



CNR: KAHC010138712015

NC: 2026:KHC:52701
CRL.A No. 72 of 2015

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 23RD DAY OF SEPTEMBER, 2026
BEFORE**

**THE HON'BLE MR. JUSTICE G BASAVARAJA
CRIMINAL APPEAL NO. 72 OF 2015 (A)**

BETWEEN:

1. STATE OF KARNATAKA
REPRESENTED BY S.P.P. LOKAYUKTHA,
BANGALORE.

...APPELLANT

(BY SRI. B.S. PRASAD, SPL. PP FOR APPELLANT.)

AND:

1. SMT. P LATHA
W/O K.V.MOHAN,
AGE 51 YEARS,
OCC:OFFICE SUPERINTENDENT,
KARNATAKA SCHEDULE TRIBES
DEVELOPMENT BOARD LTD.,
BANGALORE-01.
R/O H.NO.11, KUVEMPU ROAD, 3RD CROSS,
VIGNAN NAGAR, NEW THIPPASANDRA POST,
BANGALORE-560 075.

2. SRI. T.M. DEVEGOWDA
S/O T. MUNISWAMIAH,
AGE 58 YEARS,
OCC: DISTRICT MANAGER,
KARNATAKA SCHEDULE TRIBES
DEVELOPMENT BOARD LTD.,
BANGALORE.
R/O H.NO.990, ROAD 3RD CROSS,
MANORAYAN PALYA, R.T.NAGAR,
BANGALORE-560 012.

...RESPONDENTS

(BY SRI. C G SUNDAR, ADV. FOR R1,
SRI. K. M. MURARI MOUNI, ADV. FOR R2.)



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CRL.A. FILED U/S.378 CR.P.C BY THE ADV. FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE JUDGMENT DATED 28.8.2014 PASSED IN SPL. CASE NO.156/2007, ARISING OUT LOKAYUKTA P.S.CR.NO.,13/07 BY THE XXIII ADDL.SSESSIONS JUDGE AND SPL.JUDGE, BANGALORE - ACQUITTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 7,13(1)(d) R/W 13(2) OF P.C.ACT.

THIS APPEAL, COMING ON FOR FURTHER ARGUMENTS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

1. The State has preferred this appeal against the judgment of Acquittal dated 28.08.2014 passed in Spl.C.No.156/2007 by the XXIII Addl. City Civil and Special Judge, Bangalore City [CCH-24] (for short 'the trial Court').

2. For the sake of convenience, the parties herein are referred to as per their rank before the trial Court.

3. Brief facts leading to this appeal are that, the Police Inspector, Lokayukta, City Division, Bangalore, laid a charge sheet against the accused Nos.1 and 2 for the



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commission of offence under Sections 7, 13(1)(d) and 13(2) of Prevention of Corruption Act, 1988. It is alleged by the prosecution that, on 10.04.2007, one Dr. Y.M. Muniraju-PW1, the proprietor of M/s GEO Consultancy Company, Mathikere, filed a complaint before Lokayukta Police, Bengaluru, stating that he took tender from B R Ambedkar Development Corporation for drilling the bore wells in the lands of the people belonging to Scheduled Tribe in Bengaluru Rural District. He drilled 2 bore wells and submitted the bills for payment of Rs.70,235/- and approached accused No.1 and requested her to issue cheque. But, she demanded Rs.4,200/- bribe for issuance of cheque. Thereafter, he met accused No.2, who also demanded Rs.600/- for issuance of cheque. Since the complainant was not intended to give bribe, has approached Lokayukta on 10.04.2007 and filed a complaint. On the basis of the complaint, case was registered and investigation commenced. The Lokayukta police secured PW3 and PW4, two panchas. Formalities of



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entrustment, Panchanama was completed by smearing phenolphthalein powder to the amount of Rs.600/- and Rs.4,200/- and same was entrusted to the complainant and was sent along with shadow witness PW2. Complainant went to the office of respondent after entrance of PW1 and PW3 shadow witness of respondent No.2 becomes suspicion and when complainant offered him bribe, he instructed complainant to give the said amount to accused No.1 and respondent No.2 told Complainant that he will receive the amount after payment to accused No.1. When PW1-complainant approached accused No.1 and asked for cheque, she demanded Rs.4,200/- and on demand PW1 paid the said amount to accused No.1. After receipt of the same, accused No.1 kept the same on the file inside the Almirah in her office. The complainant came out of office and gave signal to the Lokayukta Police. Lokayukta Police have trapped the respondent and accordingly panchanama formalities have been completed by washing left hand fingers of the



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accused in sodium carbonate solution which turned into pink colour, amount and documents were seized under Mahazar. The explanation offered by accused No.2 was not sufficient and amount of Rs.600/- also not accepted by accused No.2, was also seized. The explanation of the accused have been recorded. Thereafter, the IO has submitted the charge sheet against the accused.

4. The trial Court read over and explained the charge to the accused. Having understood the same, accused pleaded not guilty and claimed to be tried.

5. To prove the guilt of the accused, in all, 5 witnesses were examined as PW1 to PW5. 23 documents were marked as Exs.P1 to P23 and 11 material objects were marked as MOs.1 to 11.

6. On closure of prosecution side evidence, statement under Section 313 of Cr.P.C was recorded. Accused have totally denied the evidence of prosecution witnesses. However, they did not choose to lead any defence



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evidence on their behalf and both have submitted that since they have recommended to black-list this company, the complainant has filed this false complaint.

7. During the course of cross-examination of prosecution witnesses, three documents got marked as Exs.P1 to P3. Accused have not adduced any evidence on their behalf. Having heard the arguments on both sides, the trial Court has acquitted the accused. Being aggrieved by the judgment of acquittal, the Lokayukta Police have preferred the appeal.

8. The learned counsel for the appellant Sri B.S. Prasad, would submit that the impugned judgment and order of acquittal passed by the trial Court in Spl.C.No.156/2007 is either sustainable in law nor on facts, and is liable to be set aside. The trial Court has erred in acquitting the respondent on the basis of minor discrepancies in the evidence of prosecution witnesses. The trial Court has erred in not considering the material



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evidence on record which unimpeachably establish the case against the respondent beyond reasonable doubt and order of acquittal suffers from infirmities. The trial Court has failed to appreciate the fact about the admission of PW3 and PW4, and that amount was seized and fingers of accused dipped in solution which turned into pink colour. The trial Court has not appreciated the evidence of PW1, PW3, PW4 and PW5 in proper perspective and not taken into consideration the entire evidence of record and cumulative effect of which establish the offence committed by the respondents beyond reasonable doubt by demanding and accepting illegal gratification from the complainant to show official favour. But, the trial Court wrongly arrived to conclusion that the prosecution has failed to prove its case. The trial Court has utterly failed to appreciate and corroborate the evidence of shadow witness with evidence of complainant and the IO with regard to trap panchanama demand and acceptance which will go to the root of the case to prove the guilt of the



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accused. On all these grounds, it is sought to allow this appeal.

9. *Per contra*, the learned counsel appearing on behalf of accused Nos.1 and 2 submitted that the trial Court has properly appreciated the evidence in accordance with law and facts. Absolutely, there are no grounds to interfere with the impugned judgment and it is sought for dismissal of the appeal.

10. To substantiate his argument, learned counsel for accused No.2 has relied on the decisions of Co-ordinate Bench of this Court in the case of STATE OF KARNATAKA vs. SRI RAMAPPA AND OTHERS passed in CRL.A.NO.100325 OF 2017, decided on 07.04.2025 and STATE BY KARNATAKA LOKAYUKTHA POLICE vs. S. DEVAPRASAD AND OTHERS passed in CRL.A.NO.798 OF 2021, decided on 27.02.2026.



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11. Having heard the arguments on both sides and on perusal of the entire materials placed before me, the following points would arise for my consideration:

- (1) *Whether the Lokayukta Police have made out grounds to interfere with the judgment of acquittal?*
- (2) *What order?*

12. My answer to the above points as under:

- (1) *Negative*
- (2) *As per final order.*

Regarding Point No.1

13. Before appreciation of evidence and record, it is necessary to mention as to the judgments of the Hon'ble Apex Court in the Case of CONSTABLE 907 SURENDRA SINGH AND ANOTHER v. STATE OF UTTARAKHAND reported in (2025)5 SCC 433; BABU SAHEBGOU DA RUDRAGOUDAR AND OTHERS v. STATE OF KARNATAKA reported in (2024)8 SCC 149; CHANDRAPPA v. STATE OF KARNATAKA reported in (2007)4 SCC 415; and H.D.



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SUNDARA v. STATE OF KARNATAKA reported in (2023)9 SCC 581. In the case of H D SUNDARA (supra), the Apex Court has summarized the principles governing exercise of appellate jurisdiction while dealing with an appeal against judgment of acquittal under section 378 of Code of Criminal Procedure. The same are as under:

"8. ...8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to re-appreciate the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after re-appreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible."



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14. I have examined the materials placed before this Court. To prove the guilt of the accused, the prosecution has examined 5 witnesses as PW1 to PW5 and 23 documents were marked as Exs.P1 to P23 and 11 material objects were marked as MOs.1 to 11.

15. The trial Court has observed that the sanction accorded by the sanctioning Authority is valid. It is also observed that there is no dispute that accused Nos.1 and 2 are public servants. It is the evidence of PW1 that accused No.1 is the cashier and accused No.2 is the District Manager attached to the Karnataka Schedule Castes and Schedule Tribes Development Corporation Ltd. Bengaluru. Accsued No.2 is the immediate superior Officer of accused No.1. That in order to establish the charge for the offence punishable under Section 732 of the Act, the prosecution has examined the evidence of PW1 to PW5.



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16. In paragraphs 16 to 22, the Special Court has observed as under:

"16. Evidence of PWs 1, 3, 4 and 5 would show that they along with staff of PW 5 left the office of PW5 destined at the office of A1 and A2. Evidence of PWs 1, 3, 4 and 5 would further show that the vehicle in which they traveled was stopped at a little distance of office of A1 and A2. Thereafter, PWs 1 and 3 entered the office of A1 and A2. The evidence of PW 1 as could be seen from page number 7 of his deposition would show that he along with PW3 found A1 and A2 in the office of A1 and A2 and that after he gained entry to the office of A1 and A2 he approached accused number 2 and spoke to accused number 2. He has deposed that earlier he had gone thrice and during fourth visit he was told by accused number 2 that work would be done only if bribe is given. He states further that accused number 2 demanded total bribe amount of Rs 600/- He further states that when he told accused no.2 that he has brought bribe amount and asked for the cheque A2 questioned about PW3 and at that time suspicion lingered in the mind of accused number 2 and therefore A2 asked to meet A1 and accordingly he went to A1 and occupied the chair kept in front of accused number 1. It is also deposed by PW1 that



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when he asked accused number 1 he was told that work will not be done unless bribe is given. At the outset it may appear that there was implied demand by accused number 2 and particularly there was express demand by accused number 1 for bribe amount. Whether the evidence of PW1 as referred to above touching the demand by accused nos.1 and 2 is worthy of acceptance or not has to be probed into. At this juncture Ex.D3 which is the portion of statement of PW1 recorded by PW5 under section 160 Cr.P.C needs to be looked into. Ex.D 3 is worthy to reproduce. It reads :-

“..... ನಾನು ಮತ್ತು ನೆರೆಳು ಸಾಕ್ಷಿದಾರರಾದ ನಾವಿಬ್ಬರು ಶ್ರೀಮತಿ ಲತಾ ರವರು ಇದ್ದ ಕೊಠಡಿಗೆ ಬಂದು, ಅವರ ಟೇಬಲ್‌ನ ಮುಂಭಾಗದಲ್ಲಿದ್ದ ಜೇರ್‌ಗಳಲ್ಲಿ ಕುಳಿತುಕೊಂಡೆವು, ನಾನು ಆರೋಪಿ-1 ಶ್ರೀಮತಿ ಲತಾ ರವರಲ್ಲಿ ನನ್ನ ಚೆಕ್‌ನ ಬಗ್ಗೆ ಮಾತನಾಡಿ, ಅವರಿಂದ ಚೆಕ್‌ನ್ನು ಪಡೆದುಕೊಂಡು”

The meaning of the portion of Ex D3 is that PW1 and PW 3 entered the chamber of accused number 1 and occupied the chairs in front of accused number 1 and thereafter he spoke to accused number 1 touching the cheque and afterwards PW 1 obtained cheque from accused number 1. PW1 denies having given statement as per Ex.D 3. Evidence of PW 5 in cross examination would show that PW1 gave statement before him as per Ex D3. Thus Ex D3 stands established as laid down by our Hon'ble Supreme



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Court in Tahasildar Singh V/s State of U.P reported in AIRI 1959 Supreme Court page 1012. Ex.D 3 when appreciated would convey affirmative meaning that after PW1 approached accused number 1 PW 1 received cheque from accused number 1. It thus stands established that after PW 1 spoke to accused number 1 about the cheque accused number 1 handed over the cheque. In the presence of Ex D3 it is much difficult to hold that soon after accused number 1 saw PW 1 there was demand for illegal gratification.

17. Though PW1 states that A1 received MO 3 and kept in the left side almirah and thereafter issued the cheque for Rs.70,235/- the said portion of his evidence cannot be accepted in the presence of Ex.D3. During cross examination he states that cheque was received by him and that cheque was ready on 30.03.2007. He admits during cross examination that on 10.04.2007 he signed the payment voucher touching the said cheque. Suggestion made to him during cross examination suggesting that he has not stated before PW5 that thrice he was told that work would be done only if bribe is paid and that A2 demanded Rs 300/- per bill and thus Rs.600/-. This portion of denial of suggestion has been brought to the notice of PW5 during cross examination wherein PW5 states that



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PW1 has not stated so before him. Therefore, that portion of his evidence in examination in chief is nothing but a subsequent improvement which cannot be believed. Suggestion made to him during cross examination suggesting that he has not stated before PW5 that after he told A1 that he brought the amount demanded and asked A1 to give the cheque has been denied by him. This portion of denial when brought to the notice of PW5 during cross examination PW5 states that PW1 has not stated so. Suggestion made to PW1 suggesting that he has not stated before PW5 that he was asked by A2 to approach A1 has been denied by him. The said denial when put to PW5 during his cross examination PW5 states that PW1 has not stated so. Suggestion made to PW1 suggesting that he has stated before PW5 that he asked A1 about the cheque and that A1 had told that he had gone to A1 several times and asked only about the cheque has been denied by him. This denial when put to PW5 during cross examination PW5 states that PW1 has not stated so before him. Suggestion made to PW1 suggesting that he has not stated before PW5 that A1 stated that unless bribe amount is given work will not be done has been denied by him. This denial when put to PW5 during his cross examination PW5 states that PW1 has not stated so before him. Suggestion made to PW1



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suggesting that he has not stated before PW5 that there were two bills for Rs.2100/- each and he brought Rs 4,200/- has been denied by him. When this denial was brought to the notice of PW5 during his cross examination PW5 states that PW1 has not stated so before him. Suggestion made to PW1 suggesting that he has not stated before PW5 that A1 received Rs 4200/- and kept in the left side almirah and thereafter issued cheque for Rs 70,235/- has been denied by him. When this portion of denial is put to PW5 during his cross examination PW5 states that PW1 has not stated so before him. When all these denials by PW1 are appreciated it becomes difficult to believe his version. There are material improvements during his examination in chief and therefore his evidence touching the alleged demand and acceptance is not worthy of credence and acceptance.

18. The evidence of PW 1 would show further that after the Lokayuktha police staff entered the office of A1 and A2 cheque was obtained from him and that xerox copy of the said cheque was thereafter obtained. This portion of his evidence in cross examination when appreciated leads to draw clear inference that the portion marked as ExD3 is correct. He states further during cross examination that earlier to trap he entered the office of A1 & A2 and



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spoke to A2 for five minutes and thereafter he went to place where A1 was sitting and there remained for about five or six minutes. He states further that ten minutes after the entry of Lokayuktha staff to the office of A1 and A2 Lokayukta staff noticed MO 3 which was pointed out to them by him. It is in the cross examination of PW3 that PW5 enquired A1 to produce the amount and thereafter A1 took out MO 3 from almirah. This portion of evidence of PW3 during cross examination is quite divergent from the portion of evidence of PW1 during cross examination as referred to above. Evidence of PW5 as found in para 3 of his deposition is quite specific that he questioned A1 about the alleged bribe amount and thereafter A1 produced MO3 from the almirah which was in the office of the A1. This portion of his evidence is equally not in full conformity with the evidence of PW1 as found in the cross examination as referred to above. Thus, who exactly produced MO 3 is not free from the cloud of suspicion. It is in the cross examination of PW3 as could be seen from para 8 of his deposition that he along with PW1 entered the chamber of A1 and that MO 3 was kept on the table of A1 and thereafter A1 took the said amount and kept in a register and placed in the almirah. He states further conveying meaning that after the acceptance of MO 3 PW 1 received cheque for Rs



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70,235/- from A1. Perusal of para 8 of the evidence of PW 3 would not specifically point out that there was specific demand for MO 3 by A1. He states during evidence that after enquiry by PW5 A1 produced MO 3 which was kept in the almirah. This portion of his evidence is not in full conformity with the evidence of PW1. It is in the cross examination of PW3 that about ten or fifteen minutes after he reached the office of A1 & A2 MO 3 was recovered from the almirah which was in the office of A1. He states further during cross examination that it was PW 4 who placed MO 3 at the hands of PW 5. This portion of evidence of PW 3 in the cross examination is quite divergent from the evidence of PWs 1 and 5. PW3 admits during cross examination that in the portion of Ex P15 there is a mention that when he along with PW1 went to the chamber of A1 PW1 obtained cheque from A1. He admits further that it is mentioned in Ex P 15 that A1 after receiving the amount kept in the register and thereafter placed the register in the almirah. It is in his cross examination that after the recovery of MO 3 hands of A1 and PW1 were washed. This portion of his evidence in the cross examination is not in full conformity with the evidence of PW5 whose evidence would show that MO 3 was seized after the process of hand wash of A1 was carried out. Thus, upon appreciation of the



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entire evidence of PWs 1 and 3 there appears glaring discrepancy touching the alleged demand and acceptance of MO 3 by A1. Nothing worthy is found in the evidence of PW 3 that there was implied demand for MO 1 by A2. Evidence of PWs 1, 3, 4 and 5 when appreciated would not inspire confidence to hold that it was A1 who specifically pointed out and placed MO 3 at the hands of PW5. Evidence of PWs 1, 3, 4 and 5 would not further inspire confidence to hold that MO 3 was seized subsequent to hand wash of A1.

19. Evidence of PWs 1, 3, 4 and 5 when appreciated would show that solution with the help of water and sodium carbonate was prepared in the office of A1 and A2 and thereafter hand wash of A1 was effected. It is in the evidence of PW5 that left hand finger wash of A1 turned to pink colour which has been seized by him in the bottle at MO 10. Evidence of PW 5 also would show that right hand finger wash of A1 also turned to pink colour which was seized by him in the bottle at MO 9. PW4 has not specifically stated that both hands of A1 were washed one after another in the solution. Though PW3 states that both hand wash of A1 turned to pink colour it is not specific in the evidence of PW3 that hands of A1 were washed in the solution one after another. No doubt PW1 also states that hands of A1 were washed one after



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another and both hand wash turned to pink colour. But, since demand and acceptance of MO 3 by A1 is established beyond reasonable doubt merely on the basis of colour of hand wash of A1 it cannot be believed that A1 with the intention of extending official favour to PW1 accepted MO3. The evidence of PWs 1, 3, 4 and 5 when carefully appreciated though establishes that Ex P15 was drawn in the office of A1 that alone will not establish the alleged demand and acceptance of MO 3 by A1.

20. In the decision reported in 2012(1) KCCR page 414 law is laid down by our Hon'ble Court that mere possession of tainted currency notes cannot be taken as receipt of amount by the accused in the absence of evidence touching demand. It is further held by our Hon'ble Court in the said decision that in the absence of any evidence of demand and acceptance of tainted currency notes mere acceptance of tainted currency notes will not be sufficient to fasten the guilt. In the decision reported in 1994 CrI.L.J. page 1383 law is laid down by our Hon'ble Supreme Court that in the absence of motive for demand and acceptance accused cannot be convicted. In the decision reported in 2004(2) KCCR page 1233 law is laid down by our Hon'ble Court that in the absence of corroboration by the evidence of panch witness conviction cannot be fastened. In the decision



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reported in 2010(3) KCCR page 1851 law is laid down by our Hon'ble Court that prosecution has to establish the case of this nature beyond reasonable doubt. In the decision reported in 2000(2) Kar.L.J. page 419 law is laid down by our Hon'ble Court that mere recovery of money from the accused is not sufficient to establish the charge under section 13(2) of the Act. In the decision reported in (2011) 2 Supreme Court Cases (Criminal) page 1010 law is laid down by our Hon'ble Supreme Court that mere recovery of tainted money the same is not sufficient to convict the accused. In the decision reported in 1980 Supreme Court Cases (Criminal) page 121 law is laid down by our Hon'ble Supreme Court that in the absence of corroboration guilt cannot be fastened. In the decision reported in 1990 CrL.L.J. page 995 it is held by Hon'ble Himachal Pradesh High Court that there must be proof of demand of illegal gratification in the case of this nature. In the decision reported in 1990 Supreme Court Cases (Criminal) page 604 law is laid down by our Hon'ble Supreme Court that there must be demand of bribe and acceptance as a motive or reward for doing official act. In the decision reported in I (2001) CCR 343 (SC) law is laid down by our Hon'ble Supreme Court that presumption under the Act is rebuttable. In the decision reported in (2007) 3 Supreme Court Cases



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(Criminal) page 541 there was no convincing evidence to establish demand and acceptance. In the decision reported in 2006 (3) KCCR page 1445 law is laid down by our Hon'ble Court that there must be independent corroboration to believe the evidence of complainant touching the demand and acceptance of bribe. In the decision reported in 2006 (3) KCCR 1422 law is laid down by our Hon'ble Court that conviction cannot be based on the uncorroborated evidence of complainant. In the decision reported in 2010 AIAR (Criminal) page 495 law is laid down by our Hon'ble Supreme Court that demand and acceptance of money for doing a favour in discharge of official duties is sine qua non to the conviction of the accused. It is also laid down in the said decision that mere recovery of tainted money would not be sufficient to convict the accused. In the decision reported in III (2009) CCR 231 (SC) law is laid down by our Hon'ble Supreme Court that charge in the case of this nature has to be proved beyond reasonable doubt. In the decision reported in 2000 Supreme Court cases (Criminal) page 878 law is laid down by our Hon'ble Supreme Court that mere recovery of tainted currency notes is not enough to establish the guilt of the accused in the case of this nature. In the decision in Criminal Appeal No.1407/2001 disposed by our Hon'ble Court on



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14.06.2006 the evidence of PW2 shadow witness disclosed that there was no demand by the accused and that part of evidence of PW2 was unchallenged. In those circumstances, it is held by our Hon'ble High Court that the acquittal of the accused is proper. In the decision referred in 2013 (1) Crimes 92 (SC) law is laid down by our Hon'ble Supreme Court that in the absence of demand of bribe conviction cannot be recorded.

21. The evidence on record does not establish that there was either demand or acceptance of tainted currency notes by A1 and A2. Pre-consorted union of guilty mind of A1 and A2 which is the essence of Section 34 IPC has remained not established.

22. Thus, upon appreciation of the entire oral and documentary evidence available on record, and keeping in mind the law laid down in the above decisions, I hold that the prosecution has failed to establish the guilt of A1 and A2 beyond reasonable doubt for the offences with which they are charged. Accordingly, extending benefit of doubt to A1 and A2 I answer point Nos 1 and 2 in the negative."

17. On reconsideration, re-examination and re-appreciation of the entire evidence on record, I do not



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find any legal or factual error in the impugned judgment of acquittal. Considering the facts and circumstances of the case and keeping in mind the aforesaid decisions of the Hon'ble Supreme Court, I answer point No.1 in Negative.

Regarding Point No.2

18. For the aforesaid reasons and discussions, I proceed to pass the following:

ORDER

Appeal is **dismissed**.

**Sd/-
(G BASAVARAJA)
JUDGE**

DHA
LIST NO.: 1 SL NO.: 30