



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 21ST DAY OF SEPTEMBER, 2026
BEFORE
THE HON'BLE MR. JUSTICE G BASAVARAJA
CRIMINAL APPEAL NO. 137 OF 2015 (A)

BETWEEN:

STATE BY LOKAYUKTA POLICE,
MYSORE-570001.

...APPELLANT

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

AND:

SRI KOMAREGOWDA
SURVEYOR,
TAHASILDAR OFFICE,
PERIYAPATNA TALUK,
MYSORE DISTRICT-570324.

...RESPONDENT

(BY MS. LENITA MATHIAS, ADV. FOR
SRI. P. PRITHVI KIRAN SETTY, ADV.)

CRL.A. FILED U/S.378(1) AND (3) CR.P.C BY THE S.P.P.
AND ADV. FOR THE APPELLANT PRAYING TO GRANT LEAVE TO
APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL
DATED 28.10.2014 IN SPL. CASE NO.88/2011 PASSED BY THE
COURT OF THE III ADDL. SESSIONS AND SPL. JUDGE, MYSORE
ACQUITTING THE RESPONDENTS OF THE OFFENCES P/U/S 7
13 (1)(d) R/W SEC.13(2) OF THE ACT AND ETC.



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

THIS APPEAL, COMING ON FOR 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 order dated 28.10.2014 passed in Spl.C.No.88/2011 by the III Addl. Sessions & Special Judge, Mysore (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, Karnataka Lokayuktha, Mysore laid charge sheet against the accused for the offence under Section 7 and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. It is alleged by the prosecution that, the accused was working as a Second Class Surveyor in the Survey Department. The father of the Complainant Yathish Kumar is the owner of the land



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

bearing Sy.No.208/1 situated at Gorahalli Village, Periyapatna Taluk. The Complainant had cut a Jackfruit tree grown in the said land. Later, one Rajashekaraiah raised objections for the same. The accused had surveyed the said land to know to whom the said Jackfruit tree belongs. The accused, in order to give Survey Report and to give the documents, viz., *Akarband* and *Utaar Tippani* pertaining to the land bearing Sy.No.171 situated at Hasuvinakavalu village, demanded the Complainant to give bribe amount of Rs.200/-. The accused has demanded bribe amount of Rs.2,500/- to give the Survey Report pertaining to the land bearing Sy.No.208/1 situated at Hasuvinakavalu village. So, the Complainant has filed a complaint against the accused before Lokayukta Police. Thereafter, a trap was conducted. During the trap, the accused has demanded and accepted the bribe amount of Rs.200/- from the Complainant in order to furnish *Akarband* and *Utaar Tippani* pertaining to the land bearing Sy.No.171 situated at Hasuvinakavalu Village. Thus, the



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

accused has committed the offences punishable under Sec.7 and Sec.13(1)(d) read with Sec.13(2) of the Prevention of Corruption Act, 1988.

4. After submitting of charge sheet, cognizance was taken against the accused and case was registered as Spl.C.No.88/2011. The accused was enlarged on bail. On hearing the charges, all the prosecution papers were made available to the accused as required under Sec.207 of the Cr.PC.

5. After hearing, charge has been framed against the accused for the aforesaid offences. Same was read over and explained to the accused. Having understood the same, accused pleaded not guilty and claimed to be tried.

6. To prove the guilt of the accused, in all, the prosecution has examined 8 witnesses as PW.1 to PW.8 and got marked 28 documents as Exs.P1 to Ex.P28 and 11 material objects were marked as MOs.1 to 11.



CNR: KAHC010167602015

7. After closure of the prosecution evidence, the statement of accused was recorded under Section 313 of Cr.PC. Accused has totally denied the evidence of prosecution witnesses. However, he did not choose to lead any defence evidence on his behalf.

8. Having heard the arguments, the trial Court has acquitted the accused. Being aggrieved by the judgment of Acquittal, the State has preferred this appeal.

9. The learned Special Public Prosecutor appearing for the appellant would submit that, the reasons assigned by the learned Judge while passing the order of acquittal are erroneous in nature. He has reached to a wrong conclusion, resulting in substantial miscarriage of justice.

10. PW1 to PW8 have clearly deposed that they have received a bribe amount of Rs.200/- from the complainant for doing official favour. The trial Judge has failed to consider that, though the complainant was treated as hostile in respect of entrustment mahazar and spot



CNR: KAHC010167602015

mahazar, he admitted the entire case of prosecution. There is clear evidence before the Court to show that the respondent has received Rs.200/- bribe from the complainant to do the official favour. The police obtained the hand wash of the respondent in the Sodium Carbonate liquid which turned to pink colour, even before seizure of tainted money from the pocket. Such being the case, the learned Judge ought to have drawn presumption under Section 20 of the Prevention of Corruption Act. On the contrary, the learned Judge acquitted the accused, which is not sustainable under law. On all these grounds, it is sought to allow this appeal.

11. As against this, the learned counsel for the respondent would submit that the trial Court has properly appreciated the evidence on record in accordance with law and facts. Absolutely, there are no grounds to allow this appeal and sought to dismiss the appeal.



CNR: KAHC010167602015

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

- (1) *Whether the State has made out grounds to allow the appeal?*
- (2) *What order?*

13. My answer to the above points as under:

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

Regarding Point No.1:

14. I have gone through the materials placed before this Court. Before appreciation of evidence on 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.



CNR: KAHC010167602015

SUNDARA v. STATE OF KARNATAKA reported in (2023)9 SCC 581. The principles governing exercise of appellate jurisdiction while dealing with an appeal against judgment of acquittal under section 378 of Code of Criminal Procedure are, the acquittal of the accused further strengthens the presumption of innocence; the appellate court, while hearing an appeal against acquittal, is entitled to re-appreciate the oral and documentary evidence; 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; 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 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



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

reasonable doubt and no other conclusion was possible. The interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised only if the judgment of acquittal suffers from patent perversity; the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

15. In the case on hand, the case arises out of the complaint filed by the complainant as per Ex.P18 in which it is stated as under:

"ಸ್ವಾಮಿ ನಾನು ಪಿಲಿಯಾಪಟ್ಟಣ ಗೊರಹಳ್ಳಿ ಗ್ರಾಮದಲ್ಲಿ ವಾಸವಾಗುತ್ತೇನೆ. ಗೊರಹಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.208/1 ರಲ್ಲಿ ನನ್ನ ತಂದೆಯವರ ಹೆಸರಿನಲ್ಲಿ (ಚಂದ್ರಪ್ಪ) 4.9 ಎಕರೆ ಜಮೀನಿರುತ್ತದೆ. ಇದರಲ್ಲಿ ಬೆಳೆದಿರುವ 1 ಹಲಸಿನ ಮರವನ್ನು ನನ್ನ ಸ್ವಂತ ಕೆಲಸಕ್ಕೆ ಏಪ್ರಿಲ್ ತಿಂಗಳಲ್ಲಿ ಕಡಾವ್ ಮಾಡಿದ್ದು, ಈ ಬಗ್ಗೆ ರಾಜಶೇಖರಯ್ಯ ಎಂಬವರು ತಕರಾರು ಮಾಡಿದ್ದು, ಇದರ ಬಗ್ಗೆ ಪಿಲಿಯಾಪಟ್ಟಣದ ರೇಂಜ್ ಫಾರೆಸ್ಟ್ ಅಫೀಸರ್‌ಗೆ ದೂರು ನೀಡಿ, ಆ ಮರವನ್ನು ತನಗೆ ಸೇರಬೇಕೆಂದು ತಿಳಿಸಿದ್ದು, ಈ ಸ್ಥಳವನ್ನು ಸದರಿ ರೇಂಜ್ ಫಾರೆಸ್ಟ್ ಅಫೀಸರ್‌ರವರು ಪರಿಶೀಲನೆ ಮಾಡಿ ಈ ಸಂಬಂಧಪಟ್ಟ ಜಮೀನಿನಲ್ಲಿ ಇರುವ



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

ಮರ ಯಾಲಿಗೆ ನೇರಬೀಕೆಂದು ಆದೇಶ ತಂದು ಕೊಟ್ಟವರಿಗೆ ಮರವನ್ನು ಕೊಡಿಸಿಕೊಡುತ್ತೇನೆ. ಅಲ್ಲಿಯವರೆಗೆ ಈ ಮರವನ್ನು ನನ್ನ ವಶಕ್ಕೆ ಒಪ್ಪಿಸಿ. ಅಖತ ಮೂಲಕ ನೀಡಿರುತ್ತಾರೆ ಹಾಗೂ ನಂತರ ಡಿ.ಎಫ್ ರವರಿಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಲು ಆ ಮರವನ್ನು ರೇಂಜ್ ಫಾರೆಸ್ಟ್ ಅಫೀಸರ್‌ರವರೇ ಇಟ್ಟುಕೊಂಡು ತಾಲ್ಲೂಕು ಸರ್ವೆಯವರಿಗೆ ನಮ್ಮ ಜಮೀನು ಸರ್ವೆ ಮಾಡಿ, ವರದಿ ನೀಡಲು ತಿಳಿಸಿರುತ್ತಾರೆ. ಅದರಂತೆ ಪಿಲಿಯಾಪಟ್ಟಣದ ಸರ್ವೆಯರ್ ಆದ ಶ್ರೀ ಕೋಮಾರೆಗೌಡರವರು ದಿನಾಂಕ 03.06.2009 ರಂದು ನಮಗೆ ನೋಟೀಸ್ ನೀಡಿ, ದಿನಾಂಕ 04.06.2009 ರಂದು ಸ್ಥಳಕ್ಕೆ ಬಂದು ಸರ್ವೆ ಮಾಡಿರುತ್ತಾರೆ. ನಂತರ ನಾನು ಸರ್ವೆ ವರದಿ ಕೇಳಿದಾಗ ಪುನಃ ಸರ್ವೆ ಮಾಡಿ ಆಮೇಲೆ ವರದಿ ಕೊಡುತ್ತೇನೆ ಎಂದು ಹೇಳಿ, ಇದುವರೆವಿಗೂ ಸರ್ವೆ ಮಾಡಿ ವರದಿ ನೀಡಿಲ್ಲ. ಈ ಮಧ್ಯೆ ನಾನು ಹಲವಾರು ಬಾರಿ ಅವರನ್ನು ಭೇಟಿ ಮಾಡಿದಾಗ ಅವರು ಸರ್ವೆ ಮಾಡಿ ಕೊಡಲು ಸತಾಯಿಸಿರುತ್ತಾರೆ. ನಂತರ ನಾನು ದಿನಾಂಕ 15.10.2009 ರಂದು ಪಿಲಿಯಾಪಟ್ಟಣದ ತಾಲ್ಲೂಕಿನ ಹಾರ್ನಹಳ್ಳಿ (ಹೋ) ಹಸುವಿನಕಾವಲು ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 171 ರ 4 ಎಕರೆ ಜಮೀನಿನ ಆಕಾರ್ ಬಂದು ಮತ್ತು ಉತ್ತರ ಟಿಪ್ಪಣಿ ಕೋಲಿ ನಿಗದಿತ ಶುಲ್ಕ ಎಸ್.ಜಿ.ಐ ಬ್ಯಾಂಕಿನಲ್ಲಿ ಪಾವತಿ ಮಾಡಿ ರಸೀದಿ ಮತ್ತು ಅರ್ಜಿಯನ್ನು ಸರ್ವೆಯರ್ ಶ್ರೀ ಕೋಮಾರೆಗೌಡ ರವರಿಗೆ ನೀಡಿದಾಗ ಆಕಾರ್ ಬಂಧ್ ಮತ್ತು ಉತ್ತರ ಟಿಪ್ಪಣಿ ನೀಡಲು 200/- ರೂ ಗಳನ್ನು ಕೊಡುವಂತೆ ಒತ್ತಾಯಿಸಿದರು. ಮತ್ತು ನಾನು 2008/1 ರ ಜಮೀನಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಸರ್ವೆ ವರದಿಯನ್ನು ಕೇಳಿದಾಗ ಅದಕ್ಕೆ 2,500/- ರೂಗಳನ್ನು ನೀಡುವಂತೆ ಒತ್ತಾಯ ಮಾಡಿರುತ್ತಾರೆ. ಹಣ ಕೊಡದಿದ್ದರೆ ನಿನ್ನ 2 ಕೆಲಸಗಳನ್ನು ಮಾಡಿಕೊಡುವುದಿಲ್ಲ ಎಂದು ಹೇಳಿದ್ದರು. ನಾನು ಅವರಿಗೆ ಕಷ್ಟ ಇದೆ ಎಂದು ಹೇಳಿದರೂ ಒಪ್ಪಿರುವುದಿಲ್ಲ. ನನಗೆ ಹಣಕಾಸಿನ ತೊಂದರೆ ಇದ್ದು ಅವರು ಹಸುವಿನ ಕಾವಲು ಗ್ರಾಮದ ಜಮೀನಿನ ಆಕಾರ್ ಬಂದು ಮತ್ತು ಉತ್ತರ ಟಿಪ್ಪಣಿಯ ಬಗ್ಗೆ ಅರ್ಜಿಂಟ್ ಬೇಕಾಗಿದೆ ಎಂದು ಕೇಳಿದರೂ, ಇದಕ್ಕೆ 200/- ರೂ.ಗಳನ್ನು ತೆಗೆದುಕೊಂಡು ಬಾ ಎಂದು ಹೇಳಿರುತ್ತಾರೆ. ನೀನು ಯಾವಾಗ ತಂದು ಕೊಡುತ್ತೀಯಾ ಅವಾಗ ಮಾಡಿಕೊಡುತ್ತೇನೆ ಎಂದು ಹೇಳಿದರು.



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

ನನಗೆ ಲಂಚದ ಹಣವನ್ನು ನೀಡಿ ಅಧಿಕೃತವಾಗಿ ಆಗಬೇಕಾದ ಕೆಲಸವನ್ನು ಮಾಡಿಸಿಕೊಳ್ಳಲು ಇಷ್ಟ ಇರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಲಂಚದ ಹಣಕ್ಕೆ ಒತ್ತಾಯ ಮಾಡಿರುವ ಪಿಲಿಯಾಪಟ್ಟಣದ ತಾಲ್ಲೂಕು ಸರ್ವೆಯರ್ ಶ್ರೀ ಕೋಮಾರೆಗೌಡರವರ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಕೋರಿಕೆ. ಈ ದೂರಿನೊಂದಿಗೆ ಅವರು ಒತ್ತಾಯ ಮಾಡಿರುವ 200/- ರೂ.ಗಳನ್ನು ಹಾಜರ್‌ಪಡಿಸಿರುತ್ತೇನೆ. ಹಾಗೂ ಹಸುವಿನ ಕಾವಲು ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.171 ರ ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಆಕಾರ್‌ಬಂದು ಮತ್ತು ಉತ್ತರ ಟಿಪ್ಪಣಿ ಸಂಬಂಧ ನೀಡಿದ ಅರ್ಜಿಯ ಸ್ವೀಕೃತ ನಕಲನ್ನು ಮತ್ತು ಗೊರಹಟ್ಟಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.208/1ರ ಸರ್ವೆ ಬಗ್ಗೆ ಅವರು ನೀಡಿರುವ ನೋಟೀಸಿನ ನಕಲನ್ನು ಸಲ್ಲಿಸಿರುತ್ತೇನೆ."

16. The prosecution has not produced any document to show that the Sy.No.208/1 measuring 4 acres 9 guntas is standing in the name of father of the complainant i.e. Chandrappa. In Ex.P18, it is stated that the Range Forest Officer has informed the complainant to get done survey of the land and thereafter, he will pass orders for releasing the Jackfruit Tree. He has issued an order in writing. But the IO has not produced the said order passed by the Range Forest Officer. The IO has also failed to produce the notice issued by the accused to the complainant dated 03.06.2009 and also the survey conducted by the accused dated 04.06.2009. The IO has not explained anything for



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

non-production of materials before this Court. On perusal of the contents of the complaint, it is clear that the accused has demanded an amount of Rs.200/- for getting certified copy of the *Akarband* and *Utaar Tippani*. Further, the accused has demanded an amount of Rs.2,500/- to get the survey of land bearing No.208/1. Further, the contents of the complaint reveals that, the accused has demanded an amount of Rs.200/- for issuance of certified copies of *Akarband* and *Utaar Tippani*. This complaint is lodged on 09.11.2009. Ex.P3 is the copy of the application for obtaining the certified copies of the *Akarband* and *Utaar Tippani* pertaining to new Sy.No.171, old Sy.No.1/199 of Hasuvinakavalu Village, Harnahalli, Hobli. On the same day Rs.34/- was paid by the complainant for getting certified copies. Same is entered through challan No.7 dated 15.10.2009. Ex.P3 reveals that, the complainant has obtained the certified copies in presence of Lokayuktha officials on 09.11.2009 at 06.00 pm. But Ex.P18 does not reveal as to the receiving of



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

these copies on 09.11.2009 and the date of demand of Rs.200/- is also not disclosed in Ex.P18. The certified copies said to have been received by the complainant are not produced by the IO. This complaint does not reveals as to payment of Rs.34/- on 15.10.2009 and the challan No.7. The Investigating Officer has not produced any document to show that the complainant's father is the owner of land in Sy.No.208/1 and as to existence of one Jackfruit tree in the said land. IO has also not produced any document to show document regarding Survey No.171 of Hasuvinakavalu Village.

17. During the course of cross-examination, PW3 has deposed that he does not know as to who is the owner of Sy.No.171. Further, he has clearly admitted that no transaction had taken place between the accused and himself regarding land in Sy.No.171. Further he has admitted that there is a dispute between them and his uncle regarding Haddubastu of land bearing Sy.No.208/1.



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

18. In the absence of revenue records and also the consistent evidence as to the contents of complaint and evidence of PW3, it is not safe to come to the conclusion that the accused has demanded an amount of Rs.200/- for issuance of certified copies of *Akarband* and *Utaar Tippani* pertaining to land in Survey No.171 of Hasuvinakavalu Village, which is not in dispute between the accused and complainant. Accordingly, the prosecution has failed to place cogent, convincing and clinching evidence to prove that accused has demanded the bribe amount, as alleged by the prosecution.

19. With regard to demand and acceptance are concerned, the trial Court, in paragraphs 21 to 33, has discussed as under:

21. I have carefully scrutinized the evidence of the prosecution. The following are the admitted facts in this case:

(i) The accused is a Government Servant working as a Surveyor in Periyapatna Taluk.



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

(ii) The bribe amount was found in the possession of the accused and it has been recovered from his possession.

22. It is contended by the prosecution that the accused has demanded the bribe amount of Rs.200/- and taken/accepted through his hands and thereafter kept the bribe amount in his pocket.

23. But it is the defence of the accused that it was forcibly kept in his pocket by P.W.3-Yarish Kumar, the Complainant. Actually he has not demanded and accepted the bribe amount.

24. Considering the aforesaid case of the prosecution and the defence of the accused, it is clear that the prosecution has to establish that the hands of the accused has been washed in the Sodium Carbonate liquid and the said liquid turned to pink colour prior to the recovery of the bribe amount from the accused. If the prosecution proves this fact, then the case of the prosecution has to be accepted, otherwise it supports and probabilizes the defence of the accused.

25. P.W.1-Renukaradhya and P.W.2-C.R.Srinivasa are the panch witnesses. P.W.2-C.R.Srinivasa is a shadow witness and had accompanied P.W.3-Yatish Kumar, the Complainant. P.W.1-Renukaradhya was with the Investigating Officer. P.W.3-Yatish Kumar is the Complainant and P.W.8-Gopalakrishna is the Investigating Officer of this case. On perusal of these material witnesses-P.Ws.1, 2, 3 and 8, it goes to show that the after the accused accepted the bribe amount from the Complainant, the Complainant gave signal to the Investigating Officer



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

and thereafter raiding party including the Investigating Officer came inside the office of the accused. They caught hold the accused. Thereafter they washed the right hand of the accused in a Sodium Carbonate liquid. It was turned to pink colour. Thereafter the bribe amount has been recovered from the possession of the accused which was kept in the pocket of his shirt. So, it is clear that, all these material witnesses-P.Ws.1, 2, 3 and 8 have supported the case of the prosecution. I have scrutinized the cross-examination of P.W.1-Renukaradhya, a panch witness to the incident in question. This witness during the course of cross-examination has admitted that the accused was directed to produce the amount after the police and they went to that place, when a suggestion was put by the learned counsel for the accused to this witness. This witness has further specifically deposed in his cross-examination that, the procedure of washing of fingers of the hands of the accused was taken place after the accused has produced the money. Said admission given by this P.W.1 in his cross-examination supports the defence of the accused.

26. Now, I proceed to assess the evidence of P.W.3-Yatish Kumar, the Complainant and the material witness in this case. During examination-in-chief, he has supported the case of the prosecution till the accused accepted the bribe amount from him and the accused has been caught hold at that place. He further deposes that, a Mahazar has been draw as per Ex.P5. He signed the same. No further proceedings have been taken place. At that time, it was 6.00 p.m. Thereafter, he was sent to his village. On the next day morning,



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

he did not come to Mysore. This P.W.3, the Complainant has not deposed in his examination-in-chief as to at what stage the hands of the accused who had accepted the bribe amount from him has been washed in the Sodium Carbonate liquid. He has not at all deposed anything about the washing of the hands of the accused in the Sodium Carbonate liquid in his examination in-chief. This witness has been treated as hostile by the prosecution. During the course of his evidence, this witness has admitted the case of the prosecution as to the hands of the accused was washed in the Sodium Carbonate liquid after the accused had accepted the bribe amount from him and thereafter the bribe amount has been recovered from the possession of the accused, when suggestions were put by the learned Special Public Prosecutor to this witness. On perusal of the cross-examination of P.W.3, the Complainant, he has specifically deposed that the fingers of the hands of the accused was not washed prior to directing the accused to produce the money by the police. Said statement given by this witness in his cross-examination clearly goes to show that the hands of the accused was not washed prior to the production of money by the accused. Thereafter, a suggestion was put by the learned counsel for the accused to this witness as to the hands of the accused was washed after police got produced the money from the accused forcibly. For the said suggestion, this witness has replied that, at that time, he was in the neighbouring room and there were several public persons there. So he has not observed it.

27. Considering the evidence of material witnesses-P.W.1-a panch witness and P.W.3-the



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

Complainant given in their cross-examination, it clearly establishes that the hands of the accused was not washed in the Sodium Carbonate liquid prior to the production of the bribe amount by the accused. P.W.1 and P.W.3 have not supported the case of the prosecution in their cross-examination. They have deposed against to the case of the prosecution in their cross-examination. On careful scrutiny of the evidence of P.W.1 and P.W.3, it goes to show that, they have deposed against to the case of the prosecution, but not with an intention to help the accused. They have given admissions supporting the defence of the accused in the normal way. But the prosecution has not cross-examined these two material witnesses after these two material witnesses have not supported the case of the prosecution and given admissions against to the case of the prosecution. Under the circumstances, it is not possible to reject the evidence of P.W.1 and P.W.3 as to the hands of the accused was not washed in the Sodium Carbonate liquid prior to the production of the bribe amount by the accused. Though P.W.2- Srinivas, a shadow panch witness and P.W.8-Gopalakrishna, Investigating Officer supports the case of the prosecution on the aforesaid point, other material witnesses-P.W.1 and P.W.3 have not supported the case of the prosecution in this regard. So, considering the evidence of P.W.1 and P.W.3, it goes to show that, it probabilises the defence of the accused and supports the defence of the accused as to the Complainant might have put the bribe amount in the pocket of the accused forcibly.

28. P.W.1-Renukaradhya has deposed in his examination-in-chief as to the events of the



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

Entrustment Mahazar-Ex.P2 taken place in the office of Lokayuktha and drawing of Ex.P2-Mahazar in the said office and he deposes that, he has signed Ex.P2-Mahazar. But during the course of cross-examination, he deposes that, he has not signed any documents in the office of Lokayuktha earlier to going to the Survey Office of Periyapatna.

29. *P.W.2-C.R.Srinivasa, a shadow panch witness who accompanied the Complainant at the time of trap has deposed in his examination-in-chief that himself and P.W.3-the Complainant Spl.23 C.No.88/2011 went to the office of the accused. The Complainant after seeing the accused talked with him as to "ಕೆಲಸ ಆಗಲ್ಲವಾ ಅಂತ ಕೇಳಿದರು. ಅದಕ್ಕೆ ಆರೋಪಿ ಇನ್ನೂ ಆಗಲ್ಲವಂತ ತಿಳಿಸಿದರು. ಯತೀಶ್‌ಕುಮಾರ್‌ರವರು ಫಿನಾನ್ಸ್‌ಅನ್ ಪುಡಿ ಲೇಪಿಸಿದ್ದ ಹಣವನ್ನು ಆರೋಪಿಗೆ ನೀಡಿದರು. ಆರೋಪಿತನು ಅದನ್ನು ಬಲರೈಯಲ್ಲಿ ಸ್ವೀಕರಿಸಿ ಶೇರ್‌ಎನ್ ಎಡಜೇಬನಲ್ಲಟ್ಟುಕೊಂಡರು", whereas P.W.2 during the course of his cross-examination has admitted to a suggestion as to he is not remembering with regard to the conversation taken place between the Complainant and the accused clearly, when a suggestion was put by the learned counsel for the accused to this witness. He further deposes in his cross-examination that, at that time, the Complainant gave money to the hands of the accused. At that time, there was no conversation. So, considering the evidence of P.W.2 given in his cross-examination, it creates doubt as to his evidence given in his examination-in-chief as to the conversation taken place between the Complainant and the accused at the time of giving bribe amount by the Complainant to the accused as referred hereinbefore. P.W.3, the Complainant in his evidence has deposed that, when he met the*



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

accused in his office, he made an enquiry about his application. For that, the accused replied that, the document is not yet ready. For that, this witness has told the accused as to “ನಾನು ಆರೋಪಿತರ ಬಳಿ ನಿಮಗೆ ಬರಬೇಕಾಗಿದ್ದ ಫೀಸ್ ಬಂದಿಲ್ಲವಂಬ ಕಾರಣಕ್ಕಾಗಿ ಮುಂದೆ ಹಾಕುತ್ತಿದ್ದೀರಾ ಎಂದು ವಿಚಾರಿಸಿದೆ. ಅದಕ್ಕೆ ಆರೋಪಿ ಏನೂ ಮಾತನಾಡದೆ ಸೂಪರ್‌ವೈಸರ್ ಕಚೇರಿ ಕಡೆಗೆ ಹೋದರು. ನಾನು ಆರೋಪಿಯನ್ನು ಭೇಟಿಮಾಡಿ ಅವರಿಗೆ ಹಣ ನೀಡಿದೆ.”. The evidence of P.W.2 and P.W.3 as to the conversation that was taken place between the accused and the Complainant at the time of giving the bribe amount by the Complainant to the accused differs. The evidence given by P.W.3 in his examination-in-chief as referred hereinbefore as to the accused did not talk anything to him and went towards the office of the Superintendent, he met the accused and gave money as referred hereinbefore goes to show that the Complainant might have given the bribe amount to the accused forcibly. This circumstance supports the defence of the accused.

30. On perusal of Ex.P18-written complaint and the evidence of P.W.3-Yatish Kumar, the Complainant, it goes to show that, according to the prosecution, the accused has accepted the bribe amount of Rs.200/- for issuing Akarband and Uttara Tippani pertaining to the land bearing Sy.No.171. P.W.3 in his cross-examination has deposed that, no transaction was taken place between him and the accused pertaining to the land bearing Sy.No.171. He further deposes that, he does not know to whom Sy.No.171 belongs. P.W.3, the Complainant has deposed in his cross-examination that, when he met the accused, the accused has brought to his notice that the file pertaining to him is with the Superintendent. This witness has admitted the said



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

fact when a suggestion was put by the learned counsel for the accused to this witness.

31. Though the evidence of P.W.3-the Complainant and Ex.P18-Written complaint of the Complainant goes to show that the present case is pertaining to the demanding of bribe amount of Rs.200/- by the accused from the Complainant for issuing Akarband and Uttara Tippani pertaining to the land bearing Sy.No.171, the evidence of P.W.1 and P.W.2-Panch witnesses does not reveal that the present case is pertaining to demanding bribe amount by the accused for issuing the said documents. P.W.8-Gopalakrishna, Investigating Officer has also not deposed about this fact in this cross-examination.

32. P.W.3-Yatish Kumar, the Complainant has deposed in his evidence that, after the accused accepted the bribe amount from him, he gave signal to the Lokayuktha police. Thereafter, Lokayuktha police and others came there and caught hold the accused and Lokayuktha Officer got introduced himself with the accused. The accused by knowing the said fact that said persons are Lokayuktha persons shouted immediately and fell down and lost his consciousness. Thereafter, Doctors were called and treatment was given to the accused. P.W.1 and P.W.2 have not deposed about this circumstance in their evidence, though they are eye witnesses to the incident in question at that relevant time.

33. Taking into consideration of all the facts and circumstances of the case and the evidence on record as discussed by me in the paragraphs supra,



CNR: KAHC010167602015

it creates doubt over the story of the prosecution as to the accused demanded and accepted the bribe amount being a public servant and abused his official position. There is no satisfactory evidence of the prosecution to connect the accused with the alleged offences. The prosecution has utterly failed to prove the alleged offences against the accused. So, I feel, benefit of doubt shall be given to the accused. The principle laid down in the decisions relied upon by the learned Special Public Prosecutor will not help the prosecution to convict the accused for the alleged offences in view of the unsatisfactory evidence of the prosecution referred hereinbefore. So, I answer Point Nos.1 and 2 in the Negative."

20. On careful examination of the entire material on record independently and also on re-appreciation/re-examination and re-consideration of the entire evidence on record and also keeping in mind the aforesaid decisions of the Hon'ble Supreme Court, I do not find any legal or factual error in the impugned judgment of acquittal. Hence, I answer Point No.1 in Negative.

Regarding Point No.2:

21. For the aforesaid reasons and discussion, I proceed to pass the following:



CNR: KAHC010167602015

NC: 2026:KHC:52009
CRL.A No. 137 of 2015

ORDER

Appeal is **dismissed**.

Sd/-
(G BASAVARAJA)
JUDGE

DHA
List No.: 1 Sl No.: 51