

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

PRESENT:

MR. JUSTICE ABU TAHER MD. SAIFUR RAHMAN

CRIMINAL APPEAL NO. 9941 OF 2024

Dr. S.M. Nazmul Haque.....Convict-appellant

-Versus-

The State

.....Respondent

Mr. A.M. Mahbub Uddin with

Mr. H.M. Shanjid Siddique, Advocates

.....For the convict-appellant

Mr. Md. Kamal Hossain, Advocate

.....For the respondent No. 2 (ACC)

Mrs. Tashrifa Sultana Jali, AAG with

Mr. Md. Emdadul Hanif, AAG and

Mr. Md. Hemayet Uddin, AAG

.....For the state

Heard on: 29.10.2025, 30.10.2025, 02.11.2025,
3.11.2025, 05.11.2025, 11.11.2025, 27.11.2025,
30.11.2025, 01.12.2025, 04.12.2025, 07.12.2025,
09.12.2025, 05.01.2026 and 06.01.2026.

Judgment on: The 27th of January, 2026

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 25.11.2024 passed by the learned Special Judge, Court No. 10 Dhaka in Special Case No. 01 of 2024, arising out of Shahbag P.S Case No. 26 dated 12.04.2018, corresponding to ACC G.R Case No. 27 of 2018 convicted the appellant under section 5(2) of the Prevention of Corruption

Act, 1947 and sentenced him to suffer rigorous imprisonment for 07 (seven) years and to pay a fine of **Tk. 10,000/-** (Taka ten thousand), in default to suffer rigorous imprisonment for a further period of 01 (one) month.

For disposal of this appeal, the relevant facts, briefly stated, are as follows:

Md. Abdul Wadud, Assistant Director, Anti-Corruption Commission, Integrated District Office, Dhaka-1, lodged a FIR alleging that the accused, Dr. S. M. Nazmul Haque, Chief Engineer and Surveyor, Department of Shipping, Ministry of Shipping, while serving at the BIWTA Building, Motijheel, Dhaka, demanded and accepted illegal gratification.

It is alleged that for approving receiving designs and issuing No Objection Certificates (NOC) for the passenger vessels *M.V. Prince Sohag-7*, *M.V. Rafsan* and *M.V. Nabila*, the accused demanded Tk. 15,00,000/- from M/s Syed Shipping Lines, of which **Tk. 5,00,000/-** was paid earlier and the remaining amount was repeatedly demanded.

Upon receipt of a complaint and with due permission of the competent authority, a trap team was formed on 12.04.2018. On the same date at about 17:45 hours, at Segun Restaurant, Segunbagicha, Dhaka, the complainant paid Tk. 5,00,000/- to the accused on his demand. The accused accepted the money and was immediately apprehended red-handed. On search, the

said amount, consisting of 500 notes of **Tk. 1,000/-** bearing recorded serial numbers, was recovered from his possession.

Thus, prima facie, the accused committed offences punishable under section 161 of the Penal Code and section 5(2) of the Prevention of Corruption Act, 1947. Hence, the instant case was filed against the accused-appellant.

Upon completion of investigation, the Anti-Corruption Commission submitted Charge Sheet No. 435 dated 18.10.2018 against the sole accused Dr. S.M. Nazmul Haque, Department of Shipping, BIWTA Bhaban Motijheel Dhaka under Section 5(2) of the Prevention of Corruption Act, 1947. The learned Special Judge, Court No.10 Dhaka, took cognizance and upon framing charge, the accused pleaded not guilty and claimed to be tried.

The prosecution examined 14 (fourteen) 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 did not adduce any defense witness.

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. A. M. Mahbub Uddin, learned Senior Advocate for the accused-appellant, emphatically submits that the present case is one of no legal evidence insofar as the essential elements of demand and voluntary acceptance of bribe are concerned, which constitute the very foundation for a conviction under the Anti-Corruption laws. In support of his submission, he places reliance upon the testimonies of P.Ws. 2, 3, 9, 10, 13, and 14, who on material particulars, failed to support the prosecution case.

He contends that P.W. 2, the alleged complainant, in clear and unequivocal terms, categorically denied during cross-examination that he had ever lodged any complaint before the Anti-Corruption Commission alleging demand of bribe by the accused, or that he had voluntarily paid any bribe money. On the contrary, he stated that he had merely handed over a packet given to him, without any knowledge of its contents, thereby completely negating the prosecution's case of conscious and voluntary payment.

Learned counsel further points out that P.W. 3 also categorically stated that he had no discussion or communication with the accused, Dr. S. M. Nazmul Haque, regarding any alleged demand or transaction of bribe, and that he had no personal knowledge of any incident involving the complainant,

the Anti-Corruption Commission, or the accused. He further asserted that Md. Imam Hasan alone, if at all, could explain the matter.

Thus, when the alleged complainant himself disowns both the complaint and the payment, and other material witnesses deny any knowledge of demand or transaction, the essential ingredients of the alleged offence remain wholly unproved. The learned trial court, however, failed to properly appreciate these vital infirmities in the prosecution evidence and thereby passed the impugned judgment, which is liable to be set aside as being unsustainable in law.

He further submits that mere recovery of tainted money, in the absence of cogent proof of demand and voluntary acceptance, cannot form the basis of a conviction. In support thereof, reliance is placed on the evidence of P.W. 9, who unequivocally admitted in cross-examination that he neither witnessed the alleged payment of money by Imam Hasan to the accused nor observed any recovery from the accused's possession. This glaring infirmity fatally undermines the prosecution case.

He further contended that in the instant case, two independent seizure-list witnesses—namely Md. Sumon and Sumon Mia—who were serving as waiters at Segun Restaurant at the relevant time of the alleged entrapment, were deliberately withheld by the prosecution without any plausible explanation.

The non-examination of such material and independent witnesses squarely attracts the adverse presumption under section 114(g) of the Evidence Act. The court below, however, failed to draw the said statutory presumption and thereby misdirected itself in law, which has resulted in the impugned judgment and order of conviction. Consequently, the same is liable to be set aside as being wholly unsustainable in law.

As against this, Mr. Md. Kamal Hossain, 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 the proper disposal of this appeal, it is necessary to examine whether the impugned judgment of conviction and the sentence imposed upon the convict-appellant are sustainable in law, in view of the materials on record, the facts and circumstances of the case and the settled principles governing the safe administration of criminal justice.

It is a settled principle of criminal jurisprudence that an accused is presumed to be innocent unless the prosecution proves every essential ingredient of the offence beyond reasonable doubt by cogent and reliable evidence. The burden of proof remains upon the prosecution throughout, and the

accused is under no obligation to establish his innocence, nor can any adverse inference be drawn from his failure to do so. Mere suggestions put during cross-examination, without substantiation, do not warrant any presumption against the accused. The prosecution must, therefore, place before the Court the best evidence that the nature of the case admits. Guided by these settled principles, the evidence on record is now examined.

P.W. 1 Md. Abdul Wadud, Assistant Director, ACC, Integrated District Office, Dhaka-1, deposed that on 12.04.2018 Md. Imam Hasan, Junior Executive of M/s Syed Shipping Lines, lodged a complaint before the ACC alleging that the accused Dr. S. M. Nazmul Haque, Chief Engineer and Surveyor, Department of Shipping, demanded illegal gratification for approval of the receiving design of a passenger vessel and for issuance of a no-objection certificate for naming new vessels. Although the design was required to be approved within 45 days under section 5(a) of the Inland Waterways Ordinance, 1976, the accused allegedly delayed the process and demanded **Tk. 15,00,000/-**, out of which **Tk. 5,00,000/-** had earlier been paid, and again demanded **Tk. 5,00,000/-** on 12.04.2018.

Upon verifying the complaint and obtaining approval from the ACC Head Office, P.W. 1 constituted a trap team with himself as leader. On 12.04.2018 at about 5:45 p.m. at Segun Restaurant, Segunbagicha, Dhaka, the complainant allegedly

handed over Tk. 5,00,000/- to the accused, which was accepted and kept in his possession. The trap team immediately apprehended the accused, and the tainted money was recovered from a khaki cloth bag in his possession, counted, and found to tally with the pre-prepared inventory. An inventory and seizure list were prepared on the spot in presence of witnesses.

He further stated that he himself lodged the FIR, conducted the investigation, and produced the seized money and other articles before the Court as exhibits. The accused was present in Court at the time of his deposition.

In cross-examination, he admitted that he did not collect call records or recordings regarding the demand of bribe and did not independently verify certain procedural matters, but denied that no bribe was recovered or that the case was falsely instituted.

P.W. 2 Md. Imam Hasan deposed that he joined M/s. Syed Shipping Lines as an Executive in mid-March 2018, where Syed Sohag was the Manager and Jalal Uddin the owner. At the time of joining, he was asked to sign several documents, including blank papers. On 12.04.2018, about 20–25 days later, he was instructed to deliver a “gift” to Dr. S. M. Nazmul Haque of the Department of Shipping, though he claimed to have no personal acquaintance with the accused.

He further stated that he was taken to the ACC office, made to sign papers, and shown a photograph of a person. He

was instructed to go to a restaurant and hand over a packet to that person. Accordingly, he went to the restaurant, identified the person from the photograph, introduced himself as from Syed Shipping Lines, placed the packet on the table stating it was a “Baisakhi gift,” whereupon ACC officials arrived and arrested the person. He was later taken to the ACC office and made to sign several papers. Being frightened, he did not return to Syed Shipping Lines thereafter. At this stage, he was declared hostile.

In cross-examination, he admitted joining Syed Shipping Lines in March 2018 and going to the ACC office before the restaurant incident, where a representative of Syed Sohag was present. He denied making any complaint to the ACC, denied any demand or voluntary payment of bribe, and claimed ignorance of the packet’s contents. He admitted his signatures on the inventory list, seizure list, and bond dated 12.04.2018 but claimed the contents were untrue and that he signed without understanding them. He denied giving any incriminating statement to the ACC Investigating Officer on 08.05.2018, denied prior contact with the accused, denied knowingly paying Tk. 5,00,000/- as bribe, and denied acting at the behest of the ACC or any authority.

P.W. 3 deposed that on 12.04.2018 he was the Manager of M/s Syed Shipping Lines. Due to his father’s illness, he could not give adequate time to the business and appointed Md. Imam Hasan to manage the company affairs. He also contends

that he had no discussion or communication with Dr. S. M. Nazmul Haque regarding any transaction or alleged demand of bribe. He further stated that he had no personal knowledge of any incident involving Md. Imam Hasan, the Anti-Corruption Commission, or the accused, and that Md. Imam Hasan was the appropriate person to explain the matter, if any. He denied any involvement or knowledge of the alleged bribery. He was not cross examined.

P.W. 4 Md. Monirul Islam, Assistant Director of the Anti-Corruption Commission, SJEC Dhaka-1, stated that on 12.04.2018 he was a member of the trap team formed under Memorandum No. 785. At about 17:00 hours, the trap team went to Segun Restaurant, Segunbagicha. At around 17:30 hours, the accused Dr. S. M. Nazmul Haque entered the restaurant, followed shortly by Md. Imam Hasan, who handed over **Tk. 5,00,000/-** in a khaki coloured cloth bag to the accused.

Thereafter, the trap team entered the restaurant, questioned the accused, and recovered five bundles of Tk. 1,000/- denomination notes totaling **Tk. 5,00,000/-** from the accused's possession. The serial numbers of the recovered notes tallied with those recorded earlier in the inventory. The money and the cloth bag were seized under a seizure list at about 17:45 hours, and the team leader Md. Abdul Wadud subsequently lodged the case.

In cross-examination, he stated that the trap team consisted of nine members and that he was not a signatory to the inventory or seizure list. He admitted that the team members were not searched by any independent person before entering the restaurant, many people were present there, no identifying mark was put on the inventoried money, and he did not go to the police station in connection with the case.

P.W. 5 Md. Abdur Razzak, Court Assistant, Anti-Corruption Commission, Dhaka-1, deposed that on 12.04.2018, while serving at the ACC, a trap team was formed at the ACC Divisional Office, Dhaka, and he was a member of the team. As per instruction, the team went to Segun Restaurant, Segun Bagicha, where members took positions inside and outside the restaurant. At about 5:30 p.m. accused Nazmul Haque entered the restaurant. Thereafter, complainant Imam Hasan entered and handed over **Tk. 5,00,000/-** in cash in a khaki cloth bag to the accused as bribe. Immediately thereafter, the trap team entered the restaurant and questioned the accused.

In cross-examination, he stated that he was not a witness to the inventory list or the seizure list prepared at the spot. The raiding party consisted of about 10–12 persons. They reached the place at about 5:00 p.m. He could not say when the complainant reached there. The accused was searched for 15–20 minutes. He did not count the money and could not say how long it took to count. He also could not say who prepared or typed the seizure list. He denied the suggestion that no money

was recovered, no seizure list was prepared, or that he had given false evidence.

P.W. 6 Rezaul Karim, Deputy Director, ACC, SJEC Faridpur, deposed that while serving as Assistant Director, ACC, SJEC Dhaka-2, he was part of a trap team constituted under Memorandum No. 785 dated 12.04.2018. On that day, the team positioned at Segun Restaurant, Segunbagicha, Dhaka, around 5:00 pm. At about 5:30 pm, the accused Dr. S. M. Nazmul Haque arrived and sat on the second floor. Md. Imam Hasan, Junior Executive of Syed Shipping Lines, then handed the accused a khaki bag. Acting on the party leader's instructions, the accused was apprehended. On questioning, he produced **Tk. 5,00,000/-** from the bag and admitted taking a bribe. The amount was seized at 5:45 pm, with the five bundles of **Tk. 1,000/-** notes matching the inventory prepared at 3:00 pm the same day. The accused was subsequently arrested and the case initiated.

In Cross-examination he stated that he did not witness the preparation of the inventory or seizure list, could not recall the serial numbers or denominations of the recovered notes, nor the exact time taken to count and match the currency. He denied that no money was recovered or that no seizure list was prepared.

P.W. 7 Md. Jahangir Alam, Deputy Director, ACC, Dhaka, deposed that on 12.04.2018, as Assistant Director at

ACC Dhaka-1, he was a member of a trap team constituted under Memorandum No. 785. On that date, the team went to Segun Restaurant, Segunbagicha. At about 17:30 hours, the accused, Dr. S. M. Nazmul Haque, entered the restaurant. Shortly after, Md. Imam Hasan of M/s Syed Shipping Lines handed a packet to the accused, which P.W.-7 witnessed. He further stated that the team confronted the accused, who admitted receiving the bribe and produced **Tk. 5,00,000/-** from a khaki bag. The team leader seized the money at 17:45 hours, matching the earlier currency inventory. The complainant later lodged the case.

In cross-examination he stated he was not a signatory to the inventory or seizure list did not personally recover the money, and the accused was not searched. He could not recall serial numbers or the exact table and noted other persons were present. He denied giving false evidence.

P.W. 8 Deputy Assistant Director of ACC, Dhaka-2, stated that on 12.04.2018 he was part of a trap team formed under Memorandum No. 785. Following the team leader's instructions, he went to Segun Restaurant, Dhaka. The accused, Dr. S.M. Nazmul Haque, entered the restaurant, and the complainant, Md. Imam Hasan, handed him a khaki bag containing **Tk. 5,00,000/-**. The accused admitted receiving the money, which was seized by the trap team and matched the inventoried notes. The complainant later filed the case based on this trap.

In cross-examination, he admitted that his earlier statement did not mention entering the restaurant or sitting at a table. He was not a witness to the inventory, seizure list, or bond, and could not recall the exact number or color of the notes, only that they were Tk. 1000/- notes. Counting took 5–7 minutes. He denied that no money was recovered in his presence or that he gave false testimony.

P.W. 9 Sameeran Mistry, Executive Engineer, PWD E/M Division-7, Dhaka deposed on 12.04.2018 he was directed to attend the ACC Dhaka Divisional Office regarding a trap case. With permission from his superior, he went there with Executive Engineer Saimum Hossain. At the ACC office, he was informed about the trap operation. Md. Imam Hasan was present and **Tk. 5,00,000/-** was displayed. An inventory list matching the serial numbers of the currency notes was prepared in his presence, and he signed it. The money was then handed to Imam Hasan under an inventory guarantee, on which he also signed.

He further stated that he accompanied the ACC trap team to Segun Restaurant, Segun Bagicha, remaining on the ground floor with Saimum Hossain while the trap and law enforcement personnel took positions. At around 17:45, ACC officials asked them to compare the recovered money's serial numbers with the inventory list, the numbers matched, and he signed the seizure list. Afterwards, he returned to the ACC office with the team.

In cross-examination, he stated that he did not see the money being handed to or recovered from the accused.

P.W. 10 Saimum Hossain, Executive Engineer, PWD, deposed that on 12.04.2018, while serving as Sub-Divisional Engineer, PWD-3, Segun Bagicha, he accompanied Sameeran Ministry to the ACC office. In their presence, Imam Hossain produced **Tk. 5,00,000/-**, for which an inventory list (Exh-2/3) and inventory bond (Exh-3/3) were prepared and signed by him. Later, he went with the ACC team to Segun Restaurant and signed the seizure list (Exh-4/3) after verifying the amount against the inventory list.

In cross-examination he stated that he did not see the accused receive the money, nor witness its recovery, did not go to the 4th floor of the restaurant, and did not observe the seizure list being prepared. He signed the seizure list when requested. The investigating officer only recorded his oral statement.

P.W. 11, Rafi Mohammad Najmus Sadat, Assistant Director, ACC, SJEC, Comilla, deposed that on 12.04.2018, while serving as Deputy Assistant Director at the ACC Dhaka Division (Dhaka-1), a trap team was formed under the leadership of Md. Abdul Wadud, Assistant Director, of which he was a member. Acting on prior information that the accused, Dr. S. M. Nazmul Haque, Chief Engineer and Surveyor, Department of Shipping, would accept **Tk. 5,00,000/-** as bribe from Md. Syed Imam Hasan, an inventory of the tainted money

was prepared that afternoon. At about 5:00 pm, the team took position at Segun Restaurant, Segunbagicha. Around 5:30 pm, the accused entered the restaurant, whereupon, on the signal of the team leader, he was apprehended. Upon challenge, the accused allegedly admitted acceptance of the bribe and produced five bundles of Tk. 1,000/- notes amounting to **Tk. 5,00,000/-**, the serial numbers of which tallied with the inventory. The money was seized under a seizure list in presence of witnesses, and the case was thereafter instituted.

In Cross-examination he stated that the trap team consisted of nine members including the leader. He remained outside the restaurant until the signal and could not recall the exact number of members inside or outside. He did not witness the preparation of the inventory or the seizure list. He denied suggestions that no money was recovered, that he was not a member of the trap team, or that he deposed falsely under pressure.

P.W. 12 Md. Shafiq Ayub deposed that on 22.04.2018, while serving as Inspector, Department of Shipping, he brought Office Document No. L-018.170.413.027.00.48(1)/2016 (pages 1-264 and note sheets 01-03) and the vessel approval application of Syed L. Sohag, Manager of M/s Syed Shipping Lines, to the office of Md. Abdul Wadud, Assistant Director, ACC. The documents were seized in his presence under a seizure list (Exhibit-6/2) and entrusted to him under a custody deed (Exhibit-7/2) and have been produced before the Court as

Exhibit-II series. In cross-examination, he stated that he was only the custodian of the documents, and he has no knowledge of other aspects of the case.

P.W. 13 Regina Begum, Deputy Director, Department of Shipping, Motijheel, Dhaka, deposed that on 22.04.2018, she accompanied Inspector Md. Shafiq Ayub to the ACC office, where the original seizure list produced by the Inspector was seized by the Assistant Director. She identified her signature on the list (Exhibit-6/3) and also signed a bond executed in connection with the seizure (Exhibit-7/3).

In cross-examination, she stated that on 24.05.2018, she informed the Prosecuting Officer, Parveen Sultana, that the design submission for MV "*Prince of Sohag*" was defective, lacked approval, no prescribed fee was paid, and the application contained objections.

PW-14 Md. Abdul Wadud deposed that, while serving as Assistant Director, ACC, Dhaka, he was appointed Investigating Officer on 17.04.2018 (Exhibit-9). On 22.04.2018, he seized documents from the Department of Shipping relating to approval of the receiving design and naming of passenger vessel MV *Prince of Sohag*, in the presence of witnesses, and deposited the same under proper seizure list (Exhibits-6/4 and 7/4).

He stated that under section 5(b) of the Inland Navigation Ordinance, 1976, approval of the receiving design was required

within the prescribed time. The accused, Dr. S.A.M. Nazmul Haque, Chief Engineer and Ship Surveyor (Current Duty), Department of Shipping, allegedly demanded **Tk. 15,00,000/-** as illegal gratification for approving the design and issuing no-objection for naming the vessel, of which Tk. 5,00,000/- had earlier been paid.

On a written complaint by Md. Imam Hasan (E/R No. 3/2018 dated 12.04.2018), a trap was arranged with ACC approval. On 12.04.2018 at about 17:45 hours at Segun Restaurant, Segun Bagicha, Dhaka, the accused allegedly accepted **Tk. 5,00,000/-** as bribe from the complainant. He was immediately apprehended by the trap team, and the pre-recorded currency notes were recovered from his possession.

P.W. 14 opined that the accused committed offences punishable under section 161 of the Penal Code and section 5(2) of the Prevention of Corruption Act, 1947. Upon approval of the ACC Head Office on 17.10.2018 (Exhibit-10), charge-sheet was submitted on 18.10.2018.

In cross-examination, he admitted that the charge-sheet did not mention the exact date of the initial demand, no documentary proof of prior payment existed apart from the trap recovery, and he did not verify whether the accused was formally a member of the Design Evaluation Committee. He denied the suggestion that the case was false or fabricated.

Findings of the Court:

Upon consideration of the aforesaid evidence on record, I now proceed to examine whether the impugned judgment and order of conviction and sentence are sustainable in law.

It appears from the record that P.W 1 and P.W. 14 are one and the same person, who acted both as the informant and the Investigating Officer in the present case. P.W. 2 filed a written complaint before the Anti-Corruption Commission (ACC) on behalf of M/s Syed Shipping Lines. P.W. 3 was the Manager of the said Shipping Line. P.Ws. 4 to 8 and 11 were members of the trap team. P.Ws. 9 and 10 were witnesses to the preparation of the inventory list and the seizure list. P.Ws. 12 and 13 are formal witnesses, holding the position of custodians of the official documents seized by the Anti-Corruption Commission.

Upon a careful perusal of the testimony of P.W. 1, it appears that P.W. 1 Md. Abdul Wadud is a public servant discharging statutory duties under the Anti-Corruption Commission Act. There is nothing on record to suggest that he had any prior personal enmity or malice, against the accused. His involvement in the case commenced pursuant to a written complaint filed by Md. Imam Hasan PW2 and subsequent authorization from the Head Office of the Anti-Corruption Commission. As such, his presence at the relevant time and

place was natural, official, and in due discharge of his statutory functions, and cannot be termed as artificial or self-serving.

The evidence of P.W. 1 appears to be consistent, cogent, and unshaken, particularly with regard to the receipt of the complaint, formation of the trap team with due permission, preparation of the inventory, acceptance of the bribe money by the accused on 12.04.2018, and the immediate recovery of **Tk. 5,00,000/-** from the possession of the accused following such acceptance which was corroborated by the all members of the trap team.

The recovery of tainted money in a trap case constitutes a vital and strong incriminating circumstance, and the testimony of P.W.-1 on this aspect finds clear corroboration from the documentary exhibits such as the inventory list, seizure list, and the First Information Report.

P.W. 1 categorically deposed that the accused accepted the bribe money and retained the same in his possession, from where it was recovered immediately thereafter in the presence of the trap team members, namely P.Ws. 4 to 8 and 11. The evidence of these witnesses is consistent, cogent and mutually corroborative on the vital aspects of acceptance and recovery.

The seized money tallied exactly with the inventory prepared earlier. This part of his testimony remained unimpeached in substance, despite lengthy cross -examination. No material has been elicited in cross-examination to discredit

their testimony or to raise any reasonable doubt regarding the prosecution case in this respect.

In cross-examination, P.W. 1 fairly admitted that no call records or audio recordings were collected and that certain departmental procedural aspects—such as verification of committee membership or completeness of the design documents—were not examined. These admissions demonstrate candour rather than any suppression and do not negate the direct evidence of demand and acceptance of bribe on the date of occurrence. In trap cases, direct recovery of illegal gratification outweighs technical lapses in preliminary verification, unless prejudice is shown, which is absent here.

Upon a holistic reading, the testimony of P.W. 1 inspires confidence. His evidence is supported by contemporaneous documentary materials, corroborated by the recovery of the tainted money and remains free from any material contradiction on the core issue of demand and acceptance of illegal gratification. The omissions and discrepancies elicited in cross-examination are minor, technical, and peripheral in nature and do not go to the root of the prosecution case nor undermine its substratum.

P.W. 9 and P.W. 10 are the witnesses of the Inventory list as well as the seizure list. When the testimonies of P.Ws. 9 and 10 are read conjointly with those of the trap team members, namely P.Ws. 4 to 8 and 11, a coherent and unbroken chain of

evidence emerges. The trap team witnesses have consistently deposed regarding the demand, acceptance, and recovery of the bribe money, while P.Ws. 9 and 10 have independently corroborated the procedural stages relating to the inventory, custody, and post-recovery verification of the tainted money.

The evidence of the trap team establishes the *substantive acts* constituting the offence, whereas the testimonies of P.Ws.9 and 10 fortify the *procedural integrity* of the trap operation. Together, they exclude any reasonable possibility of substitution, fabrication, or tampering with the bribe money. Thus, the prosecution case does not rest on isolated testimonies but stands supported by mutually corroborative evidence covering both the substantive and procedural aspects of the case.

The testimonies of P.Ws. 9 and 10 are essentially procedural and corroborative. Their evidence establishes that: (a) on 12.04.2018 they attended the ACC Divisional Director's office pursuant to official instruction; (b) in their presence, P.W. 2, Md. Imam Hossain, produced **Tk. 5,00,000/-**; (c) an inventory was prepared after matching the serial numbers of the currency notes, which they duly signed; (d) the inventoried money was handed over to P.W. 2 under a bond, also bearing their signatures and (e) at Segun Restaurant, upon verification that the serial numbers of the seized currency corresponded with the inventory, they signed the seizure list.

Accordingly, their evidence firmly establishes the continuity, identity, and integrity of the tainted money from preparation of the inventory to its eventual seizure.

It is significant that P.Ws. 9 and 10 are public servants from a department wholly unconnected with the complainant, the accused, or the ACC, and their presence was secured solely by official instruction. Their role was never projected by the prosecution as eyewitnesses to the demand, acceptance, or recovery of the bribe money. Their evidence is confined to verifying compliance with pre-trap and post-trap procedural safeguards.

The admissions of P.Ws.9 and 10 in cross-examination—that they did not witness the handing over or physical recovery of the bribe money—are neither unexpected nor destructive of the prosecution case. On the contrary, such admissions reinforce their credibility, as they did not claim a role beyond what was actually assigned to them. Their testimonies remain trustworthy within the limited sphere of their duties, namely, preparation of the inventory list, verification of custody of the tainted money, and post-recovery matching of the seized currency notes.

Viewed in this perspective, the evidence of P.Ws. 9 and 10, far from weakening the prosecution case, provides independent assurance that the trap was conducted in a fair, transparent, and legally acceptable manner, thereby lending

further support to the consistent and unimpeached testimonies of the trap team witnesses.

In *Shahabullah vs. The State* (43 DLR (AD) 1), the Hon'ble Appellate Division held that the laying of a trap in bribery cases is a lawful and necessary investigative method, such offences being committed in secrecy, and that trap witnesses cannot be treated as accomplices nor subjected to any rigid rule of corroboration. In light of this settled principle, independent witnesses are not required to witness every stage of a trap operation, particularly the actual demand or acceptance of illegal gratification. The essential ingredients of demand and acceptance may lawfully be proved through the testimony of the complainant and the trap officer, provided such evidence is found to be credible, reliable, and supported by recovery of tainted money and surrounding circumstances. The role of independent witnesses is primarily to ensure procedural regularity during pre-trap and post-trap formalities, and their inability to witness the demand, acceptance, or recovery is not, by itself, fatal to the prosecution. On the contrary, where independent witnesses candidly and honestly depose only to those procedural aspects within their personal knowledge, without claiming to have seen events which they admittedly did not, such testimony enhances rather than undermines the overall credibility of the prosecution version.

The defense contended that no independent customers of the restaurant were examined as witnesses. P.W. 1, however,

clearly explained that government officials were lawfully requisitioned and remained present during the preparation of the inventory and the seizure of the tainted money. It is by now well settled that in trap cases instituted by the Anti-Corruption Commission there is no hard and fast rule that private or independent witnesses must invariably be examined. The evidence of official witnesses does not become suspect merely on account of their official status. In the absence of any suggestion, far less proof, of collusion, animus, or fabrication, and when such evidence is otherwise found to be natural, consistent, and trustworthy, the same cannot be discarded solely on the ground that no independent witnesses from the place of occurrence were examined.

P.W. 2 Md. Imam Hasan has been projected by the prosecution as the complainant and decoy witness. However, during trial, he materially resiled from his earlier version and was accordingly declared hostile. His testimony, therefore, requires cautious and careful scrutiny to determine whether any portion thereof is worthy of reliance.

P.W. 2 did not merely suffer from minor inconsistencies or lapses of memory; rather, he wholesale denied the prosecution narrative relating to the demand of bribe by the accused, the lodging of complaint before the Anti-Corruption Commission, his voluntary participation in the trap, and the conscious payment of bribe money. His denial extended even to the making of statements attributed to him during investigation.

Such blanket repudiation unmistakably indicates deliberate resilement rather than confusion or inadvertence.

Notwithstanding his hostility, P.W. 2 made several material admissions which substantially support the prosecution case. He admitted that on 12.04.2018 he went to the restaurant as instructed and met the accused, who had earlier been shown to him through a photograph. He further admitted that he placed a packet on the table of the accused and introduced himself as a representative of Syed Shipping Lines. This admission directly establishes the physical delivery of the packet to the accused.

P.W. 2 also admitted that immediately after the delivery of the packet, officials of the Anti-Corruption Commission appeared at the spot and arrested the accused, thereby corroborating the timing, continuity, and sequence of the trap operation.

Significantly, P.W. 2 unequivocally admitted his signatures on the inventory list, the seizure list, and the bond. Such admission conclusively proves his participation in the trap proceedings, irrespective of his subsequent denial of the contents of those documents.

The explanation offered by P.W. 2 that he blindly handed over an unknown packet without knowing its contents and signed multiple official documents without understanding their nature—is inherently improbable. A literate adult, engaged in business activities, cannot reasonably claim to have visited the

ACC office, participated in official proceedings, signed several legal documents, and appeared before Court, all without comprehending the nature of the transaction. His plea of ignorance appears to be a self-serving attempt to distance himself from potential criminal liability as a giver of bribe.

P.W. 2 further admitted that he severed all connections with Syed Shipping Lines immediately after the incident and expressed fear and discomfort arising out of the occurrence. Being exposed to possible criminal prosecution for giving bribe, he had a clear motive to retract his earlier statements and deny conscious participation. Such motive lends assurance to the inference that his hostility is not spontaneous but calculated.

It is by now well settled that the evidence of a hostile witness is not to be rejected in toto. The Court is entitled to rely upon those portions of his testimony which are consistent with the prosecution case and find corroboration from other reliable evidence. In the present case, the admissions of P.W. 2 regarding his presence at the place of occurrence, delivery of the packet to the accused, immediate arrest by ACC officials, and his signatures on official documents fully corroborate the testimony of P.W. 1 as well as the contemporaneous documentary exhibits.

The Court finds that P.W. 2 is not a truthful witness insofar as his denial of the prosecution case is concerned. His evidence is marked by evasive answers, sweeping denials, and

repeated attempts to disown admitted documents. Nevertheless, his admissions on material facts, when read in conjunction with corroborative oral and documentary evidence, carry substantial probative value and can safely be relied upon to that extent.

P.W. 3, though examined as a prosecution witness, completely disowned any knowledge of the alleged demand or acceptance of bribe and categorically denied any involvement in, or awareness of, the trap or the proceedings initiated by the Anti-Corruption Commission. His testimony amounts to nothing more than a bare denial, coupled with a statement that Md. Imam Hasan was the proper person to explain the matter. The record further reveals that the prosecution filed several applications on different dates seeking to recall this witness for cross-examination, which were allowed; however, the prosecution ultimately failed to produce him for cross-examination on the ground that he had left the country as evident from court order dated 29.04.2024 and 12.05.2024 passed by the trial Court below. Accordingly, his evidence went unchallenged by cross-examination.

However, the credibility of P.W. 3 cannot be assessed in isolation from the contemporaneous documentary materials forming part of the case record. A perusal thereof discloses that shortly after the accused-appellant was enlarged on bail on 13.08.2018, P.W. 3 lodged G.D. No. 223 dated 04.09.2018, wherein he made categorical and detailed allegations directly implicating the accused-appellant in demanding illegal

gratification in connection with approval of the receiving design of passenger vessel *M.V. Prince Sohag*. In the said G.D., P.W.-3 unequivocally stated that the accused-appellant had deliberately withheld approval, demanded bribe, and was subsequently caught red-handed by the ACC officials while receiving the bribe money. He further alleged that after release on bail, the accused-appellant had been issuing repeated life threats over the telephone.

These statements, made contemporaneously and prior to the trial, are materially inconsistent with his deposition before the Court, where he professed total ignorance of the transaction, the demand of bribe, and the involvement of the accused-appellant. Such a stark departure cannot be explained by lapse of memory or minor discrepancy; rather, it amounts to a complete revilement from his earlier version.

It is also pertinent that the said General Diary was relied upon by the learned Public Prosecutor in an application for cancellation of bail, filed on 21.10.2018, annexing the G.D. as supporting material. This lends further assurance to the authenticity and relevance of the contents of the G.D., as it was treated as a serious allegation of post-bail misconduct and witness intimidation.

In the circumstances, although P.W. 3 was not declared hostile in formal terms, his trial testimony bears the unmistakable features of a witness who has suppressed the truth

and resoled from his earlier, more candid version. It is by now settled that the Court is not bound to accept the testimony of a witness merely because it remains unchallenged in cross-examination; rather, the Court is duty-bound to assess whether such testimony inspires confidence and is consistent with the proved facts and surrounding circumstances.

Accordingly, the denial of knowledge by P.W. 3 during trial does not inspire confidence and cannot be accorded full credence. On the contrary, his prior statement as reflected in G.D. No. 223, being contemporaneous, detailed, and consistent with the prosecution narrative and subsequent conduct of the accused-appellant, constitutes a strong circumstance indicating that P.W.-3 had earlier spoken the truth and later retracted under extraneous pressure or influence. Hence, his evidence, to the extent it seeks to exonerate the accused-appellant by pleading ignorance, is unreliable and liable to be discarded.

Taken together, the testimonies of P.Ws. 12 and 13 are mutually corroborative, internally consistent, and supported by contemporaneous documentary evidence. Being disinterested public servants with no demonstrated animus against the accused, their evidence inspires confidence. However, it must be noted that their role is limited to establishing the seizure, custody, and official status of documents, and not the demand or acceptance of any illegal gratification. Within that limited scope, their credibility remains unimpeached and reliable.

Accordingly, the contention advanced by the learned Advocate for the accused-appellant with regard to the evidence of P.Ws. 2, 3, 9, 10, 13 and 14 is found to be without substance and cannot be accepted.

I have also examined the authorities cited by the learned Advocate for the accused-appellant, reported in 63 DLR (2011) 294, 13 ADC (2016) 311, (2015) 10 SCC 152 and (2009) 3 SCC 779; however, the ratio laid down therein is clearly distinguishable and has no application to the facts and circumstances of the present case.

Upon an overall evaluation, the essential ingredients of the offence—namely, demand, acceptance, and recovery of illegal gratification—stand proved through reliable oral evidence, corroborated by contemporaneous documentary exhibits and the recovery of tainted money. The minor omissions and procedural lapses pointed out by the defence are technical in nature, do not cause any prejudice to the accused, and are insufficient to undermine the substratum of the prosecution case.

Accordingly, this Court is of the view that the impugned judgment and order of conviction are based on a proper appreciation of the evidence on record and a correct application of law, and call for no interference as to the finding of guilt. The prosecution has proved the charges beyond reasonable doubt.

However, taking into account the amount of illegal gratification involved and the prolonged suspension from service suffered by the appellant, this Court is inclined, in the interest of justice, to modify the sentence and reduce the term of imprisonment from seven (7) years to three (3) years.

In the result, the appeal is dismissed with the aforesaid modification of the sentence.

The convict-appellant is directed to surrender before the concerned Court below within **30 (thirty)** days from the date of receipt of a copy of this judgment and order, failing which the concerned Court below shall take necessary legal steps for execution of the sentence in accordance with law.

Send down the Lower Court Records (LCR).

Let a copy of this judgment be communicated to the Court below forthwith.