disbelieve PW1, nor was there any reason to disbelieve PW2 the independent witness and accordingly, reversed the acquittal of appellant and sentenced him to rigorous imprisonment for three months. Aggrieved, the appellant C preferred the instant appeal.

Dismissing the appeal, the Court

HELD: 1.1. The inquiry by the Trial Judge ought to have been somewhat limited and confined to the D question of a demand for illegal gratification by appellant, meeting that demand by PW1 and acceptance of the illegal gratification by the appellant. The appellant was entitled to put forward his defence, which was required to be considered by the Trial Judge. However, in this E case, no defence was put forward, but an attempt was made to discredit the witnesses. The High Court did not commit any error in reappraising the evidence for arriving at the truth of the matter and also rightly confined itself to the core issues before it in concluding the guilt of the F appellant. [Paras 27, 28] [899-E-G]

1.2. The testimony of PW1 was unshaken which was corroborated by the evidence of the eye witness PW2. PW2 specifically stated that the appellant asked PW1 if he had brought what he was told to bring; that PW1 G replied in the affirmative and thereupon gave the tainted currency notes to the appellant, which he accepted and thereafter, the appellant kept the tainted currency notes in a purse which was then placed in the pocket of his trousers hung on the wall. There is, therefore, a clear

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statement of PW2, which has not been shaken in cross-examination, to the effect that there was a demand for some gratification by the appellant from PW1 and that PW1 paid some money to the appellant by way of gratification. The ingredients of Section 13(1)(d) of the Act are fulfilled in this case and have been proved beyond any doubt. In view of Explanation (d) to Section 7 of the Act, the issue whether the appellant could or could not deliver results (as it were) becomes irrelevant in view of the acceptance of the testimony of PW1 and PW2. [Paras 30, 31] [900-A-F]

1.3. The submission made by the defence that a Rs.10/- currency note recovered from the wallet of the appellant as also the wallet were not sent for forensic examination, is not relevant. The tainted currency notes given to the appellant as illegal gratification are material and not the untreated Rs.10/- currency note or the wallet in which all the currency notes were kept. These are minor issues that have no real bearing on the controversy on hand. The discrepancy in the testimony of the witnesses with regard to the dress worn by the appellant when he allegedly received the illegal gratification from PW1 is also a minor matter. Whether the absence of the Rs. 10/- currency note could or could not be explained or why the appellant's wallet was not sent for forensic examination or whether he was wearing trousers or a lungi at the relevant point of time are matters of minor detail which do not impact on the substratum of the prosecution's case. A discrepancy would be minor if it did not affect the substratum of the prosecution's case or impact on the core issue. In such an event, the minor discrepancy could be ignored. [Paras 36, 37, 41, 42 and 43] [902-C-E; 903-C-E]

1.4. In conclusion, it is found from the evidence of the witnesses that there was sufficient evidence of the appellant demanding illegal gratification from PW1 and

A **receiving and accepting it when given by him. On this basis, there is no reason to interfere with the judgment and order under appeal. [Para 44] [904-A-B]**

1.5. With regard to the sentence awarded to the B **appellant, the High Court erred in awarding a sentence of only three months rigorous imprisonment. Section 13(2) of the Act prescribes a minimum sentence of one year imprisonment. However, the State has not appealed against the quantum of sentence. Moreover, the incident is of 1993, which is about 19 years ago. Keeping these** C **factors in mind, this Court does not propose to interfere with the sentence awarded. [Para 45] [904-B-C]**

Abdul Nawaz v. State of West Bengal **2012 (5) SCALE 357 - relied on.**

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Chandrappa v. State of Karnataka **(2007) 4 SCC 415: 2007 (2) SCR 630;** *Jugendra Singh v. State of U.P.* **2012 (5) SCALE 691;** *State of Kerala v. C.P. Rao* **(2011) 6 SCC 450: 2011 (6) SCR 864 and** *Banarsi Dass v. State of Haryana* **(2010) 4 SCC 450: 2010 (4) SCR 383 - referred to.**

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Case Law Reference:

2007 (2) SCR 630	**referred to**	**Para 21**
2012 (5) SCALE 691	**referred to**	**Para 22**
2011 (6) SCR 864	**referred to**	**Para 24**
2010 (4) SCR 383	**referred to**	**Para 24**
2012 (5) SCALE 357	**relied on**	**Para 42**

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G CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1323 of 2007.

From the Judgment & Order dated 25.07.2006 of the High Court of Karnataka at Bangalore in Criminal Appeal No. 116 H of 2011.

Shanth Kumar Mahale, Harisha S.R., Rajesh Mahale for the Appellant. A

Rashmi Nandakumar, Anitha Shenoy for the Respondent.

The Judment of the Court was delivered by B

MADAN B. LOKUR, J. 1. The Appellant (Syed Ahmed) was acquitted by the Trial Court of offences under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. The acquittal was set aside by the High Court and he is aggrieved thereby. We are in agreement with C the order of conviction handed down by the High Court. We are not in agreement with the sentence awarded, but prefer to let the matter rest. Accordingly, we dismiss this appeal.

The facts: D

2. Nagaraja @ Nagarajegowda (PW1) and his father, Thimmegowda (PW4) are owners of some land. On 7th June, 1993 they had a boundary dispute with their immediate neighbour, Channakeshavegowda which resulted in their being assaulted by him and others. Thimmegowda then lodged a E complaint on the same day with the Konanur Police Station in this regard.

3. According to Syed Ahmed (a police officer in the Konanur Police Station), the complaint was inquired into by F S.C. Rangasetty (PW7). According to Nagaraja, illegal gratification was demanded by Syed Ahmed to enable him to file a charge-sheet against Channakeshavegowda and others on the complaint by Thimmegowda.

4. The dispute between Thimmegowda and G Channakeshavegowda was, however, amicably resolved in a few days time and the settlement entered into between them is Exhibit P.15 in the Trial Court.

5. Unfortunately, on 27th June, 1993 a boundary dispute H

A again arose between Nagaraja and Thimmegowda on the one hand and Channakeshavegowda and others on the other. This resulted in Nagaraja lodging a complaint against Channakeshavegowda in the Konanur Police Station on 27th June, 1993. For inquiring into this complaint, Syed Ahmed
B allegedly demanded illegal gratification from Nagaraja.

6. Feeling aggrieved by the unlawful demand, Nagaraja lodged a complaint with the Lok Ayukta Police at Hassan on 28th June, 1993. The Lok Ayukta Police decided to trap Syed Ahmed while demanding and accepting illegal gratification from
C Nagaraja. As per the arrangement for the trap, some currency notes were treated with phenolphthalein powder and upon delivery of these tainted currency notes to Syed Ahmed, his fingers would get smeared with the powder. Thereafter, on washing the powdered fingers with sodium carbonate solution,
D the resultant wash would turn pink indicating thereby the physical receipt of the tainted currency by Syed Ahmed.

7. Also, as per the arrangements, two independent persons were to accompany Nagaraja to witness the
E transaction of delivery of the tainted currency notes to Syed Ahmed. The two independent witnesses in the case are Sidheshwara Swamy (PW2) and Keshavamurty (PW6).

8. As per the plan chalked out by the Lok Ayukta Police, Nagaraja went to the Konanur Police Station to hand over the
F illegal gratification to Syed Ahmed. However, when he reached there, he was told that Syed Ahmed was available at the Inspection Bungalow. Accordingly, Nagaraja and the trap party went to the Inspection Bungalow.

G 9. At the Inspection Bungalow, the two independent witnesses positioned themselves close to Syed Ahmed's room. Nagaraja then entered his room and after a brief conversation with Syed Ahmed, he handed over some currency notes to him. Thereafter, Nagaraja exited from the room and gave a pre-

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determined signal to the trap party who reached Syed Ahmed's room and washed his hands with sodium carbonate solution which turned pink. This confirmed his physical receipt of the tainted currency notes from Nagaraja.

10. On these broad facts, the prosecution charged Syed Ahmed (a public servant) with demanding and accepting illegal gratification from Nagaraja and thereby committing an offence under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 (for short, 'the Act').

11. The prosecution examined eight witnesses including Nagaraja (PW1) and the two independent trap witnesses Sidheshwara Swamy (PW2) and Keshavamurty (PW6). In addition, the prosecution also examined Bistappa (PW3) the scribe of the complaint dated 28th June, 1993 to the Lok Ayukta Police; Thimmegowda (Nagaraja's father) as PW4; B. Pradeep Kumar (PW5) the Police Inspector of the Lok Ayukta Police, who arranged the trap, prepared the trap mahazar and investigated the case; S.C. Rangasetty (PW7) who dealt with the complaint dated 7th June, 1993 and confirmed the settlement Exhibit P.15. The officer who seized the samples relevant to the trap and sent them to Bangalore for analysis and then received the report was examined as PW8. None of the prosecution witnesses turned hostile.

Trial Court judgment:

12. Upon a consideration of the testimony of the witnesses and the documents on record, the Trial Judge by his judgment and order dated 21st July, 2000 concluded that the prosecution had failed to prove its case against Syed Ahmed beyond a reasonable doubt. Accordingly, Syed Ahmed was acquitted of the charges leveled against him.

13. The Trial Judge held that the dispute between Thimmegowda and Channakeshavegowda (of 7th June, 1993) was amicably settled and so there was no occasion for Syed

A Ahmed to demand any gratification from Nagaraja in connection with that complaint. As far as the other dispute (of 27th June, 1993) is concerned, it was held that Syed Ahmed had no role to play in it since he was not investigating that complaint. There was, therefore, no occasion for Syed Ahmed to demand any
B gratification from Nagaraja. On the contrary, it was held that Nagaraja had some enmity with Syed Ahmed as a result of Nagaraja's failure to return some village utensils, which led to Syed Ahmed taking action against Nagaraja's elder brother Thimmegowda. It was to wreak vengeance on Syed Ahmed
C because of that event that Nagaraja filed a false complaint against him.

14. The Trial Judge had some reservations about the location of the witnesses when the gratification was said to have been given to Syed Ahmed. The Trial Judge also held that Syed
D Ahmed's wallet and a Rs.10/- currency note recovered therefrom ought to have been sent for forensic examination. The Trial Judge also noted that there was an inconsistency in the testimony of the witnesses about the dress worn by Syed Ahmed when he is alleged to have taken the illegal gratification.
E Finally, the Trial Judge held that the failure of the prosecution to produce the complaint dated 27th June, 1993 made by Nagaraja against Channakeshavegowda was significant.

15. Taking all these factors and discrepancies into
F consideration, the Trial Judge did not accept the version of the prosecution and acquitted Syed Ahmed of the charges framed against him.

High Court judgment:

G 16. On appeal by the State, a learned Single Judge of the High Court of Karnataka by his order dated 25th July, 2006 set aside the judgment and order of the Trial Court and convicted Syed Ahmed for an offence punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Act. Syed Ahmed was
H sentenced to suffer rigorous imprisonment for a period of three

months and to pay a fine of Rs.20,000/-, and in default thereof to undergo simple imprisonment for a period of six months. A

17. The High Court held that there was no reason to disbelieve Nagaraja, nor was there any reason to disbelieve Sidheshwara Swamy (PW2) the independent witness. It was also held that in view of Section 7(d) of the Act, a public servant who is not in a position to do any favour to a person could also be deemed to commit an offence under the Act if he demands and accepts illegal gratification. As regards the discrepancies pointed out by the Trial Court, the High Court found that they did not dent the veracity of Nagaraja (PW1) or of Sidheshwara Swamy (PW2). Accordingly, the High court reversed the order of acquittal and convicted Syed Ahmed. B C

18. Feeling aggrieved, Syed Ahmed preferred an appeal to this Court. D

Statutory provisions:

19. Section 7 of the Act, to the extent that we are concerned, reads as follows: E

> *"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 F G H

A punishable with imprisonment which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Explanations.-(a) xxx xxx xxx.

B (b) xxx xxx xxx.

(c) xxx xxx xxx.

(d) "A motive or reward for doing." A person who receives
C 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) xxx xxx xxx."

D 20. Sections 13(1)(d) and 13(2) of the Act read as follows:

"Section 13 - Criminal, misconduct by a public servant

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

(a) xxx xxx xxx

(b) xxx xxx xxx

F (c) xxx xxx xxx

(d) if he,-

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

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

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

(e) xxx xxx xxx

Explanation.-

xxx xxx xxx

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

Preliminary submissions and conclusions:

21. Learned counsel for Syed Ahmed contended that the High Court ought not to have interfered with the order of acquittal given by the Trial Judge. In this context, reference was made to the principles laid down in *Chandrappa v. State of Karnataka,* (2007) 4 SCC 415, namely:-

"(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of

A language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

B (4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court C of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis D of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court."

22. While culling out the above principles, this Court referred to and relied upon over a dozen earlier decisions. These principles were reiterated recently in *Jugendra Singh* E *v. State of U.P.*, 2012 (5) SCALE 691. We do not think it necessary to burden this decision with the very large number of citations on the subject. Suffice it to say that these principles are now well settled.

F 23. It is also necessary to appreciate the ingredients of the offence for which Syed Ahmed was convicted. This is necessary for understanding whether or not the Trial Judge correctly applied the law on the subject.

G 24. Learned counsel relied upon *State of Kerala v. C.P. Rao* (2011) 6 SCC 450 and *Banarsi Dass v. State of Haryana,* (2010) 4 SCC 450 and contended that "mere recovery of tainted money, divorced from the circumstances in which it is paid, is not sufficient to convict the accused when the

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substantive evidence in the case is not reliable". It was also contended that the prosecution should, additionally, prove that payment to the accused was by way of a reward for doing or proposing to do a favour to the complainant.

25. We are in agreement with learned counsel on this issue and it is for this reason that we went through the evidence on record.

26. We must add that on a reading of the provisions of the Act, it is also necessary for the prosecution to prove that the person demanding and accepting gratification is a public servant. In so far as the present case is concerned, there is no dispute that Syed Ahmed is a public servant. The prosecution must also prove a demand for gratification and that the gratification has been given to the accused. If these basic facts are proved, the accused may be found guilty of an offence under the provisions of law that concern us in this case.

27. Viewed in this light, the inquiry by the Trial Judge ought to have been somewhat limited and confined to the question of a demand for illegal gratification by Syed Ahmed, meeting that demand by Nagaraja and acceptance of the illegal gratification by Syed Ahmed. Of course, Syed Ahmed was entitled to put forward his defence, which was required to be considered by the Trial Judge. However, in this case, no defence was put forward, but an attempt was made to discredit the witnesses.

28. Given the law laid down by this Court, we are of the opinion that the High Court did not commit any error in reappraising the evidence for arriving at the truth of the matter. The High Court also rightly confined itself to the core issues before it in concluding the guilt of Syed Ahmed.

Submissions on merits and conclusions:

29. On the merits of the case, learned counsel made several submissions. It was submitted that there is nothing on

A record to suggest that Syed Ahmed made any demand for gratification or received and accepted any illegal gratification.

This contention does not appeal to us, particularly in view of the unshaken testimony of Nagaraja (PW1) and the B corroborative evidence of the eye witness Sidheshwara Swamy (PW2). This witness was near the window and just outside the room occupied by Syed Ahmed. He refers to some conversation that took place between Syed Ahmed and Nagaraja in a low tone and which he could not hear. Thereafter, C this witness specifically states that Syed Ahmed asked Nagaraja if he had brought what he was told to bring. Nagaraja replied in the affirmative and thereupon Nagaraja gave the tainted currency notes to Syed Ahmed, which he accepted. Thereafter, Syed Ahmed kept the tainted currency notes in a purse which was then placed in the pocket of his trousers hung D on the wall. There is, therefore, a clear statement of Sidheshwara Swamy (PW2), which has not been shaken in cross-examination, to the effect that there was a demand for some gratification by Syed Ahmed from Nagaraja and that Nagaraja paid some money to Syed Ahmed by way of E gratification. The ingredients of Section 13(1)(d) of the Act are fulfilled in this case and have been proved beyond any doubt.

31. We agree with the High Court that in view of Explanation (d) to Section 7 of the Act, the issue whether Syed F Ahmed could or could not deliver results (as it were) becomes irrelevant in view of the acceptance of the testimony of Nagaraja (PW1) and Sidheshwara Swamy (PW2).

32. It was then contended that the High Court overlooked the fact that the complaint dated 7th June, 1993 made by G Thimmegowda had been settled vide Exhibit P.15 and that the subsequent complaint made by Nagaraja on 27th June, 1993 was not available on the record. It was submitted that in the absence of the basic document, that is the complaint dated 27th June, 1993 the case of the prosecution could not stand H scrutiny.

33. We are unable to accept this submission. The basis of the action against Syed Ahmed was not the complaint dated 27th June, 1993 but the complaint dated 28th June, 1993 made by Nagaraja to the Lok Ayukta Police. This complaint is on the record and is marked as Exhibit P.3. In the complaint, it is alleged, that Syed Ahmed had demanded illegal gratification from Nagaraja and it is on a follow up of this complaint that arrangements were made to lay a trap against Syed Ahmed. Learned counsel is, therefore, in error in assuming that action against Syed Ahmed was based on the complaint dated 27th June, 1993. As mentioned above, this is factually not so.

34. As regards settlement of the dispute referred to in the complaint dated 7th June, 1993 in our opinion that would not take away the substance of the issue before us, namely, whether Syed Ahmed demanded and accepted illegal gratification from Nagaraja or not. But, it is submitted that the complaint against Syed Ahmed was motivated. This is traced to an earlier dispute between Nagaraja's elder brother (also named Thimmegowda) and Syed Ahmed. It appears that sometime in May, 1993 Nagaraja had taken some utensils belonging to the village community for performing the marriage of his younger brother. These utensils were retained by Nagaraja for quite some time. A complaint came to be made against Thimmegowda (PW4) in this regard and at that time, Syed Ahmed assaulted Thimmegowda (elder brother of Nagaraja) for not promptly returning the utensils. Due to this incident, and by way of revenge, Syed Ahmed is said to have been falsely implicated by Nagaraja.

35. We are not inclined to give much weight to this incident. The reason is that the issue regarding the return of utensils was settled as testified by Nagaraja and S.C. Rangasetty (PW7). In addition, we find that no suggestion was given by Syed Ahmed to any witness that the complaint of 28th June, 1993 was a result of this particular incident. Even in his statement recorded under Section 313 of the Criminal Procedure Code,

A Syed Ahmed does not make out a case that that incident had some nexus with this complaint. Also, if anybody had to have any grievance in this regard, it would be Thimmegowda (elder brother of Nagaraja) and not Nagaraja. In fact, it appears that Nagaraja was not particularly happy with his brother because
B he says in his cross examination that during 1993-94 he was managing the family affairs since his father was aged and infirm and his elder brother was a drunkard.

36. The next two submissions of learned counsel were to the effect that a currency note of Rs.10/- recovered from the
C wallet of Syed Ahmed and indeed the wallet also were not sent for forensic examination to ascertain the presence of phenolphthalein powder. Moreover, there is nothing on record to indicate what eventually happened to that currency note.

D 37. We cannot see relevance of these submissions. What we are concerned with is whether Syed Ahmed had demanded illegal gratification from Nagaraja and whether he had received and accepted that illegal gratification. The tainted currency notes given to Syed Ahmed as illegal gratification are material
E and not the untreated Rs.10/- currency note or the wallet in which all the currency notes were kept. These are minor issues that have no real bearing on the controversy on hand.

38. The final contention was that there is considerable doubt about the attire of Syed Ahmed at the time of receiving
F the illegal gratification from Nagaraja. It is pointed out that Nagaraja stated that Syed Ahmed had kept the tainted currency notes in a purse and that the purse was kept in the hip pocket of his trousers. It is suggested by learned counsel that this would indicate that Syed Ahmed was wearing trousers at that
G point of time.

39. In his cross-examination also, Nagaraja stated that Syed Ahmed was wearing his uniform when the illegal gratification was given to him. According to learned counsel,
H both these statements confirm that Syed Ahmed was wearing

his trousers when the concerned incident took place. A

40. In this context, reference was made to the testimony of Sidheshwara Swamy (PW2) who stated that Syed Ahmed kept the tainted currency notes in a purse which he put in the pocket of his trousers hanging on a wall. In his cross-examination this witness stated that at the relevant time, Syed Ahmed was sitting on a cot wearing a vest and a lungi. B

41. On this basis, it is submitted by learned counsel that there is a discrepancy in the testimony of the witnesses with regard to the dress worn by Syed Ahmed when he was sought C to be trapped. It is submitted by learned counsel that the discrepancy casts a doubt on the correctness of the events said to have taken place on 28th June, 1993 and the benefit of this must go to Syed Ahmed.

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42. In our opinion, the discrepancy with regard to the attire of Syed Ahmedthe Rs.10/- currency note and the forensic examination of the wallet are rather minor matters. What is a minor discrepancy? This has been the subject matter of discussion in *Abdul Nawaz v. State of West Bengal,* 2012 (5) E SCALE 357 and Jugendra Singh. After referring to a few earlier decisions of this Court, it was held that a discrepancy would be minor if it did not affect the substratum of the prosecution's case or impact on the core issue. In such an event, the minor discrepancy could be ignored.

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43. As far as we are concerned, whether the absence of the Rs. 10/- currency note could or could not be explained or why Syed Ahmed's wallet was not sent for forensic examination or whether he was wearing trousers or a lungi at the relevant point of time are matters of minor detail which do not impact G on the substratum of the prosecution's case. We are required to look at the core issue and at the overall picture of the events that transpired on 28th June, 1993 and not get diverted by minor discrepancies or trivialities.

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A 44. It is while undertaking this exercise that we find from the evidence of the witnesses that there was sufficient evidence of Syed Ahmed demanding illegal gratification from Nagaraja and receiving and accepting it when given by him. On this basis, we find no reason to interfere with the judgment and
B order under appeal.

45. With regard to the sentence awarded to Syed Ahmed, the High Court has erred in awarding a sentence of only three months rigorous imprisonment. Section 13(2) of the Act prescribes a minimum sentence of one year imprisonment.
C However, the State has not appealed against the quantum of sentence. Moreover, the incident is of 1993, which is about 19 years ago. Keeping these factors in mind, we do not propose to interfere with the sentence awarded.

D 46. The appeal is dismissed.

B.B.B. Appeal dismissed.