



CNR: KAHC010534562016

NC: 2026:KHC:36754
CRL.A No. 2093 of 2016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 17TH DAY OF JULY, 2026
BEFORE
THE HON'BLE MR. JUSTICE S RACHAIAH
CRIMINAL APPEAL NO. 2093 OF 2016 (C)

BETWEEN:

SMT. GIRIJAMMA,
W/O. LATE N. RANGAPPA,
AGED ABOUT 51 YEARS,
COMMUNITY OFFICER (CAO),
OFFICE OF THE CITY MUNICIPAL,
CHIKABALLAPUR – 562 101.
R/AT NEAR SOBAGU THEATER
ROJIPUR, DODDABALLAPUR TOWN
PER RESIDENT OF
JAKKANAHALLI VILLAGE,
TUMKUR TALUK AND DIST – 572 101.

... APPELLANT

(BY SRI. ASHOKA T., ADVOCATE)

AND:

STATE BY POLICE INSPECTOR
LOKAYUKTHA,
CHIKABALLAPUR
REP. BY STATE SPECIAL PUBLIC

Digitally
signed by
SUSHMA
LAKSHMI B
S

Location:
High Court
of Karnataka



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PROSECUTOR FOR LOKAYUKTHA CASE,
HIGH COURT OF KARNATAKA,
HIGH COURT COMPLEX,
BENGALURU – 560 001.

...RESPONDENT

(BY SRI. VENKATESH S. ARABATTI, SPL. P.P.)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) CODE OF CRIMINAL PROCEDURE PRAYING TO SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION AND SENTENCE IMPOSED ON APPELLANT/ACCUSED DATED 24.11.2016, PASSED BY THE PRINCIPAL DISTRICT AND SESSIONS JUDGE & SPECIAL JUDGE, CHIKKABALLAPUR. IN PCA.C.C.NO.4/2014, CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION.7 AND 13(1)(d) READ WITH 13(2) OF THE PREVENTION OF CORRUPTION ACT, 1988.

THIS APPEAL COMING ON FOR FURTHER HEARING, THE COURT DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE S RACHAIAH



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ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S RACHAIAH)

1. This appeal has been filed by the appellant being aggrieved by the judgment of conviction and order on sentence dated 24.11.2016 passed in P.C.A.C.C. No.4/2014 on the file of the Principal District and Sessions Judge and Special Judge, Chikkaballapur, wherein the appellant has been convicted for the offences under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act (for short, 'PC Act').
2. The ranks of the parties before the Trial Court will be considered henceforth for convenience.

Factual matrix of the case:

3. The case of the prosecution is that the husband of the complainant, in order to start his own business, had applied for subsidy under the self-employment scheme on 08.08.2012. He applied for loan for a sum of Rs.1,00,000/-. Under the said scheme, Bank usually provide Rs.75,000/- as a loan and the City Municipal will provide Rs.25,000/- as subsidy.



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4. It is further stated that the documents of the applicant was forwarded to the Bank of Baroda for the purpose of loan transaction. The accused was working as a case worker and she had to make necessary arrangements to avail subsidy facility. When the husband of the complainant approached the accused, she demanded Rs.10,000/- to get him the benefit of subsidy. The complainant was not willing to pay the amount as demanded by the accused. Hence, the complainant had approached the respondent – Lokayukta and lodged a complaint. Based on the said complaint, the respondent – Lokayukta have registered a case, conducted investigation and submitted charge sheet.
5. To prove the case of the prosecution, the prosecution examined three witnesses as PWs.1 to 3 and got marked 18 documents as Exs.P1 to P18 and also identified the material objects as M.O.1 to M.O.14. On the other hand, the accused got marked three documents as Exs.D1 to D3. The Trial Court, after appreciating both oral and



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documentary evidence on record, recorded the conviction. Hence this appeal.

6. Heard Sri Ashoka T., learned counsel for the appellant and Sri Venkatesh S. Arabatti, learned Spl. P.P. for the respondent - Lokayukta.
7. The submission of the learned counsel for the appellant is that the judgment of conviction passed by the Trial Court is contrary to the evidence on record and also to the settled principle of law. Therefore, the same is liable to be set aside.
8. It is further submitted that the Trial Court has committed error in appreciating Ex.P4(c) which demonstrates that the appellant had forwarded the application for seeking subsidy to the concerned authority on 08.03.2013 and the same has reached to the Bank on 11.03.2013. However, a complaint came to be registered on 27.03.2013 which is unsustainable.



9. It is further submitted that the Trial Court has failed to consider the evidence of P.W.1 who is stated to be the complainant and interested witness of the case. In fact, the shadow witness is not an eyewitness to the incident. Acting on such evidence and rendering the conviction is erroneous and not proper. Therefore, the judgment of conviction passed by the Trial Court is liable to be dismissed. Making such submissions, the learned counsel for the appellant prays to allow the appeal.
10. *Per contra*, learned Spl. P.P. for the respondent - Lokayukta vehemently justified the judgment of conviction and order on sentence and further submitted that the evidence of the complainant and shadow witness is consistent in respect of demand and acceptance of illegal gratification. Merely because there was no work pending with the appellant, is not a ground to deny the entire case of the prosecution. Moreover, the accused was consistent in demanding the illegal gratification in order to forward the application to avail the benefit of subsidy to the complainant.



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11. It is further submitted that the prosecution has proved that there is a demand and acceptance of illegal gratification. Once the demand and acceptance is established, the presumption follows. Once the presumption is raised, it is deemed that the said illegal gratification has been obtained either to discharge her official duty or to do some official favour. It is the duty of the accused to rebut the presumption by leading cogent evidence. However, in this case, no such defence has been taken by the accused except making some baseless and bald suggestions as defence. Mere denial of demand and acceptance of illegal gratification is not sufficient to hold that the accused has not committed the offence as stated in the charge sheet. Therefore, the findings of the Trial Court in rendering the conviction is appropriate and proper. Hence, interference with the said finding is not warranted. Making such submissions, learned Spl. P.P. prays to dismiss the appeal.



12. Having heard learned counsel for the respective parties and also on perusal of the findings of Trial Court, the points which would arise for my consideration are:
- i) Whether the Trial Court was justified in rendering the conviction?*
 - ii) Whether the appellant has made out a case to interfere with the findings of the Trial Court?*
 - iii) What order?*
13. To answer the points raised by me, it is appropriate to refer the evidence of all the witnesses in detail.
14. The evidence of P.W.1 would indicate that she was a member of self-help scheme. Under the said scheme, her husband had applied for a loan in a sum of Rs.1,00,000/- to start his own business. It is further stated that the accused had approached her and informed that loan has been sanctioned to her husband and she demanded Rs.10,000/- to disburse the same along with subsidy. The complainant informed her husband in that regard and both of them went to office of the accused and requested



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her to sanction loan. However, there was a demand for Rs.10,000/- as illegal gratification. Later, she approached respondent - Lokayukta Police. The Lokayukta Police provided her one voice recorder and asked her to record the conversation. On the same day, it is stated that she had handed over the said voice recorder to Lokayukta Police after she had recorded the conversation with the accused.

15. It is further stated in her evidence that, she along with C.W.4 went and approached the accused. C.W.16 was also there along with P.W.1. The accused asked if any amount had been brought by P.W.1. P.W.1 replied and handed over the amount of Rs.6,000/-. In the meantime, a signal was given to the concerned police officer. They entered into the said office and completed the formalities.
16. On careful reading of evidence of P.W.1, it makes clear that she has not stated the date on which she had been to the office of the accused. The entire evidence contained ambiguity in respect of alleged date and time.



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17. P.W.2 who is stated to be the panch witness to the incident, had stated in her evidence that the amount of Rs.6,000/- was recovered from the accused and panchanama was drawn in her presence. According to her, she had accompanied the complainant and one woman constable to the office of the accused and she was standing outside the room and she further stated that nothing was visible inside the office from the place where she was standing. Such being the fact, corroboration in respect of demand cannot be sustained.
18. P.W.3 who is stated to be the Inspector of Police, had stated in his evidence that he had conducted investigation and submitted the charge sheet. He has stated in consonance with the work carried out by him during investigation. Though he had been subjected to cross-examination, nothing has been elicited to discredit his evidence.
19. Be that as it may, on going through the evidence of all these witnesses, it appears that the evidence of P.W.2



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would not inspire confidence for the reason that she is not an eyewitness to the incident. Though she stated that she accompanied the police, she was standing outside the room and did not know what had happened inside the room. According to her evidence, it would appear that the woman constable, who is stated to have accompanied the complainant, informed P.W.2 that they had paid the amount. However, the said constable has not been examined. In the absence of evidence of shadow witness, arriving at a conclusion that there was demand and acceptance of illegal gratification solely on the basis of the evidence of the complainant would be safe and proper.

20. Even on considering the voice recorder, the said CD contained no certificate as required under Section 65B of the Indian Evidence Act. Therefore, the electronic evidence loses its significance.
21. In the light of the observations made above, the points which arose for my consideration are answered as under:



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Point No.(i) - "Negative"

Point No.(ii) - "Affirmative"

Point No.(iii) - "As per the final order"

22. Hence, I proceed to pass the following:-

ORDER

- i) The Criminal Appeal is *allowed*.
- ii) The judgment of conviction and order on sentence dated 24.11.2016 passed in P.C.A.C.C. No.4/2014 on the file of the Principal District and Sessions Judge and Special Judge, Chikkaballapur, is set aside.
- iii) The appellant / accused is acquitted for the offences punishable under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act.
- iv) Bail bonds executed, if any, stand cancelled.

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

NM
List No.: 1 Sl No.: 30