
Supreme Court Clarifies Threshold For Corruption Prosecution: Mere Policy Violations Or Administrative Irregularities Causing Loss To Exchequer Insufficient Without Proof Of Bribery

Authors: *Vasanth Rajasekaran and Harshvardhan Korada*

Introduction

The Supreme Court, in *Dileepbhai Nanubhai Sanghani v. State of Gujarat* [2025 INSC 280], addressed an important question pertaining to the threshold for sustaining criminal prosecution under the Prevention of Corruption Act, 1988 ("the Act").

The case involved allegations against the former Minister of Fisheries, Government of Gujarat, regarding the improper grant of fishing contracts without adhering to the prescribed tendering process. The appellant had sought quashing of the proceedings initiated against him, arguing that there was no material to establish a *prima facie* case of corruption. The High Court had refused to grant him relief, leading to the appeal before the Supreme Court. The judgment ultimately turned on the interpretation of essential elements of corruption-related offences and the role of judicial scrutiny at the discharge stage.

Brief Facts

The case arose from the allocation of fishing contracts in Gujarat's reservoirs. The complainant, a trader in the fishing business, challenged the allocation of contracts on the ground that they were granted without the mandatory tendering process, resulting in a loss to the state. The High Court, in earlier proceedings, set aside these contracts and directed the state to undertake a fresh tendering process. The subsequent bids secured through the tendering process yielded significantly higher revenue, which the complainant relied on to assert that the original allocation had been tainted by corruption.

The appellant, a former Minister, was named as Accused No. 2 in the case. The prosecution alleged that he, along with other government officials, had acted in concert to award these contracts to select parties, bypassing the competitive bidding process. The appellant maintained that the allocation was made to benefit the tribal community and was based on a policy decision taken at the highest level of government.

The Special Court (Anti-Corruption Bureau) rejected the appellant's discharge application, and the High Court upheld this refusal, finding that there was *prima facie* material indicating misuse of office. The appellant then approached the Supreme Court, challenging the High Court's order.

Arguments from Both Sides

The appellant contended that there was no material to suggest that he had demanded or accepted any bribe. It was argued that mere deviation from a tendering

policy could not, in itself, attract criminal liability under the Prevention of Corruption Act.

Reference was made to ***Neeraj Dutta v. State (NCT of Delhi)*** [(2023) 4 SCC 731], wherein a Constitution Bench of the Supreme Court reaffirmed that proof of demand and acceptance of illegal gratification is a *sine qua non* for establishing corruption charges under Sections 7 and 13 of the Act.

The appellant further relied on ***Dipakbhai Jagdishchandra Patel v. State of Gujarat*** [(2019) 16 SCC 547], and ***Sajjan Kumar v. CBI*** [(2010) 9 SCC 368], to argue that while suspicion may justify further investigation, a mere procedural irregularity absent any direct or circumstantial evidence of bribery could not support a corruption charge.

The appellant also submitted that the High Court had wrongly assumed that the earlier refusal to quash proceedings precluded a fresh challenge after additional evidence had been recorded.

On the other hand, the respondents pointed out that Section 20 of the Act raises a presumption against a public servant once it is shown that an official act was performed improperly. It was argued that the decision to grant fishing contracts without tendering was not an innocent mistake but a deliberate departure from policy, indicating an intent to secure undue advantage for favoured entities. The respondents relied on ***State of T.N. v. N. Suresh Rajan*** [(2014) 11 SCC 709], to argue that discharge is not warranted when there is a *prima facie* case, and the matter should proceed to trial.

The state government adopted a neutral stance, stating that while no direct evidence of bribery had emerged, certain statements recorded in the investigation hinted at a demand for illegal gratification by another accused in the case. The state also pointed out that the economic loss to the exchequer due to the non-tendered allocation was a relevant factor in assessing the misuse of office.

Findings of the Supreme Court

The Supreme Court carefully analysed the allegations and the investigation report. It reiterated that mere violation of government policy does not *ipso facto* constitute an offence under the Prevention of Corruption Act. Relying on ***Neeraj Dutta (supra)***, the Supreme Court observed that demand and acceptance of illegal gratification are foundational elements for a conviction under Sections 7 and 13 of the Act. It noted that in the present case, there was no direct or circumstantial evidence showing that the appellant had sought or received a bribe.

The Supreme Court criticised the High Court's approach, stating that it had failed to distinguish between an improper administrative decision and an act of corruption. The Apex Court observed that while the appellant may have taken a policy decision that was subsequently found to be flawed, such a decision, absent personal monetary gain, could not be criminalised.

The Supreme Court further held that the presumption under Section 20 does not arise unless foundational facts, such as demand and receipt of undue advantage, are established.

The Supreme Court also took into account the detailed investigation report, which had specifically found no evidence against the appellant. It held that the Special Court erred in not considering this crucial aspect while rejecting the discharge application. The Supreme Court also pointed out that earlier judicial observations regarding a prima facie case were made at a stage when evidence had not been fully recorded, and the appellant had the right to seek reconsideration in light of fresh material.

Based on these findings, the Supreme Court allowed the appeal and quashed the criminal proceedings against the appellant. It clarified that its observations were limited to the appellant's case and should not influence proceedings against other accused persons.

Comment

The ruling of the Supreme Court aligns with its consistent approach in requiring cogent evidence of demand and acceptance of illegal gratification before allowing corruption cases to proceed.

The judgment reinforces that deviation from government policy, even if wrongful, does not automatically translate into a corruption offence unless there is clear evidence of personal gain or bribery.

By quashing the proceedings against the appellant, the Supreme Court has drawn a crucial distinction between executive decision-making and criminal misconduct. Public officials must be held accountable for corruption, but such accountability must be rooted in concrete evidence rather than mere suspicion or procedural irregularities. The judgment is a reminder that anti-corruption laws, while stringent, must not become instruments for unwarranted prosecution.

Contact

For any query, help or assistance, please reach out at info@trinitychambers.in or visit us at www.trinitychambers.in.

Authors



Vasanth Rajasekaran
Founder & Head
vasanth@trinitychambers.in



Harshvardhan Korada
Counsel
harshvardhan@trinitychambers.in