2026:JHHC:28250

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 1724 of 2003

Bageshwar Pandey, Son of Late K. Pandey, Resident of Village-Tarahasi, P.S. Manatu, Dist.-Palamau/Jharkhand

... . Appellant

Versus

The State of Jharkhand **.... .... Respondent**

For the Appellant : Mr. Mahesh Tewari, Advocate
Mr. Anand Kumar Pandey, Adv.
For the Resp. State : Mr. Pankaj Kumar, P.P.

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

C.A.V. on 07.09.2026 **Pronounced on 17.09.2026**

1. Heard the arguments of learned counsel for the appellant and learned P.P.

2. The instant criminal appeal has been preferred by the above named sole appellant challenging his conviction and sentence for the offence under Section 13(1)(e) of the Prevention of Corruption Act, 1988 in Special Case No. 5 of 1992/Vigilance P.S. 1/1992 passed by the learned Special Judge, Vigilance, Ranchi vide its Judgment and order dated 13th November, 2003 whereby and whereunder, the appellant has been directed to undergo imprisonment for two years.

Factual Matrix:-

3. The factual matrix giving rise to this appeal is that Bhagwan Prasad, Dy. S.P., Vigilance, Cabinet then Bihar, (Ranchi Camp) after inquiry disclosed that the accused (present appellant) has served in the Forest Dept. as Forester Chatakpur Beat Maru Range in the division of Daltonganj and Latehar from 1963 to

1988 in different capacity and it is alleged that the accused has acquired moveable and immoveable property in his name and in the name of family members disproportionate to his income i.e. Sale Deed No. 8340 dated 01.09.1986 in the name of his wife measuring 5 ¼ decimal of land along with unconstructed house which costs Rs. 5000/-. Similarly, Sale Deed No. 67879 dated 05.07.1988 executed in favour of his wife measuring 5.20 Acres of land which costs Rs. 21,000/-. This accused has also purchased land in the name of first son namely Surendra Pandey in whose favor a Sale Deed No. 3934 dated 13.04.1989 has been executed measuring 89 Decimals of land which costs Rs. 10,000/-. Another Sale Deed Dated 05.07.1988 in the name of his son measuring 5 Acres of land which costs Rs. 21,000/-. In the name of second son namely Ramawatar Pandey, a Sale Deed No. 7868 dated 05.07.1988 has been executed measuring 5 Acres which also costs Rs. 21,000/-. Third son Ramashankar Pandey has also executed a Sale Deed dated 13.04.1988 in his favour measuring 59 decimals of land which costs Rs. 10,000/-. This accused has also executed sale deed dated 03.07.1988 in his favour measuring 4.98 Decimals which costs Rs. 21,000/-. Besides these immovable property, this accused has also some movable property such as Sctooter for Rs. 13,000/-, Gun costing Rs. 1500/-, Generator for Rs. 2650/-. Accordingly, it is alleged that this accused has purchased land during service period measuring 21 Acres 40 Decimals in the name of him, his

sons and wife from time to time which costs Rs. 1,29,000/- and the cost of other articles are Rs. 27,150/- and these assets are not according to his income. It is also alleged that his son namely Surendra Pandey is a assistant in a school but he does not get any salary and other sons are wholly dependent upon his father i.e. the present appellant. It is alleged that in this way, the accused has acquired assets worth Rs. 1,17,690/- which has been acquired by him against unknown source of income.

4. On the basis of written information of above inquiry by the Dy. S.P. –Bhagwan Prasad, F.I.R. was lodged against the accused. After completion of investigation by the dept., charge-sheet was submitted against the accused for the offence under Sections 13(2) read with 13(1)(e) of the P.C. Act. The accused received police paper and was charged for the alleged offence to which he pleaded not guilty and claimed to be tried.

5. The learned trial Court after considering the oral as well as documentary evidence adduced on behalf of the parties held the appellant guilty for the offence under Section 13(1)(e) of the P.C. Act and accordingly convicted and sentenced as stated above.

Submissions on behalf of appellant: -

6. The learned counsel for the appellant assailing the impugned judgment has strenuously argued that the learned trial Court has miserably failed to take into consideration that the

prosecution has failed to produce any document relating to the immovable or moveable assets of the appellant to substantiate the charge that during the check period, the appellant has acquired the property beyond the known source of his income/salary as a pubic servant nor any documents said to have been seized from the possession of the appellant or from his native village during the investigation rather P.W.-4, the second investigating officer of this case has clearly stated that the appellant had annual income of Rs. 18,500/- from milk and Lac business as well as from agriculture. Learned counsel for the appellant has further submitted that the investigating officer himself was not willing to file charge-sheet against the appellant finding no any disproportionate property but he did so on the direction of higher authority and this part has not been considered by the learned trial Court. Therefore, impugned judgment of conviction and sentence of the appellant is absolutely illegal based beyond the weight of evidence available on record and liable to be set aside. The appellant deserves acquittal from the charge leveled against him. Accordingly, this appeal may be allowed.

Submissions on behalf of the State

7. Per contra, the learned P.P. controverting the aforesaid contentions raised on behalf of the appellant has submitted that the learned trial Court has very wisely and aptly taken into consideration the overall evidence available on record.

Learned P.P. has further submitted that the appellant has not produced any documentary evidence showing their income and property which were disproportionate to his income and the learned trial Court has rightly come to the conclusion of the guilt of the appellant which suffers from no illegality or infirmity calling for any interference in this appeal which is devoid of merits and fit to be dismissed.

Analysis, reasons and decision:

8. I have gone through the record of case along with impugned judgment in the light of contentions raised on behalf of respective parties.

9. The only point for determination in this appeal is "as to whether the impugned judgment of conviction and sentence of the appellant suffers from any error of law, which requires any interference in this appeal?"

10. Before imparting my verdict on the above point, it is pertinent to take brief resume of the evidence available on record for proper adjudication.

P.W.-1 Dinesh Pandey is a watcher in the vigilance dept. who is a tender witness and **P.W.-2 Martin Barla** is also a tender witness who was a Havaldar in that dept.

P.W.- 3 Suresh Paswan is Addl. S.P. and in the year 1990 to 91, he was posted in the vigilance department. He made preliminary inquiry of the assets of the accused. He went to the village of the accused which is the permanent residence.

He examined the sale deeds executed in favour of his wife and son, while the wife and son of the accused were wholly dependent upon this accused. A Bajaj scooter and double barrel gun also got registered in the name of this accused. This witness could come to the conclusion that this accused has got disproportionate assets beyond his legal source of income. In his cross examination, this witness has not given in detail how his wife and son have purchased the land in their favour.

P.W. - 4 Gagandeo Ram is Dy.S.P. in the vigilance department. This witness has called for a report from the C.O. Manatu with respect to land of this accused. The C.O. reported that ancestral landed property of the accused is about 50-63 acres and out of that this accused has got 1/4th share in the said landed property. It has also come in evidence that 3 acre 50 decimals of land are fit for agriculture and 4 acre 5 decimals of land is second class land in nature and the rest are field land (Tand). This witness has given detail description of the nature of land of the accused.

He has stated in his cross-examination that before taking charge of investigation by him, all witnesses were examined and he had only submitted charge-sheet in this case.

P.W.-5 Ramdayal Oraon is Dy.S.P. at the time of his examination and he was I.O. of this case in the relevant

period. He examined the witness. He made search in the house of the accused in presence of departmental witnesses and found that the accused during the check period 1963- 88 had acquired moveable and immovable property beyond his legal source of income. He found some cover of transistor and welfare increment certificates amounting to Rs.10,000/- and saving pass book. The accused could file some photocopy of sale deed.

P.W.- 6 Ramai Gorasor was present at the time of search of the house of accused and also present at the time when the documents were being seized.

In his cross-examination, he has stated that he cannot give details of the items seized but he further stated that generally a seizure list was made of all the household items like rice, spices, wheat, pulses, etc.

P.W.-7 Dindayal singh who has also supported the story of search by trap party. The vigilance department went to the house of accused and searched his house and made inventory of three pass books standing in the name of his wife. He has stated that on 22.01.1992, they reached at the house of the accused at 10:20AM and searched the house of the accused and prepared inventory of articles. Three passbooks were seized from him, two of which were in the name of accused and one in the name of his wife. The seizure list was prepared

in the presence of witnesses, namely Vishwanath Pandey and Abdul Gani.

In his cross-examination, he has stated that he has no knowledge that whether he was examined by the police or not.

P.W 8 Abdul Ganni is also a witness to the search and he has put his signature on seizure list. He has stated that nothing has been seized in his presence. He has just signed the paper. He has further stated that accused has 12-13 acres of land in the village from whose produce, there is income to accused.

P.W.-9 BrajNandan Prasad is the then Inspector in the department. on 22.01.1992 he went to the house of the accused in course of search and found cover of radio and some papers and investments papers for Rs. 10,000/- and they were seized. But in cross-examination, he failed to give any details about the articles seized during the search.

P.W.-10 Md. Samir khan is also witness on the point of search. He was also present at the time of search of the house of accused. He has stated that during search, transistor shell, certificate and passbook were seized. He has further stated that at the time of search, accused was not present in his house.

P.W.-11 Anayas Kerketta is a police officer in the department. He has stated that Pramod kumar Steno has typed the F.I.R. and put his signature. He identified the signature (Ext.2).

P.W.-12 is a tender witness.

P.W.- 13 Karma Kujur was also one of the members in the search of the house of accused. In his presence, the house of accused was searched and three pass books were seized.

P.W.-14 Ghanshyan Prasad Singh is Assistant Conservator of the Forest. He is a formal witness. He has only proved the sanction order issued by the department to prosecute this accused.

11. On the other hand, the case of the defence is total denial of the occurrence. From the cross-examination of witnesses, it has been argued that by the learned counsel for the defence that the accused has good agricultural land and he is also an agriculturist and he received income from the produce.

12. Before adverting to evaluate the aforesaid evidence available on record, it appears pertinent to extract the relevant provisions of the Prevention of Corruption Act, 1988.

(Prior to Amendment in the year 2018)

*"**"13. Criminal misconduct by a public servant.-***

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

(a)……..

(b)……..

(c)……..

(d)……..

(e)if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income

Explanation.-……

> *(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."*

13. In order to substantiate a charge under Section 13(1)(*e*) of the Act, the prosecution must prove the following ingredients, namely:-

    (1) The prosecution must establish that the accused is a public servant,

    (2) The nature and extent of the pecuniary resources or property which were found in his possession

    (3) It must be proved as to what were his known sources of income, i.e. known to the prosecution and

    (4) It must prove, quite objectively, that such resources or property found in possession of the accused were disproportionate to his known sources of income.

14. Once the above ingredients are satisfactorily established, the offence of criminal misconduct under Section 13(1)(*e*) is complete, unless the accused is able to account for such resources or property.

15. In other words, only after the prosecution has proved the required ingredients, the burden of satisfactorily accounting for the possession of such resources or property shifts to the accused.

16. In the instant case, the prosecution has miserably failed to establish the aforesaid ingredients of offence under Section 13(1)(e) of the Prevention of Corruption Act, 1988 against the

appellant. There is no documentary evidence at all to prove the disproportionate property of the appellant which was earned otherwise than known source of income. The learned trial Court has completely failed to appreciate the evidence available on record against the appellant and simply acted upon the bald oral testimony of the witnesses which cannot be taken into account without corroborative documentary evidence. Admittedly, no documentary evidence was brought on record. Therefore, impugned judgment is not sustainable in the eye of law and the same is hereby **set aside**. The appellant is acquitted from the charge leveled against him.

17. The appellant is on bail, hence, he is discharged from the liabilities of bail bonds. Sureties are also discharged.
18. In result, **this appeal is allowed.**
19. Pending I.A(s), if any, is also disposed of, accordingly.
20. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated: 17/09/2026
Basant / **NAFR**
Uploaded On: 18/09/2026