



CNR: KAHC010153052019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.1024 OF 2019 (A)

BETWEEN:

STATE OF KARNATAKA
BY KARNATAKA LOKAYUKTA P.S.
RAMANAGARA-562 131

...APPELLANT

(BY SRI PRASAD B. S., ADVOCATE)

AND:

1. G. CHELUVARAMU
S/O. LATE GIRIYAPPA
AGED ABOUT 62 YEARS
GRADE-2 SECRETARY
GRAMA PANCHAYATH
H. BYADARAHALLI
CHANNAPATNA-562 160
2. H. N. MURTHY
S/O. NARASIAH
AGED ABOUT 54 YEARS
JUNIOR ENGINEER
TALUK PANCHAYATH
CHANNAPATNA
BENGALURU RURAL DISTRICT-562 160
3. SHIVARAMAIAH
S/O. LATE BOREGOWDA

Digitally signed
by
SHARADAVANI
B
Location: HIGH
COURT OF
KARNATAKA



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AGED ABOUT 59 YEARS
PRESIDENT
GRAMA PANCHAYATH MALURU HOBLI
CHANNAPATNA TALUK
BENGALURU RURAL DISTRICT-562 160

...RESPONDENTS

(BY SRI K. ABHINAV ANAND, ADVOCATE FOR R-2,
SRI M. PARTHA, ADVOCATE FOR R-3,
V/O. DATED 02.02.2021, APPEAL AGAINST ACCUSED NO.1
IS ABATED)

THIS CRL.A. IS FILED U/S.378(1) AND (3) CR.P.C BY THE S.P.P FOR THE STATE PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER DATED 16.03.2018 PASSED BY THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, RAMANAGARA ON HIS FILE ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION 13(1)(C) READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT, 1988 AND SECTIONS 409, 420, 468, 471 READ WITH SECTION 34 OF IPC AND SET-ASIDE THE AFORESAID JUDGMENT AND ORDER OF ACQUITTAL FOR THE OFFENCE PUNISHABLE UNDER SECTION 13(1)(C) READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT, 1988 SECTIONS 409, 420, 468, 471 READ WITH SECTION 34 OF IPC DATED 16.03.2018 PASSED BY THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, RAMANAGARA IN SPL.C.NO.26/2008 BY ALLOWING THE APPEAL AND ALSO CONVICT AND SENTENCE THE RESPONDENT/ACCUSED FOR THE AFORESAID OFFENCE PUNISHABLE UNDER SECTION 13(1)(C) READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT, 1988 SECTIONS 409, 420, 468, 471 READ WITH SECTION 34 OF IPC, WITH WHICH HE HAS BEEN CHARGED AND TRIED IN ACCORDANCE WITH LAW.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE B.PRAMOD



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ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

This matter was heard in part earlier and today we heard further arguments.

2. This appeal is filed against the judgment of acquittal passed in Spl.C.No.26/2008 for the offences punishable under Sections 13(1)(c) r/w 13(2) of Prevention of Corruption Act, 1988 and Sections 409, 420, 468, 471, r/w 34 of IPC, and prays this Court to set aside the judgment of acquittal and convict and sentence all the accused persons.

3. During the pendency of this appeal, accused No.1 passed away and now only the accused Nos.2 and 3 are before this Court and they are represented through their counsel.

4. The factual matrix of the case of prosecution is that:

a) While initiating the proceedings against the



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accused persons, that accused No.1 being the Grade-II Secretary in H.Byadarahally Grama Panchayath and accused No.2 being the Junior Engineer in the office of Taluka Panchayath, Channapatna and accused No.3 being the then President of H. Byadarahally Grama Panchayath, have indulged in committing the offence and making an allegation that in the matter of disbursing the amounts under the Rural Rozgar Scheme, Ambedkar and Indira Awaz Scheme during the year 2004-05 to the eligible beneficiaries, the accused persons have utilized the said amounts for their own purpose by fraudulently creating and forging documents by drawing the amounts through self cheques instead of issuing cross cheques to the beneficiaries.

b) The charges against them is that in the matter of laying pipes for supplying drinking water to Mukunda Village, accused persons illegally drawn the amount even though no work was carried out in that regard by creating and forging the documents. It is also the further the



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charge that in the matter of Swacha Grama Scheme of Mukunda Village, accused persons have collected an amount of Rs.500/- each from 36 beneficiaries which amounts to Rs.18,000/- in all, but, they have not credited the said amount collected by the beneficiaries to the Government account and utilized the same for their own purpose by fabricating and forging the documents. The other charge against the accused persons that in the matter of distributing the rice under the Rozgar scheme that on 11.07.2005, they have received totally 112 quintals of rice from the Government, but they have not properly distributed the same to the beneficiaries and there is huge difference between the rice received and rice distributed. The other charges against the accused also that in the matter of distributing subsidy to the houseless people at Huluhadi Village, they have fabricated and forged documents in the name of non-existent persons and utilized the Government benefits for their own



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purpose. Making all these charges, the accused persons were booked for the above offences.

c) In order to prove the above charges, the prosecution agency relies upon the evidence of PWs.1 to 6 and also documents as per Exs.P1 to P26(E) and did not produce any material objects before the trial Court. The accused persons were subjected to Section 313 Cr.P.C. statement, but they did not lead any evidence.

d) The trial Court having considered the charges levelled against the accused, particularly taking note of material on record, i.e., the admission on the part of PW.1-complainant and also the Investigating Officer that none of the beneficiaries under the different Schemes referred to above in the charges, registered any complaint against the accused and no one have given any complaint. In other words, none of the beneficiaries complained against the accused saying that they did not receive the benefits due to them under the different benevolent



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Schemes of the Government. The PW.1 also categorically admitted that no villager or beneficiary from H Byadarahally, Thenkkanahalli, Guddehosur, Huluhadi and so also Mukunda made any complaint against these accused persons with respect to the misappropriation of funds and that was received under different Schemes for their personal use without making the disbursement of the same. The same has been considered by trial Court and in paragraph no.17 of its judgment with regard to the embezzlement of the public money, misusing their official power by these accused, Nothing is placed on record.

e) The above apart, the Investigating Officer has not collected any material evidence in the course of investigation so as to establish that these accused misusing their official power, misappropriated the funds, either without dispersing the same to the respective beneficiaries or without carrying out the work that was to be done under any of the Schemes as alleged against



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them. The trial Court also took note of the same and detailed discussion was made in paragraph no.17.

f) With regard to the allegations of the charge, that accused received 110 quintals of rice from the Government as alleged in the charge sheet to distribute the same to the Forest Department, the prosecution has produced Ex. P20 said to be the register pertaining to the distribution of rice. At the first instance, this register neither bears the signature of any of the accused nor there is any evidence to show that said register was maintained by any of these accused. The trial Court also took note of copies of three receipts are there in the said register. It would disclose that totally 260 quintals of rice was received for distribution. The trial Court also took note of that out of the said quantity, 110 quintals of rice was received on 11.07.2005. The other aspect which requires to be mentioned herein is that except producing the proceeding book, general receipt book, the files pertaining to the beneficiaries, statement of bank account, no



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relevant entries specifically got marked by the prosecution. The trial Court took note of Ex.P20, there is no clear entry as regards the receipt and disbursement/ disbursement of the rice by the concerned and hence, comes to the conclusion that the said charge was also not proved. So also in respect of the allegation of collection of Rs.500/- each from 36 beneficiaries and the same was not deposited to the Government account is concerned also, none of the persons who gave the money were examined before the Court and no such audit report is placed on record. Unless, the same being collected by 36 persons to the tune of Rs.500/- is established, the question of misappropriation also doesn't arise. Having taken note of all these materials available on record, the trial Court comes to the conclusion that the prosecution has not proved the same and acquitted all the accused.

5. Being aggrieved by the acquittal, the present appeal is filed by the Lokayuktha Police contending that the trial Court has committed an error in not considering



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the documentary evidence and also the oral evidence produced before it. The evidence of PW.1-complainant cum the Investigating Officer, who have clearly deposed regarding misappropriation of money by the accused-respondents as per Exs. P26 to P28, which clearly demonstrate that none of the benefits have reached the beneficiaries. It is also contented that evidence of PW.2 who is the panch witness to seizure under Ex.P7 and another mahazar Exs.P26 to P28 which clearly demonstrate that fraud was played by the accused-respondents. The evidence in Exs.P9 to P15 clearly demonstrates no beneficiary has received the benefit under the Dr.Ambedkar and Indira Awas Scheme and also with regard to the collecting of an amount of Rs.500/- each from 36 beneficiaries from Mukunda Village under the Swacha Grama Scheme and the same is also misappropriated and the same has not been considered by the trial Court and trial Court has grossly erred in



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considering both oral and documentary evidence and committed an error.

6. Learned Special Counsel who appears for the Lokayuktha also reiterates the grounds which have been urged in the appeal memo and also tried to convince this Court that records are seized and these records are not properly considered by the trial Court while considering the same. He would contend that the evidence of PWs.1 to 6 is very clear with regard to misappropriation of funds and benefits have not reached to the beneficiaries under the Schemes which have been implemented by the Government and hence, it requires interference of this Court.

7. Per contra, the counsel appearing for the accused-respondents would vehemently contend that mere making an accusation is not enough and the same has to be proved by examining the witnesses and also placing the documents on record. Though an allegation of forgery and



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creation of document is made and the same is not substantiated by placing any expert opinion in respect of creation of documents and forgery and very forgery in respect of charge Nos. 1 and 2 is not proved. In respect of the other charge of collection of amount of Rs.500/- each from 36 beneficiaries are also not proved. In respect of the distribution of the rice also, nothing is placed on record and all these materials were taken note of by the trial Court while considering the material on record and when the prosecution failed to prove the same, the question of reversing the acquittal judgment into conviction does not arise.

8. Having heard the Special Counsel appearing for the Lokayuktha as well as learned counsel appearing for the accused-respondents and also on re-appreciation of material available on record in keeping the charges leveled against the accused and also the reasoning assigned, the points that would arise for consideration of this Court are:



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"i) Whether the trial Court committed an error in acquitting the accused for the offences which have been invoked against the accused persons and, whether it requires interference of this Court to reverse the finding of the judgment of the trial Court?

ii) What order?"

Point No.(i):

9. Having heard the respective counsel for the parties and also on perusal of material, now during the pendency of this appeal, admittedly, there is no dispute that accused No.1 has passed away and case against him is abated. Now the material required is with regard to reassessment in respect of accused Nos. 2 and 3, who are the Engineer and also the then president of Grama Panchayath.

10. Having perused the charges leveled against each of the accused persons and also considering the material available on record, the trial Court took note of admission on the part of PW.1-complainant. He categorically admits that in respect of the beneficiaries, no



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such statement of beneficiaries were recorded and the same is evident from the cross-examination of PW.1. It is also important to note that there Even there is a clear admission on the part of PW.1-complainant that the statement of villagers were also not recorded. It is also important to note that the trial Court has taken note of the evidence of the persecution that none of the beneficiaries have complained with the Lokayuktha Police with regard to the benefits under the different Schemes and particularly, PW.1 also categorically admitted in paragraph no.23 of the admission that none of the beneficiaries have given any written complaint and it is stated that the name which has been mentioned in Ex.P1 that beneficiaries and their name and their statement also and they have not given any written complaint. It is also the admission that in respect of the misappropriation of the amount of respective panchayats, no audit report is also collected.

11. On re-appreciation of evidence of PW.2, it is also very clear. In his cross-examination, PW.2



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categorically admits that none of the villagers of Thenkanahalli have given any complaint and also he has not given any visit to the said village and also in his presence, the villagers have been examined and any leaders of the said panchayat are also examined. The admission is very clear from the evidence of PW.2 that in respect of the Guddehosur, Byadarahalli, Thenkanahalli and Huluwadi, they have not given any complaint against accused No.1 with the Lokayuktha Police. PW.4 has also given a clear admission in his cross- examination that when they visited the respective villages, none of the beneficiaries have given any complaint on committing of fraud or forgery by the accused with the Lokayukta police. So also, PW.5 in his cross-examination categorically admits that none of the beneficiaries have given any complaint that they did not get any such benefit and also he admitted that in each and every panchayath, audit work will be done and nothing is brought to his notice in



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respect of the H Byadarahalli Village Panchayat is concerned.

12. In respect of financial misappropriation, having considered all the admissions of the respective witnesses and when the allegation of forgery and creation of documents is made in the charge, ought to have been proved the same by sending the document of forged document to the Forensic Science Laboratory and proved the same by examining and the same has not been done. The very charges leveled against the accused persons has not been proved by placing any sufficient material before the Court and none of the witnesses who are the beneficiaries of the said Schemes also made any complaint and also they have not been examined and even with regard to the collecting of amount of Rs.500/- from beneficiaries also concerned, none of the said persons who made the payment gave any statement and are examined before the trial Court.



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13. Even in respect of the distribution of the rice is also concerned, only an allegation is made and trial Court also taken note of the fact that the signatures of these accused persons were not found in any of such receipts for having received the rice and all these materials were taken note of by trial Court while acquitting the accused. The trial court also took note of paragraph no.23 that there is no specific allegation as to any document said to have been forged and fabricated by the accused persons. It is also noticed by this Court that no specific allegations have been made as to what particular amount was misappropriated except making the general allegation and the quantum of amount misappropriated also, there is no specific charge as against the accused persons. When such being the case and also having considered the material on record both oral and documentary, the trial Court rightly appreciated the evidence available on record and hence under the circumstances, we do not find any grounds to reverse the acquittal judgment into conviction.



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14. The Hon'ble Supreme Court in the case of **RAJESH PRASAD V. STATE OF BIHAR**, reported in **2022 (3) SCC 471**, while considering the material and approach or reasoning of the High Court, if it is perverse, where incontrovertible evidence has been rejected by the High Court, based on suspicion and surmises which are rather unrealistic, at paragraph 31.2.1 of the judgment, has observed thus:

"31.2.1. *Where the approach or reasoning of the High Court is perverse:*

- (a) *Where incontrovertible evidence has been rejected by the High Court based on suspicion and surmises, which are rather unrealistic. [State of Rajasthan v. Sukhpal Singh, (1983) 1 SCC 393 : 1983 SCC (Cri) 213 : AIR 1984 SC 207]] For example, where direct, unanimous accounts of the eyewitnesses, were discounted without cogent reasoning. [State of U.P. v. Shanker 1980 Supp SCC 489 : 1981 SCC (Cri) 428]]*
- (b) *Where the intrinsic merits of the testimony of relatives, living in the same house as the victim, were discounted on the ground that they were "interested" witnesses. [State of U.P. v. Hakim Singh [State of U.P. v. Hakim Singh, (1980) 3*



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*SCC 55 : 1980 SCC (Cri) 534 : AIR 1980
SC 184]]*

- (c) Where testimony of witnesses had been disbelieved by the High Court, on an unrealistic conjecture of personal motive on the part of witnesses to implicate the accused, when in fact, the witnesses had no axe to grind in the said matter. [State of Rajasthan v. Sukhpal Singh, (1983) 1 SCC 393 : 1983 SCC (Cri) 213 : AIR 1984 SC 207]]*
- (d) Where dying declaration of the deceased victim was rejected by the High Court on an irrelevant ground that they did not explain the injury found on one of the persons present at the site of occurrence of the crime. [Arunachalam v. P.S.R. Sadhanantham] (1979) 2 SCC 297 : 1979 SCC (Cri) 454]]*
- (e) Where the High Court applied an unrealistic standard of "implicit proof" rather than that of "proof beyond reasonable doubt" and therefore evaluated the evidence in a flawed manner. [State of U.P. v. Ranjha Ram, (1986) 4 SCC 99 : 1986 SCC (Cri) 374]]*
- (f) Where the High Court rejected circumstantial evidence, based on an exaggerated and capricious theory, which were beyond the plea of the accused; [State of Maharashtra v. Champalal Punjaji Shah, (1981) 3 SCC 610 : 1981 SCC (Cri) 762]] or where acquittal rests merely in exaggerated devotion to the rule of benefit of doubt in favour of the accused. [Gurbachan Singh v. Satpal*



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Singh, (1990) 1 SCC 445 : 1990 SCC (Cri) 151]]

(g) Where the High Court acquitted the accused on the ground that he had no adequate motive to commit the offence, although, in the said case, there was strong direct evidence establishing the guilt of the accused, thereby making it unnecessary on the part of the prosecution to establish "motive". [State of A.P. v. Bogam Chandraiah, (1986) 3 SCC 637 : 1986 SCC (Cri) 357 : AIR 1986 SC 1899] "

15. In the light of above discussion, the question of converting the acquittal to a conviction does not arise. The principles laid down by the Hon'ble Apex Court is very clear that if any perversity is found and also the evidence of the prosecution witnesses has not considered in a proper perspective which has resulted in miscarriage of justice, then only this Court can reverse the finding of the trial Court and such circumstance is not warranted in the case on hand and hence, we answer the point raised for consideration as **negative**.



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Point No.(ii):

16. In view of the discussions made hereinabove,
we pass the following:

ORDER

The appeal is ***dismissed***.

Sd/-
(H.P.SANDESH)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

BSV
List No.: 1 Sl No.: 10