



CNR: KAHC010272882017

NC: 2026:KHC:50361
CRL.A No. 505 of 2017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S RACHAIAH

CRIMINAL APPEAL NO. 505 OF 2017 (C)

BETWEEN:

SRI. RAJA ,
S/O MURTHINAIAKA,
AGED ABOUT 25 YEARS,
VILLAGE ACCOUNTANT,
BASUR VILLAGE AND CIRCLE,
KADUR TALUK
CHIKKAMAGALURU – 577 101.

...APPELLANT

(BY SRI. SATISH K., ADVOCATE)

AND:

STATE BY LOKAYUKTHA POLICE
CHIKAMANGALURU,
REPRESENTED BY
SPECIAL PUBLIC PROSECUTOR
FOR LOKAYUKTHA CASES,



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O/O M.S.BUILDING,
HIGH COURT OF KARNATAKA,
BANGALORE - 560 001.

...RESPONDENT

(BY SRI. B. S. PRASAD., SPL. PROSECUTOR)

THIS CRIMINAL APPEAL IS FILED U/S.374(2) CODE OF CRIMINAL PROCEDURE R/W SECTION 27 OF THE PREVENTION OF CORRUPTION ACT, 1988 BY THE ADVOCATE FOR THE APPELLANT, SEEKING TO SET ASIDE THE JUDGMENT AND ORDER DATED 15.03.2017, PASSED BY THE PRINCIPAL DISTRICT AND SESSIONS JUDGE AND SPECIAL JUDGE, CHIKKAMAGALURU IN SPL.C.(CORRUPTION) NO.20/2014, CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 7 AND 13(1)(d) R/W 13(2) OF PREVENTION OF CORRUPTION ACT.

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

CORAM: HON'BLE MR. JUSTICE S RACHAIAH



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ORAL JUDGMENT

1. This appeal has been filed by the appellant, being aggrieved by the judgment of conviction and order on sentence dated 15.03.2017 passed in Spl. Case (Corruption) No.20/2014 on the file of the Principal District & Sessions Judge and Special Judge at Chikkamagaluru, wherein the appellant has been convicted for the offences punishable under Sections 7 and 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 (for short 'PC Act').
2. The ranks of the parties before the Trial Court would be considered henceforth for convenience.

Brief facts of the case:-

3. The case of the prosecution is that the accused, being a public servant, was working as a Village Accountant of Basur Circle. The complainant had approached him for the purpose of changing the khata in respect of land bearing Sy.No.92/8 of Basur village, measuring 2 acres 35 guntas. It is alleged that the accused demanded bribe



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amount of Rs.3,000/- other than legal remuneration from the complainant. The complainant gave Rs.1,200/- as initial payment; later, he agreed to give the balance of Rs.1,800/-. It is further stated that, on 26.02.2013 at about 3.00 p.m., the complainant paid the balance amount of Rs.1,700/-, by retaining Rs.100/- with him. The respondent – police, after receiving the signal from the complainant, rushed to the spot, seized the amount and drew the trap panchanama in the presence of panch witnesses. Thereafter, they submitted the charge sheet after conducting the investigation.

4. To prove the case of the prosecution, the prosecution examined seven witnesses as PWs.1 to 7 and got marked 34 documents as Exs.P1 to P34 and identified 13 documents as MOs.1 to 13. During the course of cross-examination of PWs.4 and 5, portions of their statements were marked as Exs.D1 and D2. The Trial Court after appreciating both oral and documentary evidence on record, rendered the conviction against the appellant.



5. Heard Sri Satish K., learned counsel for the appellant and Sri B.S. Prasad, learned Special Prosecutor for respondent – Lokayukta.
6. The submission of the learned counsel for appellant is that the judgment of conviction and order on sentence passed by the Trial Court is contrary to the evidence on record and also the settled principles of law.
7. It is further submitted that the complainant did not support the case of the prosecution and the panch witnesses have also not supported the case. However, the Trial Court ignoring the evidence of the material witnesses, proceeded to record the conviction on considering the circumstances, which is contrary to the settled principles of law. Therefore, the same is liable to be set aside. By making such submissions, learned counsel for appellant prays to allow the appeal.
8. Learned counsel for appellant relied on the following judgments:-

- i) ***B. Jayaraj v. The State of Andhra Pradesh***¹

¹ (2014) 13 SCC 55 (Para 7 to 9)



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- ii) ***M.R. Purushotham v. The State of Karnataka***²
- iii) ***K. Shanthamma v. The State of Telangana***³
- iv) ***Neeraj Dutta v. State (Government of NCT Delhi)***⁴
- v) ***Soundarajan v. The State***⁵
- vi) ***Madan Lal v. The State of Rajasthan***⁶

9. *Per contra*, learned Special Prosecutor for respondent vehemently submitted that the judgment rendered by the Trial Court is appropriate and proper. Merely because P.W.1 has disowned his earlier statement or resiled from his earlier statement would not absolve the case of the prosecution and also not sufficient to hold that the entire evidence has to be discarded. In fact, while analyzing the evidence of the witnesses, when they turned hostile, the Court has to see the portion of evidence which supports the case of the prosecution and the same has to be considered for the purpose of rendering conviction. In other words, it cannot be rejected in toto.

² (2015) 3 SCC 247 (Para 7 to 9)

³ (2022) 4 SCC 574 (Para 10, 11 & 20)

⁴ (2023) 4 SCC 731 (Para 15 & 17)

⁵ (2023) 16 SCC 141 (Para 10 & 13)

⁶ (2025) 4 SCC 624 (Para 19)



10. It is further submitted that the Trial Court has rightly appreciated the circumstances i.e., the evidence of shadow witness, recovery of the amount, FSL report on chemical test, pendency of work and the evidence of official witnesses etc., and recorded the conviction. Such being the fact, interference with the said findings is not warranted. Having said thus, learned Special Prosecutor for respondent prays to dismiss the appeal.
11. Having heard learned counsel for the respective parties and on perusal of the findings of the Trial Court, it is necessary to refer the proposition of law laid down by the Hon'ble Supreme Court in the case of ***B. Jayaraj v. The State of Andhra Pradesh*** (referred to supra), wherein it is held that the demand for the bribe money is *sine qua non* to convict the accused for the offences punishable under Sections 7, 13(1)(d) r/w 13(2) of the PC Act.
12. In another case, ***State of Uttar Pradesh v. A.K. Gaba etc.***,⁷ the Hon'ble Supreme Court held that, mere recovery of the amount in the absence of proof regarding

⁷ 2026 SCC OnLine SC 967



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demand made by the public servant cannot constitute offence under Sections 7 and 13(1)(d) of the PC Act.

13. Having considered the settled principles of law, it is now relevant to advert the evidence on record. P.W.1, who is the complainant, has stated in his evidence that he had applied for change of khata and approached the accused after filing the said application. Thereafter, he informed the said fact to his friend Prakash. The said Prakash had informed him that, if anything is given to the officials, his work would be get over at the earliest. Being aggrieved by the said instructions of his friend, he lodged a complaint against the accused. Further, he admitted that the accused did not demand any illegal gratification from him. Later, P.W.1 has been treated as hostile and conducted cross-examination by the prosecution. However, nothing has been elicited to support the case of the prosecution.

14. P.W.2 was working as a Data Entry Operator at KSRTC, Chikkamagalur. According to him, P.W.1 and himself



went to the office of the accused. P.W.1 went inside the office to meet the accused, however, he was standing near the door. P.W.1 asked the accused whether his work was over. However, the accused did not give a satisfactory answer and asked P.W.1 as to whether he had brought the amount as stated. P.W.2 says that, out of Rs.1,800/-, Rs.1,700/- was given to the accused. The accused took the amount and kept the said amount in his black bag. The said bag was kept under the table. He further stated that, the complainant had retained Rs.100/- on stating that the said amount was required for his necessity. P.W.2 supported the case of the prosecution despite being subjected to cross-examination. However, he further stated that he was not aware about the conversation recorded in the voice recorder.

15. P.W.3 was working as Deputy Commissioner of Chikkamagalur. He accorded sanction as per Ex.P22. The same has not been disputed.



16. P.W.4 was working as a Revenue Inspector, stated in his evidence that he identified and recognized the voice of the accused after having heard the conversation played before him through the laptop. However, in the cross-examination, he admitted that the CD was already opened.
17. P.W.5 was working as Asst. Engineer, Public Works Department, Kadur. He prepared the sketch of the spot where the alleged incident had taken place.
18. P.W.6 was working as a Police Inspector at Lokayukta. He registered the case and also FIR, which is marked as Ex.P25. Thereafter, he has conducted part of investigation and handed over the case to P.W.7.
19. P.W.7 was working as a Deputy Superintendent of Police, Lokayukta, has completed the investigation and submitted the charge sheet.
20. The Trial Court, having analyzed the evidence, opined that the evidence of P.W.2 is corroborated by the



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documentary evidence which are not at all disputed in the cross-examination. Further, the Trial Court opined that the evidence of PWs.4 and 5 and portions of their statements marked as Exs.D1 and D2 were not considered as material contradictions. Therefore, it has rendered the conviction.

21. However, on going through the evidence of P.W.1, he has stated in the examination-in-chief that the accused had never demanded money as illegal gratification. Such being the fact, the evidence of P.W.2, who is also an official witness, regarding the alleged demand and acceptance of illegal gratification, cannot be believed for the reason that the evidence of these witnesses are contradictory to each other. Under such circumstances, it is appropriate to look for corroboration. The evidence of P.W.2 would indicate that he did not hear the conversation allegedly recorded by P.W.1 during the process of giving bribe. However, P.W.4 says that he heard the conversation and recognized the voice of the accused. This would again indicate contradiction in



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respect of the alleged recording of the conversation. Assuming that, the said conversation is true, it must contain certificate which is mandatory as per law under Section 65B of the Indian Evidence Act. In the absence of such certificate, the electronic evidence cannot be considered. Therefore, the evidence of P.W.4 loses its significance.

22. When the prosecution failed to establish the demand of alleged illegal gratification, even recovery of the tainted amount from the custody of the accused cannot constitute an offence as stated supra. Therefore, I am of the considered opinion that the Trial Court has committed an error in appreciating the evidence properly and rendered conviction, which is erroneous and the same is liable to be set aside.

23. In the light of the observations made above, I proceed to pass the following:-

ORDER

- i) The Criminal Appeal is *allowed*.



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- ii) The judgment of conviction and order on sentence dated 15.03.2017 passed in Spl. Case (Corruption) No.20/2014 on the file of the Principal District & Sessions Judge and Special Judge at Chikkamagaluru, is set aside.
- iii) The appellant is acquitted for the offences punishable under Sections 7 and 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988.
- iv) Bail bonds executed, if any, stand cancelled.

**Sd/-
(S RACHAIAH)
JUDGE**

BSS
List No.: 1 Sl No.: 48