



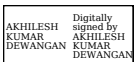
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2026:CGHC:34161

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****ACQA No. 402 of 2010**

State Of Chhattisgarh Through Dy. Superintendent Of Police, Anti
Corruption Bureau, Branch Jagdalpur District Bastar (C.G.)

... Appellant(s)**versus**

1 - P.D. Asati (Deleted) As Per Honble Court Order Dated 18-06-2026.

**2 - Harimangal Singh S/o Late Udal Singh Aged About 39 Years
Assistant Engineer, Office- Superintending Engineering, Public Health
Engineering Department, Jagdalpur (C.G.)**

**3 - Girish Narayan Mishra S/o Late M.P. Mishra Aged About 31 Years
Deputy Engineer, Office- Superintending Engineer, Public Health
Engineering Department, Jagdalpur (C.G.)**

... Respondent(s)

For Appellant(s) : Mr. Sumit Singh, Deputy Advocate General.

For Respondent No.2 : Mr. Rakesh Kumar Jha, Advocate.

For Respondent No.3 : Mr. Keshav Dewangan, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Judgment on Board

05/08/2026

1. The present acquittal appeal is filed against the judgment of acquittal dated 31.01.2009 passed by the learned Special Judge, Prevention of Corruption Act, Bastar, Jagdalpur (C.G.) in Special Case No.04/2002, whereby learned trial Court has acquitted the accused / respondents from the charges under Sections 120(B) r/w 34, 420, 465, 471 of the IPC and Section 13(1)(C) r/w 13(2) of the Prevention of Corruption Act, 1988.
2. Prosecution story, in brief, is that the complainant, Itesh Kumar Singhal, a contractor engaged in works of the Public Health Engineering Department (PHED), Jagdalpur, submitted a written complaint before the Office of the Lokayukta, Jagdalpur on 16.10.2000, alleging that accused P.D. Asati, who was then posted as In-charge Executive Engineer, PHED, Jagdalpur, had demanded illegal gratification from him. During June 2000, accused P.D. Asati had got the complainant to submit tender forms for the Tube Well Water Recharging Scheme and a work order dated 14.06.2000 was issued in his favour. It is alleged that although no work was actually executed by the complainant and the work was instead carried out departmentally, accused P.D. Asati subsequently issued a cheque dated 01.08.2000 for Rs.36,167/- in the complainant's name and instructed him to encash the cheque and bring the amount to him. As the cheque

remained misplaced, the complainant could not encash it immediately. Thereafter, on 13.10.2000, accused P.D. Asati telephonically called the complainant and demanded that the cheque amount be delivered to him. The complainant, unwilling to pay the demanded illegal gratification, approached the Lokayukta authorities. Upon receipt of the complaint, the Lokayukta officials provided the complainant with a mini tape recorder and blank cassette after explaining the procedure, directing him to secretly record his conversation with the accused regarding the demand of bribe. In pursuance thereof, the complainant met the accused in his office on 16.10.2000 and again on 18.10.2000, during which the conversations relating to the demand of illegal gratification were allegedly recorded. The recorded cassette was thereafter produced before the Lokayukta authorities, its contents were transcribed, and the cassette was seized. On 18.10.2000, the complainant submitted another written application stating that accused P.D. Asati had called him to his residence on 19.10.2000 for receiving Rs.36,000/- as illegal gratification and requested that appropriate action be taken as he did not wish to pay the bribe. On the basis of this complaint, a zero-number FIR was registered under Section 7 of the Prevention of Corruption Act, 1988, and a trap was organized in the presence of independent panch witnesses.

3. On 19.10.2000, the complainant produced 72 currency notes of Rs.500/- each, totalling Rs.36,000/-, which were treated with

phenolphthalein powder. Their serial numbers were recorded in the pre-trap memorandum, and the complainant was instructed not to touch the notes unnecessarily and to hand them over to the accused only upon demand. Demonstration of the phenolphthalein test using sodium carbonate solution was conducted before the complainant and the panch witnesses, and the necessary samples were sealed. Thereafter, the trap party proceeded towards the official residence of accused P.D. Asati at Dharampura, Jagdalpur. At about 1:15 P.M., the complainant entered the residence carrying the tainted currency notes and a tape recorder for recording the conversation. After approximately ten minutes, the complainant emerged from the house and gave the predetermined signal by wiping his face with a handkerchief, whereupon the trap party immediately entered the residence. The accused P.D. Asati was found in possession of the tainted amount of Rs.36,000/- in his right hand. Upon introduction of the Lokayukta officials, the accused allegedly threw the tainted currency notes onto the divan in the drawing room. The accused's hands were immediately secured and sodium carbonate solution was used to wash his fingers, which allegedly turned pink, indicating contact with phenolphthalein powder. The tainted currency notes were recovered from the divan, their serial numbers were found to tally with those recorded in the pre-trap memorandum, and the wash of the tainted notes also turned pink. The hand wash of the panch witness who handled the notes and

the complainant's hand wash were similarly collected and sealed. The tainted currency notes, wash samples, and other incriminating articles were seized under seizure memos. During investigation, the investigating officer seized the relevant departmental records, including the agreement file, measurement book, work order, completion certificate, correspondence, tender documents, estimate, drawings, and documents relating to the issuance and alleged loss of the cheque. The accused P.D. Asati was arrested on 19.10.2000, and statements of the complainant, panch witnesses, trap party members, departmental officials, engineers, technical staff, and other witnesses were recorded. The recorded cassette containing the alleged conversation regarding demand and acceptance of illegal gratification was also seized, transcribed, and made part of the investigation.

4. The investigation disclosed that although payment had been processed in the complainant's name, the work was not actually executed by him and had instead been carried out departmentally. It is alleged that accused P.D. Asati, in conspiracy with co-accused Hari Mangal Singh and Girish Narayan Mishra, dishonestly manipulated official records, facilitated wrongful payment, and demanded illegal gratification from the complainant. The co-accused were subsequently arrested during the investigation. After completion of investigation and obtaining the requisite sanction for prosecution, the charge-sheet was filed against the accused persons for offences punishable under

Section 13(1)(c) read with Section 13(2) of the Prevention of Corruption Act, 1988, and Sections 120-B, 420, 465, 467, 471 read with Section 34 of the Indian Penal Code, alleging criminal conspiracy, cheating, forgery, use of forged documents, criminal misconduct by public servants, and demand and acceptance of illegal gratification. The accused persons denied the charges and claimed to be tried. In their examination under Section 313 of the Code of Criminal Procedure, accused, P.D. Asati, took the defence that, for the tube-well recharging work, a tender notice had been duly published in the newspaper 'Deshbandhu', Raipur, in accordance with the prescribed Government procedure. Pursuant thereto, Itesh Kumar Singhal and other contractors submitted their tender forms. The complainant's tender was duly accepted in accordance with the rules, and a work order was issued in his favour. The complainant completed the tube-well recharging work in terms of the agreement, and thereafter he was lawfully paid for the work executed by him. It is false to allege that the complainant had not executed the tube-well recharging work or that the work had been carried out departmentally. The accused further stated that he never demanded any money from the complainant. The defence of co-accused, Hari Mangal Singh and Girish Narayan Mishra is that they are innocent and have been falsely implicated in the present case. Hence, the appeal.

5. Learned counsel for the appellant/State submits that the impugned judgment, findings and order of acquittal passed by the

learned trial Court are illegal, improper, erroneous and contrary to the evidence available on record, and are therefore liable to be set-aside. The learned trial Court failed to appreciate the entire prosecution evidence in its true and correct perspective and ignored the material evidence which clearly established the guilt of the accused persons beyond all reasonable doubt. He further submits that the learned trial Court failed to properly appreciate the evidence of the prosecution witnesses, particularly P.W.1 Itesh Kumar Singhal (complainant), P.W.23 Gandhi Joge (Investigating Officer) and the supporting witnesses, whose testimonies consistently proved the demand and acceptance of illegal gratification by the accused/respondents. The trial Court erroneously discarded reliable and cogent evidence and acquitted the accused on the basis of conjectures and surmises. He also submits that in the facts and circumstances of the case, the findings recorded by the learned trial Court are perverse, unsustainable and contrary to the evidence on record. The prosecution had successfully established all the essential ingredients of the offences alleged against the accused persons, and therefore, the respondents ought to have been convicted for the offences punishable under Sections 120-B read with Section 34, 420, 465 and 471 of the Indian Penal Code, and Section 13(1) (c) read with Section 13(2) of the Prevention of Corruption Act, 1988. Accordingly, the impugned judgment of acquittal deserves to be quashed and set-aside.

6. On the other hand, learned counsel appearing for the accused / respondents support the impugned judgment of acquittal and submit that learned trial Court considering the evidence available on record has rightly acquitted the accused / respondents, which warrants no interference by this Court.
7. I have heard learned counsel for the parties and perused the records of the trial Court.
8. Upon an independent re-appreciation of the entire oral and documentary evidence available on record, this Court finds no merit in the present appeal. The learned trial Court, after conducting a full-fledged trial, has undertaken a detailed analysis of the evidence of all the prosecution as well as defence witnesses and has recorded well-reasoned findings while acquitting the respondents. The conclusions arrived at by the trial Court are based on a careful appreciation of the evidence and cannot be said to be arbitrary, perverse or contrary to the material available on record.
9. The prosecution case substantially rested upon the testimony of the complainant-contractor, Itesh Kumar Singhal (PW-1) to establish that the water recharge work, though shown to have been entrusted to him, was in fact executed departmentally and that the accused had prepared false official records and thereafter attempted to obtain the cheque amount from him. The learned trial Court has elaborately examined the testimony of the complainant

and has noticed several material contradictions, omissions and admissions which materially affect his credibility. The complainant admitted his signatures on the tender documents, agreement, Measurement Book, final bills and cheque receipt. He further admitted that he never objected to the entries recorded in the Measurement Book at the relevant time and remained silent for nearly two and a half months after receiving the cheque before approaching the Lokayukta authorities. The explanation offered for such delay was found to be unsatisfactory by the trial Court. These findings are borne out from the record and cannot be said to be unreasonable. The documentary evidence also does not lend support to the prosecution version in the manner sought to be projected. The trial Court has referred to the documentary records relating to publication of the tender notice, dispatch of the work order along with the list of villages and the tender register, all of which materially contradicted the complainant's version. Equally significant is the fact that the complainant never alleged during the course of investigation that the entries made in the Measurement Book or the bills bearing his signatures had been forged or fabricated. On the contrary, the records demonstrate that the complainant had signed the relevant documents at different stages of execution of the work and approval of the bills.

10. This Court also finds that the learned trial Court has carefully appreciated the evidence of the other prosecution witnesses. Several witnesses either did not support the prosecution case or

made admissions indicating the presence of the contractor or his representative during execution of the work. The prosecution was thus unable to establish beyond reasonable doubt that the work was executed exclusively through departmental staff or that the contractor had absolutely no role in the execution of the work. Likewise, the allegation regarding preparation of false Measurement Books, forged bills and fabricated official records was not established by convincing and reliable evidence. The allegation regarding demand and acceptance of Rs.36,000/- by accused, P.D. Asati has also not been satisfactorily proved. The trial Court has rightly noticed that the alleged conversation attributed to the accused did not find place in the transcript of the tape-recorded conversation relied upon by the prosecution. The absence of such material corroboration assumes significance, particularly when the prosecution case principally rests upon the testimony of the complainant. The appreciation of this aspect by the trial Court cannot be faulted. It is well settled that in an appeal against acquittal, the High Court undoubtedly possesses full power to re-appreciate the evidence. However, unless the findings recorded by the trial Court are shown to be manifestly illegal, perverse, based on complete misreading of evidence or such as no reasonable person would arrive at, interference with an order of acquittal is unwarranted. Where two views are reasonably possible on the basis of the evidence on record, the appellate Court must ordinarily adopt the view favourable to the accused.

An order of acquittal reinforces the presumption of innocence already available to an accused, and the appellate Court must exercise due restraint before upsetting such an acquittal. Applying the aforesaid principles to the facts of the present case, this Court is satisfied that the view taken by the learned trial Court is not only a possible view but also a reasonable one emerging from the evidence on record. The State has not been able to demonstrate that any material evidence has been ignored or that the findings suffer from perversity or manifest illegality.

11. Further, applying the law governing the scope of interference in an appeal against acquittal, the Hon'ble Supreme Court in the case of **"State of Rajasthan Vs. Kistoora Ram"** reported in **2022 SCC OnLine SC 984**, has held as follows:-

"8. The scope of interference in an appeal against acquittal is very limited. Unless it is found that the view taken by the Court is impossible or perverse, it is not permissible to interfere with the finding of acquittal. Equally if two views are possible, it is not permissible to set aside an order of acquittal, merely because the Appellate Court finds the way of conviction to be more probable. The interference would be warranted only if the view taken is not possible at all."

12. In the considered opinion of this Court, the prosecution has failed to establish the guilt of the respondents beyond reasonable doubt. The benefit of doubt extended by the learned trial Court is founded on a proper appreciation of the evidence and calls for no

interference. This Court, therefore, finds no compelling or substantial reason to disturb the well-reasoned findings recorded by the learned Special Judge.

13. It is also to be noted that the incident relates to the year 2000, and the appeal has been pending for over two decade. In such a situation, unless a gross miscarriage of justice is shown, interference with an order of acquittal after such a long lapse of time is unwarranted.

14. Accordingly, the acquittal appeal being devoid of merit is liable to be and is hereby **dismissed**.

15. Registrar (Judicial) is directed to transmit the original record to the concerned trial Court within a week from today for necessary information and follow up action.

Sd/-

(Ramesh Sinha)
Chief Justice

Akhil