

In the Supreme Court of Bangladesh  
High Court Division  
(Criminal Appellate Jurisdiction)

**PRESENT:**

**MR. JUSTICE ABU TAHER MD. SAIFUR RAHMAN**

**CRIMINAL APPEAL NO. 5396 OF 2024**

**Md. Younus Miah**

.....For the convict appellant-petitioner

**-Versus-**

The State and another

.....Respondent-opposite parties

Mr. Mohammad Zahid Imam, Advocate

.....For the convict-appellant

Mr. Md. Anwarul Islam Badhon, Advocate

.....For the Anti Corruption Commission

Mrs. Tashrifia Sultana Jali, AAG with

Mr. Md. Emdadul Hanif, AAG with

Mr. Md. Rezaul Isam, AAG and

Mr. Md. Hemayet Uddin, AAG

.....For the state-respondent

**Heard on: 21.10.2025, 22.10.2025, 26.10.2025,  
28.10.2025, 06.11.2025 and 12.11.2025.**

**Judgment on: The 30<sup>th</sup> of November, 2025**

**ABU TAHER MD. SAIFUR RAHMAN, J.**

This appeal, at the instance of the convict-appellant is directed against the judgment and order of conviction and sentence dated 27.05.2024 passed by the learned Special

Sessions Judge, Jamalpur in Special Case No. 02 of 2019 arising out of Dudak Tadan to No. 02 dated 29.12.2019, whereby the learned Judge convicted the appellant under section 5(2) of the Prevention of Corruption Act, 1947 and sentenced him to suffer rigorous imprisonment for 5 (five) years and also convicted him under section 161 of the Penal Code and sentenced him to suffer rigorous imprisonment for 3 (three) years and to pay a fine of **Tk. 20,000/-** (twenty thousand), in default to suffer rigorous imprisonment for a further period of 3 (three) months both sentences to run concurrently.

For disposal of this appeal the relevant fact may briefly be stated as follows:

Md. Atiqul Alam, Assistant Director of the Anti-Corruption Commission (ACC), as informant, lodged a FIR on 29.12.2019 alleging that the convict-appellant Md. Younus Miah, Superintendent, District Accounts Office, Sherpur, abused his official position and committed offences punishable under section 161 of the Penal Code and section 5(2) of the Prevention of Corruption Act, 1947 by illegally accepting a bribe of **Tk. 50,000/-**.

The complainant, Md. Abdul Hanif Mia, Office Assistant of Sherpur Government Women's College, became entitled to arrear salary pursuant to Memo No. OM-49GA/2014-16742/17

dated 23.06.2019, following his absorption into the revenue sector, and the college authority submitted the arrear bill to the District Accounts Office, Sherpur.

It was alleged that during processing of the said bill the accused demanded illegal gratification, initially at 50% and subsequently reduced to 30% of the arrear amount, threatening not to pass the bill in default of payment. Upon refusal, the complainant lodged a written complaint with the ACC on 26.12.2019, which was registered as E/R No. 36/2019.

With approval of the Commission, **Tk. 50,000/-** was inventoried and handed over to the complainant on 29.12.2019 for laying a trap. On the same day at about 3:00 P.M. the complainant allegedly paid the said amount to the accused in his office room at the District Accounts Office, Sherpur, whereupon the ACC team apprehended the accused and recovered the tainted money. Hence, the case was instituted.

Upon completion of investigation, the Anti-Corruption Commission submitted Charge Sheet No. 01 dated 31.08.2020 against the sole accused Md. Younus Miah, Superintendent, District Accounts Office, Sherpur, under Section 161 of the Penal Code and Section 5(2) of the Prevention of Corruption Act, 1947. The learned Special Sessions Judge, Jamalpur, took cognizance and, upon framing charge, the accused pleaded not guilty and claimed to be tried.

The prosecution examined 10 (ten) witnesses, all of whom were cross-examined by the defense. Upon closure of the prosecution evidence, the accused was examined under section 342 of the Code of Criminal Procedure and reiterated his innocence. The defense examined 3 (three) witnesses.

Upon consideration of the evidence on record and the facts and circumstances of the case, the learned trial Court found the accused-appellant guilty of the offences charged, convicted him accordingly, and sentenced him to suffer imprisonment and to pay fine with a default stipulation, as mentioned above. Being aggrieved and dissatisfied, the convict-appellant has preferred the present appeal before this Court.

**Mr. Mohammad Zahid Imam**, the learned Advocate for the appellant submits that the prosecution story is not consistent with the manner of occurrence proved by the evidence and, therefore, the accused-appellant is entitled to the benefit of doubt. He further submits that the trial court failed to appreciate this aspect of the case. As the prosecution has failed to prove the charge beyond reasonable doubt, the impugned judgment and order of conviction and sentence are liable to be set aside.

**As against this, Mr. Md. Anwarul Islam Badhon**, the learned Advocate for the Anti-corruption Commission, vehemently submits that the learned trial Court, upon a thorough, meticulous and judicious appraisal of the evidence on

record, correctly found the accused-convict-appellants guilty of the offence charged and lawfully convicted them which does not call for any interference by this court.

For proper disposal of this appeal, it is essential to examine whether the conviction and sentence awarded to the convict-appellant are sustainable in law, having regard to the materials on record, the facts and circumstances of the case, and the principles of safe administration of criminal justice.

It is a cardinal principle of criminal jurisprudence that an accused is presumed innocent unless the prosecution discharges its burden by producing cogent, credible, and convincing evidence proving every essential ingredient of the offence beyond reasonable doubt. The burden rests squarely upon the prosecution throughout, and the accused is under no legal obligation to adduce evidence in support of his innocence, nor can any adverse inference be drawn merely from his failure to do so. Likewise, unsubstantiated suggestions made during cross-examination do not, by themselves, justify any adverse presumption against the accused.

Section 3 of the Evidence Act defines “proof” as the Court’s belief in the existence of a fact upon consideration of the entire materials on record, or its existence being so probable that a prudent person would act upon such belief. While proof beyond reasonable doubt does not require mathematical

certainty, suspicion—however strong—can never substitute proof. The prosecution must, therefore, place before the Court the best evidence the nature of the case permits. Guided by these settled principles, we now proceed to examine the evidence available on record.

**P.W.1 Md. Atiqul Alam**, the informant, stated in his examination-in-chief that while serving as Assistant Director of the Anti-Corruption Commission, Special Judge Enforcement Cell, Tangail (from 17.10.2017 to 26.11.2020), he received a written complaint on 26.12.2019 from Md. A. Hanif Mia alleging that the accused Md. Younus Miah, Superintendent, District Accounts Office, Sherpur, had demanded a bribe for passing his arrear salary bill.

According to the complaint, the complainant was entitled to arrear salary amounting to **Tk. 16,79,799.93/-** under a government memo dated 23.06.2019. Although the bill was prepared and submitted, the accused allegedly delayed its passing and demanded illegal gratification, initially 50% and later 30% of the arrear amount. Upon approval of the Commission, a trap was arranged.

P.W.1 further deposed that on 29.12.2019 the complainant paid **Tk. 50,000/-** to the accused in his office room, which the accused received with his own hand and kept in the pocket of his trousers. The ACC team immediately

apprehended the accused red-handed, and Tk. 50,000/-, consisting of 100 notes of Tk. 500/- each bearing the inventoried serial numbers, was recovered from his trouser pocket. The recovered money, the accused's trousers, the arrear bill, and other relevant documents, including the inventory, seizure list, ER, and approval letter, were seized and marked as exhibits. P.W.1 proved the written complaint and the relevant documents and asserted the truth of his deposition.

**In cross-examination** he stated that the accused Younus Miah, joined the Sherpur Accounts Office on 13.10.2019. He admitted that the sanction order for the complainant's arrears was dated 23.06.2019 and that he did not know whether the bill was sent to the Accounts Office on 24.12.2019. The complaint was lodged on 26.12.2019.

**P.W.2 Md. Zafar Ullah** deposed in his examination-in-chief that on 29.12.2019 at about 3:00 P.M. while working in his office, he heard a commotion and went to the room of the Superintendent, Md. Younus Miah. He saw that ACC officials had detained the accused and later came to know that the accused was arrested along with a bribe amount of Tk. 50,000/-. This is all he knows regarding the incident.

**In cross-examination** he stated that he was not informed in advance about the ACC visit. No money was recovered from the accused in his presence. He only saw that the accused was

detained; the ACC officials later showed him the money already in their custody. Younus Miah was under his supervision. The complainant, Hanif Mia, never informed him of any bribe demand prior to the incident. The government order regarding the complainant's pending salary and allowances was issued on 20.11.2019; the bill from Sherpur Government Women's College was submitted on 24.12.2019 and passed by his office on 29.12.2019. He was unaware of any irregularity in processing or passing this bill.

**P.W. 3 F.M. Ashraful Awal Rana** in his examination-in-chief stated that on 29.12.2019, while he was posted as Sub-Divisional Engineer at Sherpur Public Works Sub-Division, Md. Mostafizur Rahman, Deputy Director of the Anti-Corruption Commission (ACC), visited his office and informed him about an impending raid. For the purpose of the raid, he signed the inventory list.

**In cross-examination** he stated that no raid was actually conducted in his presence. He further clarified that the ACC officials merely came to his office and took his signature on the inventory list. He has no personal knowledge regarding the incident or other events of this case.

**P.W.4 Md. Abdul Hamid Mia (Complainant)**, in his examination-in-chief, stated that he was appointed as a Cook under a 3-year project in selected colleges in 2004, later

extended by one year. After the project ended, 76 employees, including himself, filed a writ petition in 2012 seeking regularization, which was allowed by the Hon'ble High Court Division. Pursuant to the judgment, the Directorate of Secondary and Higher Education, by order dated 23/24.06.2019, directed their appointment with arrear benefits. He joined Sherpur Government Women's College on 24.06.2019 and submitted a bill of **Tk. 16,79,799.93/-** for outstanding salary and allowances to the Sherpur District Accounts Office in mid-July 2019. After the transfer of the previous Superintendent, the accused Md. Younus Miah joined as Superintendent and initially delayed the matter, later demanding a bribe of 50%, which was reduced to 30%. Finding no remedy, he contacted the Anti-Corruption Commission (ACC), and as per their instructions, Tk. 50,000/- was marked and returned. On 29.12.2019 at about 3:00 P.M., while handing over the marked amount, the ACC team apprehended the accused. He submitted a written complaint to the ACC, bearing his signature (Exhibit-7).

**In cross-examination** he stated that he submitted the written complaint on 26.12.2019. He deposed in a departmental inquiry regarding the bill, during which no bribe was demanded. He learned that a letter regarding their salary and allowances was uploaded online on 23.12.2019, and the bill was last forwarded to the Accounts Office on 24.12.2019. He

also heard that at about 2:15 P.M. on 29.12.2019, the cheque relating to the bill was handed over to the college bearer, Md. Selim Mia, by Nuruzzaman, Junior Auditor.

**P.W. 5 Md. Tareq Rahman** stated in his examination-in-chief that on 29.12.2019, he went to the Sherpur Deputy Commissioner's Office to collect his driving licence. While he was present there, between 4:00 p.m. and 4:30 p.m., officials of the Anti-Corruption Commission (ACC) approached him and obtained his signature. He identified his signature on the seizure list, which was marked as Exhibit-5/2.

**In cross-examination** he stated that he did not know where the seizure list was prepared, nor was he aware of the articles seized or the contents of the list. He further stated that at the relevant time he was standing in front of the DC Office and that the ACC officials threatened and compelled him to sign the document, following which he affixed his signature.

**P.W. 6 Md. Bulu Mia**, a member of the ACC trap team, deposed that on 29.12.2019, the accused Md. Younus Miah was caught red-handed while accepting **Tk. 50,000/-** as bribe for passing an outstanding bill. He further stated that, when confronted, the accused produced 100 pieces of **Tk. 500/-** notes from the left pocket of his trousers in the presence of the District Accounts Officer, Sherpur and another witness.

**In cross-examination** he stated that he was a member of the trap team. He did not witness the accused demanding any bribe from the complainant and did not hear when, at what time, or where the bribe was demanded. **Tk. 50,000/-** was recovered from the left pocket of the accused's trousers while he was seated in the Upazila Accounts Office. The recovery was witnessed by District Accounts Officer Md. Zafar Ullah and Md. Tareq Rahman. A seizure list was prepared on the spot; however, he is not a signatory to that list.

**P.W. 7 Mohammad Sofiqul Islam** deposed in his examination-in-chief that on 29.12.2019, at around 10:00 a.m., Mr. Md. Atiqul Alam, Assistant Director of the Anti-Corruption Commission, SJEC, Tangail, prepared an inventory in connection with E.R. No. 36/2019. The inventory comprised 100 pieces of Tk. 500/- notes. His signature was recorded on the inventory, and the signature appearing in Column 'Kha' against Serial No. 6 of the inventory list is his.

**In his cross-examination** he stated that he did not witness from whom the money in the inventory was recovered. He further stated that he merely signed the inventory, and his signature was obtained while he was seated in the office of the Sub-Divisional Engineer of the Public Works Department.

**P.W. 8 Md. Mojibur Rahman** deposed in his examination-in-chief that on 29.12.2019, while serving as Court

Assistant (ASI) at the ACC, Tangail he was part of a trap team concerning a bribery allegation against Md. Younus Miah, Superintendent, District Accounts Office, Sherpur. The accused allegedly demanded a bribe of Tk. 50,000/- from Md. Abdul Hanif Mia. Under ACC supervision, the complainant paid the amount, and a previously inventoried bundle of 100 notes of Tk. 500/- each was recovered from the accused. The accused was then apprehended, and a case was instituted the same day.

**In cross-examination** he stated that he did not know where the seizure list was prepared, did not personally witness the complainant handing over the money, and none of the four trap team members directly saw the accused receive the bribe. No independent witness was present at the recovery.

**P.W. 9 Md. Sirajul Haque** in his examination-in-chief, made a statement substantially similar to the testimony of P.W. 8.

**P.W. 10 Md. Mostafijur Rahman** stated in his examination-in-chief that he was appointed as Investigating Officer by an official letter dated 31.12.2019 from the Divisional Office, Dhaka. During the investigation, he examined the seized articles, visited the place of occurrence, examined witnesses, and recorded statements under Section 161 CrPC.

He explained that the complainant, Md. Abdul Hanif Mia, an assistant at Sherpur Government Women's College, was brought under the revenue establishment in 2008 pursuant to a writ petition. This resulted in arrears from 2008 to 2019 totaling Tk. 16,79,799.93/-, prepared by the College Principal and submitted to the District Accounts Office. When the complainant approached the accused Md. Younus Miah regarding the bill, the accused demanded illegal gratification and agreed to accept 20% of the amount. Subsequently, the complainant lodged a complaint with the Anti-Corruption Commission (ACC).

He further stated that on 29.12.2019 at around 3:00 p.m., the ACC trap team caught the accused accepting Tk. 50,000/- as bribe, corroborated by prosecution witnesses. Upon completing the investigation and obtaining ACC approval on 04.02.2020, Charge Sheet No. 1 was submitted on 31.08.2020 from the ACC Integrated District Office, Tangail (Sherpur).

**In cross-examination** he admitted that the complaint alleges a demand of bribe and harassment but he did not know the date the accused joined the Sherpur office. He noted that the complainant's bill was submitted on 24.12.2019, whereas the complaint referred to a meeting on 06.11.2019 before the bill submission. The complaint did not allege a bribe demand on 24.12.2019. He also confirmed that the seized money remained in his custody post-seizure and that the complainant's bill check

dated 20.12.2019 (document “B” in the seizure list) was seized from the office and from him.

Upon careful, dispassionate, and analytical consideration of the evidence on record, it transpires that the convict-appellant Md. Younus Miah, was posted as a Superintendent in the District Accounts Office, Sherpur and joined the said office on 13.10.2019. P.W.1 Md. Atiqul Alam, Assistant Director of the Anti-Corruption Commission, Special Judge Enforcement Cell, Tangail, lodged the FIR on 29.12.2019 on the basis of a written complaint dated 26.12.2019 submitted by Md. Abdul Hanif Mia, Office Assistant of Sherpur Government Women’s College, which was marked as Exhibit-2.

A careful perusal of Exhibit-2 discloses that the complainant (P.W.4) alleged that a total sum of **Tk. 16,79,799.93/-** was payable to him towards arrear salary and other service benefits for the period from 01.07.2008 to November, 2019. It was further alleged that the concerned bill was duly prepared by the college authority and submitted to the District Accounts Office, Sherpur, but the accused, on the pretext of being preoccupied with official work, deliberately delayed the process of passing the bill. The complainant also alleged that on 06.11.2019 the accused demanded 50% of the said outstanding amount as illegal gratification as a condition for processing and passing the bill.

P.W.4 the complainant himself, unequivocally admitted in his cross-examination that the online sanction letter relating to his salary and allowances was issued on 23.12.2019. He further admitted that, pursuant to the said sanction, the college authority prepared the bill and submitted the same to the District Accounts Office, Sherpur on 24.12.2019, which is also borne out by Exhibit-IV. He further admitted that, upon due verification and approval by the competent authority, a cheque against the said bill was issued on 29.12.2019 at about 2:15 p.m. The chronological sequence of the admitted facts thus establishes that the bill was processed and payment released within three working days of its submission. This time-frame, on the face of the record, is neither abnormal nor suggestive of any deliberate withholding of official action.

The above position is fully corroborated by P.W.2 Md. Zafarullah, District Accounts Officer, Sherpur, who admitted in his cross-examination that the bill from Sherpur Government Women's College was received in his office on 24.12.2019 and was duly passed on 29.12.2019. He categorically stated that he was not aware of any irregularity, deviation, or undue delay in the processing or passing of the said bill in his office. Significantly, nothing material could be elicited from him to suggest that the bill was intentionally held up or processed in an unusual manner.

In view of the admitted documentary evidence and the unimpeached testimony of P.W.2, the allegation that the accused intentionally delayed the complainant's bill in order to coerce or extract illegal gratification is rendered factually untenable. The prosecution has thus failed to establish the foundational fact of intentional delay, which alone could have lent plausibility to the alleged demand.

Consequently, the complainant's allegation of malafide delay stands contradicted by his own admissions, the contemporaneous documentary record and the independent testimony of the competent authority. Such an allegation, resting on conjecture rather than evidence cannot satisfy the standard of proof required in a criminal case and is therefore unworthy of acceptance.

It is also of considerable significance that P.W.4, the complainant himself, candidly admitted in his cross-examination that a *departmental inquiry* was held in respect of the bill in question, in which he deposed that the accused did not demand any money from him for passing the bill. Such an admission, emanating from the very mouth of the complainant, goes to the root of the prosecution case and strikes at its foundational premise of demand, thereby substantially eroding its credibility.

A further scrutiny of Exhibit-2 (the written complaint) reveals a glaring inconsistency. The complaint alleges that the accused demanded a bribe on 06.11.2019 yet it stands admitted by P.W.4 in cross-examination that no bill had been prepared or submitted to the District Accounts Office on that date. On the contrary, the bill was admittedly prepared and submitted only on 24.12.2019. In the absence of any bill before the Accounts Office on 06.11.2019, the allegation of demand on that date becomes inherently improbable and wholly unsustainable.

More importantly, P.W.4 further admitted that the cheque was issued and handed over to the college authority on 29.12.2019 at about 2:15 p.m. whereas the present case was instituted later on the same day at 4:05 p.m. i.e. after the bill had already been passed and payment released. The institution of the case subsequent to the completion of the official work seriously undermines the prosecution version and casts a grave doubt on the alleged motive and timing of the accusation.

In view of these material contradictions, inherent improbabilities, and glaring infirmities in the prosecution evidence relating to the foundational facts of *demand* and *official favour*, and in the absence of unimpeachable proof of a prior demand preceding the alleged acceptance, it would be wholly unsafe to sustain the conviction.

The mere recovery of money, even if assumed to be proved, is not sufficient to sustain a conviction unless the prosecution establishes a prior demand and voluntary acceptance of illegal gratification. In the present case, neither demand nor acceptance has been proved, while the defence version finds substantial support from the admissions of the prosecution witnesses themselves.

Consequently, the prosecution case is vitiated by serious infirmities giving rise to reasonable doubt. The convict-appellant is, therefore, entitled to the benefit of such doubt. The impugned conviction and sentence cannot be sustained in law.

Accordingly, the appeal is allowed and the convict-appellant Md. Younus Miah is acquitted of the charges framed against him.

The judgment and order of conviction and sentence dated 27.05.2024 passed by the learned Special Sessions Judge, Jamalpur in Special Case No. 02 of 2019, arising out of Dudak Tadanta No. 02 dated 29.12.2019 convicting the appellant under section 5(2) of the Prevention of Corruption Act, 1947 and section 161 of the Penal Code and sentencing him accordingly, are hereby set aside.

The bail bond stands discharged.

Send down the Lower Court Records (LCR).

Communicate this judgment and order to the concerned Court below at once.



