



2026:DHC:8860-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010466972026
+ **W.P.(C) 14337/2026, CM APPLs. 67208/2026 & 67209/2026**
COMMISSIONER OF POLICE AND ORS Petitioners

Through: Mr. Anshuman, SPC with Mr.
Vaibhav Sood, Adv.

versus

SHRI BHAGWAN Respondent
Through: Mr. Kamal Mehta, Sr. Adv.
with Mr. Akul Mehndru, Mr. Rishabh
Bhardwaj and Mr. Piyush Maan, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MS. JUSTICE NIVEDITA ANIL SHARMA

JUDGMENT (ORAL)

% **28.09.2026**

C. HARI SHANKAR, J.

A. The *lis*

1. The dispute in this writ petition relates to the applicability of Rule 12¹ of the Delhi Police (Punishment and Appeal) Rules, 1980².

¹ 12. **Action following judicial acquittal.** - When a police officer has been tried and acquitted by a criminal court, he shall not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case, whether actually led or not unless

- (a) the criminal charge has failed on technical grounds, or
- (b) in the opinion of the court, or on the Deputy Commissioner of Police the prosecution witnesses have been won over; or
- (c) the court has held in its judgment that an offence was actually committed and that suspicion rests upon the police officer concerned; or
- (d) the evidence cited in the criminal case disclose facts unconnected with the charge before the court which justify departmental proceedings on a different charge; or
- (e) additional evidence for departmental proceedings is available.

² "the DPPAR" hereinafter

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It is covered by at least four recent decisions of the Division Benches of this Court, to wit, chronologically, *Delhi Police v. Krishan Kumar*³, *Govt. of NCT of Delhi v. Satyapal Singh Yadav*⁴, *Govt. of NCT of Delhi v. Vishambar Dayal*⁵ and *Delhi Police v. Ram Kishore Tyagi*⁶. All these decisions hold that acquittal in a criminal case completely insulates the accused, if he is a Police Officer, from disciplinary action on the same charges or based on the same evidence which form subject matter of the criminal case, save and except where the case falls within the one of the circumstances envisaged by clauses (a) to (e) of Rule 12 of the DPPAR.

2. The respondent in the present case was subjected to disciplinary as well as criminal proceedings on the same allegations and based on the same evidence. The disciplinary authority found him guilty and awarded a punishment of two years' permanent forfeiture of approved services with proportionate reduction of pay. In the criminal proceedings, on the same allegations and based on the same evidence, however, the respondent was acquitted. The acquittal does not attract any one of the circumstances envisaged in Clauses (a) to (e) of Rule 12 of the DPPAR. Applying the ratio of the aforementioned decisions of this Court as well as Rule 12 of the DPPAR itself, the respondent would be entitled to be exonerated in the disciplinary proceedings as well.

3. The Central Administrative Tribunal⁷ has, in the judgment

³ 2024 SCC OnLine Del 8862

⁴ 2025 SCC OnLine Del 452

⁵ 2025 SCC OnLine Del 1001

⁶ 2026 SCC OnLine Del 6394

⁷ "the Tribunal" hereinafter



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dated 22 April 2026, forming subject matter of challenge in the present writ petition, at the instance of the Delhi Police, so held, and we find no reason to differ with the decision of the Tribunal.

4. With those brief prefatory comments, we may advert to the facts, in somewhat greater detail.

B. Facts

5. Disciplinary proceedings were initiated against the respondent, who was serving as Constable in the Delhi Police, *vide* Order dated 4 August 2014⁸. The allegation against the respondent was based on a complaint dated 5 January 2014 received from one Lalit Kumar⁹, lodged at P.S. Vasant Kunj South and diarized *vide* DD No. 6A. The allegations against the petitioner, as contained in the complaint, read thus:

“On 5.1.2014, a DD No 6A was received in PS Vasant Kunj South, regarding firing at village Nangal Devat, New Delhi. On receipt of the information IO. SI Rakesh Kumar No D-4766 reached the spot, where complainant Sh Lalit Kumar s/o Sh Diwan Singh rio H. no D-53 village Nangal Devat, New Delhi stated that on 5.1.14, one Shri Bhagwan sio Sh Jalpal who is resident of his village and known to him came to his house at about 9 pm and told him that his younger brother Ajay had quarreled with him and he wanted to talk with his younger brother. The complainant further stated that he sant Shri Bhagwan back after consoling him and asked him to come next day morning. On this, Shri Bhagwan, went back, but at about 11pm he again came back along with his younger brother Vikram and 4-5 other people and knocked at the door of his house. As soon as he opened the door of his house, Shri Bhagwan along with his accomplices attacked him. Shri-Bhagwan attacked him on his head with hockey stick, injured him and threatened him for dire

⁸ “the charge-sheet” hereinafter

⁹ “the complainant” hereinafter



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consequence.

In the meantime, complainant's wife Manju and his mother Vimla Devi came to rescue him, but Shri Bhagwan attacked them also and injured Vimla Devi. He also outraged her modesty by pushing her breasts. After that he took a pistol from his accomplices and fired four rounds at Lalit Kumar in order to kill him. On hearing sound of firings, neighbours gathered at the spot. On this, Ct Shri Bhagwan along with his associates left the spot and again threatened the complainant that 'AAJ TO TU BACH GAYA BAAD ME DEKHTA HUN'. He boasted that he is in police and nobody can do anything against him."

On the basis of the above complaint, an FIR¹⁰ was registered, in which the respondent was also named as an accused. During the investigations which followed, the respondent was arrested.

6. The charge-sheet alleged that the offence with which the respondent was charged, in the complaint filed by the complainant, amounted to gross misconduct, negligence, and misuse of official power and was unbecoming of a Police officer, rendering him liable to be proceeded against departmentally. The response of the respondent was, therefore, sought.

7. A disciplinary inquiry followed. The Inquiry Officer¹¹ held, in his inquiry report, that the charge against the respondent stood proved. The IO referred to the evidence of PW 5, PW 6, PW 7, PW 8 and PW 9, who had deposed on behalf of the Police and DW 1 and DW 2, who had deposed on behalf of the respondent. The observations and findings of the IO, apropos these witnesses, deserve to be reproduced in full as under:

¹⁰ First Information Report

¹¹ "IO" hereinafter



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“Firstly, I would like to discuss the prosecution evidence:-

The statement of PW-8, HC Dharmender Kumar No 100/EOW discloses that on 6.1.14, he was Duty officer from 12 midnight to 8 pm. He had received a Tahrir from Const Girdhari No 3070/SD for registration of case and after making an entry about registration of case at DD No 7A dated 6.1.14, he had handed over the copy of computerized FIR alongwith Original Tehrir to Const Girdhari for delivering it to SI Rakesh Kumar, 10 for further investigation of the case. The statement of the HC Dharmender Kumar is proved by Ex-PW-B/A (DO No 7A dt 6.1.14) and Ex-PW-BIB (copy of computerized FIR) which are placed on record.

The statement of PW-9, SI Rakesh Kumar No D-4766 (I.O.) discloses that he had received DD No 60A (Ex-PW-9/D) regarding firing going on, at Nangal Dewat village. He reached the spot at D-53 Nangal Devat village and on enquiry found that during a quarrel one Lalit kumar and his mother Vimla Devi had sustained injuries and taken to ISIC hospital. Then he headed for ISIC hospital and where he found Lalit and Bimla Devi admitted in the hospital Vide MLC No 396888 and 396887 respectively (Ex-PW-9/E) and on the MLCs the alleged history was given as "Assault by Shri Bhagwan" and nature of injury as-"simple". He recorded the statement of complainant Lalit Kumar and got case FIR No 39/14 dt 6.1.14 registered through Const. Girdhari. He got Site inspection done by Crime team. He prepared the seizure memo of 2 pieces of hockey stick (Ex-PW-6/A), 4 empty khols (Ex-PW-6/B), found on the spot and also prepared the site plan (Ex-PW-9/F), Khaka of empty khols (Ex-PW-SIG) and seizure memo of blood stained shirt of complainant Lalit Komar (Ex-PW-6/C). He also recorded the statement of Ant Man Vinta Devi and Ms Robins Dua u/s 161 CrPC, (Ex-PW-8/B). After taking personal search (Ex-PW-9/1), he arrested Const Shri Bhagwan vide arrest memo (Ex-PW-9/B). During the cross examination of Rakesh Kumar by Del Shri Bhagwan, it has come up that though empty khols of cartridges were recovered, the firearm could not be recovered. Also statement of no other independent public witness except tenant of Lalit (ie Rohina Dua) was recorded.

The statement of PW-7, Const Girdhari No 3076/SD discloses that on receipt of DD No 60A dated 5.1.14, he had gone along with SI Rakesh Kumar to place of occurrence at D-53, Nangal Devat, Vasant Kunj and had remained there for preservation of crime scene. Later, on the Tehrir was given to him by SI Rakesh Kumar and he had got the case FIR No 39/14 dated 8.1.14 registered at PS Vasant Kunj South and subsequently handed over the copy of computerized FIR and original Tahrir back to him. Seizure memos

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– broken hockey stick, empty khols, bloodstained T-shirt, Personal memo and arrest memo bear his signature as witness. The memos bearing his signature prove his statement.

The statement of PW-5, Const Tanish No 1359/SD (photographer) discloses that on receipt of call by Finger print proficient, ASI Ram Niwas, he had gone to place of occurrence at D-53, Nangal Dewat village, Vasant Kunj and tan the photographs of exhibits i.e. broken hockey stick, blood stains and empty thus human photographs (16 copies) have been marked as Ex-PW-SIA and proved by him.

The statement at PW-6, HC Parvesh Kumar No 1039/SD, MHC (case property) discloses that SI Rakesh Kumar had deposited three seizure memos-broken hockey stick, empty cartridge khols, blood stained T-shirt and Personal search memo along with case property to him related to FIR No 38/14 dt 6.1.14 u/s 323/452/307/354/506/34 IPC and 25, 27, 54 Arms Act, PS Vasant Kunj South, in the Malkhana. During the proceedings, MHC produced original Register No 19. The entries of the deposition of case property have been made at mud No 765/14. The statement of this PW is proved by the exhibits marked as Ex-PW-6/A, Ex-PW-6/B, Ex-PW-6/C and Ex-PW-6/D. The copies of memos are available on file as record.

Apart from the above witnesses who are formal witnesses, the statement of public witnesses-1) Sh Lalit Kumar (complainant) 2) Smt. Vimla Devi, 3) Smt. Manju all r/o H. No. D-53, Village Nangal Devat, ND who are family members and 4) Ms. Rohina Dua who is their tenant (eye witness) could not be recorded as they are reluctant to depose anything in the inquiry for the fear that it might affect their criminal case which is subjudice in the concerned Court. They have been sent notice 9 times, for appearance and deposition. Twice, the complainant along with other 3 PWs collectively, has given in writing that they are unwilling to give their statements till the case is pending in the court. Because of the above reason, the delinquent Const Sh Bhagwan could not get an opportunity to cross examine these witnesses which has affected the present enquiry to a great extent.

Now I would like to discuss the Defence evidence:-

Statement of DW-1 Sh Amit Kumar discloses that on 5.1.14. when at around 11-11.15 pm, he reached his house under construction, he heard noises coming from near house No D-53 Nangal Devat and 5 boys were quarreling with Lalit. This quarrel continued for about 15 minutes after which they left the spot. He refuses that Ct Shri Bhagwan was present on the spot or was in the vicinity. He also refused that the 5 boys were having any weapon of offence like

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wooden rod, pistol etc. He also stated that he was 20-25 ft way from the spot and was witnessing the quarrel by hiding him behind the cars parked there.

The statement of DW-2 Sh Pawan Kumar discloses that on 5.1.14 around 11 pm he heard shouting noises from outside while he was going to sleep. After coming out to his balcony, he saw 5 boys quarreling with his neighbor Lalit and after 10 minutes when Lalit's mother came out, the 5 boys left from the spot. He also told that he could not tell about the reason of quarrel and refused that Ct Shri Bhagwan was present on the spot or was anywhere in the vicinity. He also refused that he heard any sound of pistol fire or any of the 5 boys were carrying any weapon of offence like wooden rod, pistol.

Both these defence witness have deposed that Ct Shri Bhagwan was not on the spot and none of the boys, who were quarreling with Lalit were carrying any fire arm.

The veracity of the statement of these witnesses is doubtful as exhibits like broken hockey sticks, empty cartridge khols have been seized from the spot and blood stains have been in fact found on the spot, which is crystal clear from the perusal of photographs provided by Ct Tanish (photographer of crime team). Further, they state that there had been only a quarrel between Lalit and the 5 boys and there was only use of abusive language and shouting. Whereas, Lalit and his mother have received injuries as is evident from the MLCs made at the hospital appears from their statement that they are unaware of the actual incident that happened at the spot, Surprising, they are also unaware that of the fact that PCR had arrived at the spot, one constable namely Girdhari was present on the spot for preservation the crime of scene, that crime team came there and investigation was carried out at the spot for a long period after the happening of the incident. As such their deposition cannot be construed convincing and strong enough to prove their point. It is very likely that the delinquent knows them closely and on his instance they have given their present statement. It is unlikely they had witnessed the incident as claimed by them.

Further, from the perusal of MLC it has come up that before SI Rakesh Kumar (IO) reached hospital, the injured who had been to the hospital by PCR, had told the Doctor about the person who had assaulted injured them as in alleged history it is mentioned "assault by Shri Bhagwan" clearly goes on to suggest that Del Shri Bhagwan might have been involved in the quarrel.

The chronological order of events right from receipt of call vide DD No 6A, PS Vasant Kunj South regarding firing at village

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Nangal Devat, reaching of IO SI Rakesh Kumar at the spot, sending of Ct Girdhari to Police station for registration of case, registration of case by Duty officer, handing over of FIR by Ct Girdhari to IO, arrival of Crime team, taking photographs of the spot receipt of MLCs, arrest of Ct Shri Bhagwan are sufficient to prove about happening of incident outside the house of D-53 Nangal Devat and involvement of Ct Shri Bhagwan.”

8. It is clear that the IO has disbelieved all the DWs who categorically stated that the respondent was not present at the site of occurrence, and that the only evidence on which the IO has relied, to arrive at a contrary conclusion, is the MLC, with respect to the history of the occurrence, in which “assault by Shri Bhagwan” was mentioned. Barring this reference in the MLC, the IO has not cited any other evidence on the basis of which the involvement, or even the presence, of the respondent, at the site of the alleged occurrence, could be said to have been established.

9. A copy of the inquiry report was supplied to the respondent on 4 September 2015, inviting his comments thereon. The respondent represented against the report on 24 September 2015.

10. By order dated 28 October 2015, the Deputy Commissioner of Police¹², as the Disciplinary Authority¹³, held that the deposition of the PWs established the guilt of the respondent in the act of assault on Lalit Kumar and his family members.

11. Concurring with the findings of the IO, the DA awarded, to the respondent, punishment of two years’ permanent forfeiture of



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approved service with proportionate reduction in pay.

12. In the interregnum, the criminal proceedings, initiated against the respondent on the same allegations and based on the testimony of the same witnesses, went on. They culminated in the rendering, by the learned Metropolitan Magistrate¹⁴, of judgment dated 16 August 2016, completely acquitting the respondent from all involvement in the alleged occurrence.

13. Significantly, the learned MM did not even hold that he was extending, to the respondent, the benefit of doubt. We deem it appropriate to reproduce the following paras from the decision of the learned MM:

“11. PW2 Sh. Lalit Kumar is a material witness being the injured /complainant of the case incident. He deposed to the effect in his examination in chief that on 05.01.2014, when he was roaming in the area some persons who were under the influence of liquor came to him, abused him, on his objection gave beatings to him and ran away from the spot when he raised his voice. He deposed that he was unable to identify them due to heavy fog on that day and that when his mother and wife came out then those persons might have given beatings to his mother while running but he could not exactly say so.

In cross examination by Id Addl. PP for State, PW2 *inter alia* denied the suggestion that on 05.01.2014 he was present at his house or that at about 09.00p.m Sri Bhagwan who was resident of his village came to him and asked about his younger brother with whom he had altercation in the evening or that he managed to make him understand and assured him to talk later in the morning or that on the same day at about 11.00 p.m. Sri Bhagwan along with his younger brother Vikram and 4-5 associates again came to his house and knocked his doors or that as soon as he opened the door Sri Bhagwan gave a hockey blow on his head and threatened to kill him or that in the meanwhile his mother (PW4) and wife

¹³ “DA” hereinafter

¹⁴ “learned MM” hereinafter



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(PW3) also came to save him or that Vikram gave a hockey blow on his mother or pushed her by his hands on her chest or that Sri Bhagwan took a revolver from his accomplice or that he fired four shots in order to kill PW2 but he escaped or that after hearing the noise the neighbours came there upon which Sri Bhagwan along with his brother and accomplice ran away from the spot by saying 'aaj to tuh bach gaya baad main dekhta hoon or that some one called the police or that Sri Bhagwan along with his brother and associates attempted to kill him. PW2 specifically deposed that although his signatures appear on site plan ExPW2/B, Sketch of empty cartridges Ex PW2/C, Seizure memo of broken hockey Ex PW2/D. Seizure memo of empty cartridges Ex PW2/E and Seizure memo of blood stained T-shirt Ex PW2/F but volunteered that IO had obtained his signatures in the hospital on some blank papers which were later on converted into said memos without his knowledge by the 10 at his own. He specifically denied the suggestion of Id. Addl. PP for State that accused persons namely Sri Bhagwan, Vikram and Sanjeev, who were present in the court, were the same persons who had attacked him, his wife / PW3 and his mother / PW4.

12. PW3 Smt.Manju and PW4 Smt. Vimla Devi i.e. alleged eye witness and injured respectively have also not supported the case of prosecution.PW4 volunteered that she made the statement u/s 164 Cr.P.C Ex PW4/A before the learned MM as she was forced by the Police to say so. They have also not supported the case of prosecution and deposed on the lines of testimony of PW1 in cross examination by Id. Addl. PP for State. They also denied the suggestion of Id. Addl. PP for the State that accused persons namely Sri Bhagwan, Vikram and Sanjeev, who were present in the court, were the same persons who had attacked PW2 and them.

13. PW5 Sh.Krishan Kumar deposed in his examination in chief that he did not know any thing about this case. He was also cross examined by Id. Addl. PP for State wherein he denied all the material aspects of the case as put to him.

14. It is thus evident that all the material witnesses i.e. Complainant/victim/PW-2, injured/PW4 and alleged eye witnesses i.e. PW-3 and PW5 have not at all supported the case of prosecution against the accused persons. Nothing has even appeared in their cross examination by Id. Addl. PP for the State either in favour of the prosecution or against the accused persons. The said material witnesses, as discussed above, have deposed to the effect that the accused persons were not the same persons who had attacked them Remaining witnesses are only formal in nature and there is nothing else on record to connect the accused persons with the case crime. As all the material witnesses i.e. PW2 to PW5



have not supported the case of prosecution against all the accused persons, hence, it is absolutely fatal to the case of prosecution.

15. It is a settled law that prosecution has to stand on its own legs and has to prove its case against the accused beyond reasonable doubt, however, it is evident that prosecution has failed to discharge the said onus to prove the present case as the only material witnesses i.e. PW-2 to PW-5 have not supported the case of prosecution against the accused persons and have deposed to the effect that the accused persons were not the same persons who had attacked them (PW2, PW3 and PW4). Thus all the material public witnesses have given a complete clean chit to the accused persons and deposed to the effect that they were not the perpetrators of the case crime. As discussed above, the statement of all the accused persons u/s 313 Cr. PC has also been dispensed with as there are no material incriminating circumstances appearing in the prosecution evidence on record against them.

16. Since, the material public witnesses ie PW-2 to PW-5 including the injured/complainant, other injured person and eye witnesses have absolutely not supported the case of prosecution against the accused persons, hence, the accused persons are liable to be acquitted in the present matter. All the accused persons i.e. Sri Bhagwan, Vikram and Sanjeev Sonu are thus, acquitted in the present case u/s 323/452/307/506/34 IPC and accused Sri Bhagwan and Sanjeev @ Sonu are further acquitted u/s 27 Arms Act, 1959. The bail bonds of accused persons are cancelled and their sureties are discharged.”

14. Clearly, the learned MM has entirely acquitted the respondent of any complicity in the alleged offence. The PWs and DWs, in one voice, disowned the very presence of the respondent at the site of occurrence and clearly stated that he had no involvement in the alleged attack on Lalit Kumar and his family members. The learned MM has observed, in para 14 of his judgment, that no evidence against the respondent could emerge even in cross-examination of the DWs and that the PWs had, for their part, clearly deposed that the respondent was not their attacker. Following this, in para 16 of his judgment, the learned MM has held that the case was one of no evidence and has, therefore, entirely acquitted the respondent.



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15. In these circumstances, the respondent approached the Tribunal by way of OA 1373/2018, claiming that, in view of his acquittal by the learned MM, the punishment imposed by the DA on him was liable to be set aside and he was entitled to complete exoneration in the disciplinary proceedings.

16. By judgment dated 22 April 2026, the Tribunal has allowed the OA, holding that the case was squarely covered by Rule 12 of the DPPAR and did not attract any of the clauses (a) to (e) of the said Rule, in which case alone could the officer be punished departmentally, despite his acquittal in the criminal proceedings.

17. Aggrieved thereby, the Delhi Police has petitioned this Court. We have heard Mr. Anshuman, learned SPC for the petitioners and Mr. Kamal Mehta, learned Senior Counsel for the respondent.

18. Mr. Anshuman would seek to contend that the case was one in which the respondent had been acquitted only because the witness had turned hostile and that, therefore, the case is not one of honourable acquittal and would attract, at the very least, clause (b) of Rule 12 of the DPPAR. He submits that the case could also attract clause (a) of Rule 12 of the DPPAR.

19. We are unable to agree with Mr. Anshuman.

20. This is frequently ploughed ground. We have had occasion, in the decisions cited towards the beginning of this judgment, to deal



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with identical arguments.

21. In **Krishan Kumar**, following the earlier decisions of the Division Benches of this Court in **George N.S. v. Commissioner of Police**¹⁵, **Ex-Constable (CRPF) Prem Kumar Singh v. Union of India**¹⁶ and **Additional Commissioner of Police (Security) v. Dinesh Kumar**¹⁷, this Court held as under:

“23. Plainly said, an acquittal can be said to be on “technical grounds” only where it is not on merits, but for failure to comply with some mandatory technical requirement. The Court, in such a situation, has not expressed its view on whether the case against the accused has, or has not, been proved by the prosecution. The accused stands discharged, not on merits, but because of failure to comply with some technicality. This, in our view, is the easiest understanding of the expression “on technical grounds” as contained in Rule 12(a) of the DPPAR.

30. There is, therefore, a clear and discernible difference between acquittal on benefit of doubt and acquittal on technical grounds. A finding that the charge against the accused has not been proved, whether by returning a positive finding of innocence or even - as in many cases - by terming the acquittal to be by granting “benefit of doubt”, is *ipso facto* not an acquittal “on technical grounds”.

32. That aspect may not, however, specifically arise in the present case, as the protocol regarding the effect of acquittal in criminal proceedings on disciplinary proceedings as contained in Rule 12(a) of the DPPAR, is distinct and different. Where there is a statutory provision dealing with such an exigency, the Court has to be guided by the statute. The question of whether acquittal was honourable, or on benefit of doubt, is not a circumstance envisaged in any of the clauses of Rule 12 of the DPPAR. Rule 12(a) does not use the expression “honourable” or “benefit of doubt”. Instead, it

¹⁵ 183 (2011) DLT 226

¹⁶ 2019 SCC OnLine Del 7563

¹⁷ 2023 SCC OnLine Del 2189



uses the expression, “on technical grounds”.

33. To repeat, there is a clear qualitative difference between an acquittal on technical grounds and an acquittal on benefit of doubt. *An acquittal on technical grounds is an acquittal on the ground of nonfulfillment of some technical parameters or requirements, such as, for example, the need for obtaining sanction before launch of prosecution. Acquittal after appreciation of evidence, even if it is facially termed as acquittal on benefit of doubt is not an acquittal on “technical grounds”. The decision in **Prem Kumar Singh**¹⁸ amply underscores this legal position.*

34. In the present case, a perusal of the judgment dated 25 October 2016 of the learned Special Judge, which allowed the respondent's appeal and acquitted him of the charges against him, the relevant paragraphs of which stand reproduced *supra*, clearly indicates that the acquittal of the respondent could not be said to be on “technical grounds” but was on a holistic appreciation of the evidence available. The learned Special Judge has held that the evidence was insufficient to prove the charges against the respondent. This, therefore, could not be regarded as acquittal on “technical grounds”.

22. The facts in *Satyapal Singh Yadav* were very similar to those before us in the present case. This is clear from paras 2 to 4, 6 and 7 of the report in that case, which read thus:

“2. Criminal proceedings were initiated against the respondent, before the learned Metropolitan Magistrate, following the lodging of the aforesaid FIR. The criminal proceedings concluded with the acquittal of the respondent by the learned MM on 13 November 2014. Paras 7 and 8 of the judgment of the learned MM read thus:

“7. Perusal of entire evidence reveals that complainant/victim's friend of the complainant, neighbour of complainant as well as other eye witnesses has not supported the case of the prosecution and categorically denied that accused committed any offending act with the victim/complainant. In such kind of cases, evidence of the complainant/victim is the best available evidence and the case can be proved beyond reasonable doubts on the basis of testimony of said witness only.



8. In the fact and circumstances, case of prosecution is not supported by the key witnesses i.e., the victim, her friend, and neighbour as they have deposed nothing incriminating against the accused and complainant herself denied the presence of the accused at the place of incident. Upon the testimony of the key witnesses offence has not been proved and accused cannot be held guilty. Accordingly accused namely Satypal Singh Yadav stands acquitted for the offence u/s 354 IPC. However his surety bonds remain extended till 6 months from today u/s 437A Cr. P.C. File be consigned to record room after necessary compliance.”

3. Prior to the aforesaid judgment of the learned MM, disciplinary proceedings were initiated against the respondent, by the petitioner, on 14 July 2014, under the Delhi Police (Punishment and Appeal) Rules, 1980. A comparison of the FIR dated 3 June 2014 and the order dated 14 July 2014 initiating criminal proceedings against the respondent under the DPPAR reveals that the allegations against the respondent in the Order dated 14 July 2014, initiating disciplinary proceedings against him, were the same as the allegations which formed subject of FIR dated 3 June 2014, in respect of which he had been acquitted by the learned MM, albeit after the institution of disciplinary proceedings on 14 July 2014.

4. An Inquiry Officer was appointed, to inquire into the charges against the respondent in the disciplinary proceedings. The IO, in his report dated 15 September 2014, held that the allegations against the respondent stood proved.

6. After unsuccessfully approaching the petitioner in that regard, the respondent instituted OA 3656/2015, before the Central Administrative Tribunal, seeking quashing of the order dated 14 July 2014 whereby disciplinary proceedings were initiated against him, the findings of the IO dated 15 September 2014, the order of punishment dated 9 March 2015 and the appellate order dated 17 July 2015.

7. By judgment dated 2 February 2024, the Tribunal has allowed the respondent's OA, relying on Rule 12 of the DPPAR which, admittedly, is applicable in such cases. The Tribunal has held that the case of the respondent did not fall within any one of the five circumstances envisaged in clauses (a), (b), (c), (d) and (e) of Rule 12, in which case alone the respondent could be departmentally punished on the charge which formed subject



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matter of criminal proceedings in which he was acquitted. The Tribunal has, therefore, quashed the order dated 14 July 2014, the findings of the IO dated 15 September 2014 and the orders of the DA and Appellate Authority dated 9 March 2015 and 17 July 2015 respectively and has directed restoration of the respondent to his original position with consequential benefits.”

23. Thereafter, this Court dealt with the argument that the acquittal of the respondent in that case was because witnesses had turned hostile. In the first place, witnesses turning hostile is not one of the circumstances envisaged in clauses (a) to (e) of Rule 12 of the DPPAR. Clause (b) requires a positive opinion, either by the Court or by the DCP, that the prosecution witnesses had been won over. There is a clear-cut and well-recognized distance between witnesses turning hostile and witnesses having been won over, though the former may be attributable to the latter, in the facts of a particular case. Witnesses turn hostile only when they do not subscribe to the statement made by them before the Investigating Authorities under Section 164 of the erstwhile CrPC. This could be for a variety of reasons. It could well be that the witnesses had earlier been made to depose against the accused for some exterior considerations and had later told the truth. Equally, it could be because the witnesses had been won over by the accused or were acting under fear or duress. In the absence of a positive finding that the latter circumstance applies, clause (b) of Rule 12 of the DPPAR would not be invocable. On this aspect, this Court has held as under in *Satyapal Singh Yadav*:

“11. While the burden of the song of the Delhi Police, before the Tribunal, was largely attuned to clause (a) in Rule 12 of the DPPAR, Ms. Rupali Bandhopadhyaya placed greater reliance on clause (b). She has, in this context, drawn our attention to the following paragraph from the punishment order dated 9 March 2015 issued by the DCP:



“From the above discussion and testimonies of PWs, it has been established that the delinquent Constable had indulged himself in a shameful act under the influence of alcohol. Rule 3 of CCS (Conduct) Rules, 1964 discloses that a police officer will not do any such act which is unbecoming of a police officer even while he was not on duty but the delinquent Constable has done a mischievous act and found in violation of this rule also. However, the Hon'ble Court has acquitted the delinquent Constable vide judgment dated 13.11.2014 on the grounds that the case of prosecution is not supported by the key witnesses i.e. the victim, her friend and neighbour as they have deposed nothing incriminating against the delinquent Constable and complainant herself denied the presence of the delinquent at the place of incident. *Though, the victims and other witnesses have become hostile during trial of the case* but during DE proceedings the charge levelled against the delinquent Constable has been proved because the PCR calls and statement of G upon which the case was registered and statement of other victim S recorded u/s 161 Cr. P.C. clearly goes to prove that the delinquent Constable has committed the misdeed. The criminal proceedings and proceedings in departmental enquiry are quite distinct and different. In criminal proceedings, sufficient proof is required to frame the charge, whereas in the departmental proceedings, the preponderance of probability is sufficient to prove the guilt of an erring official. The delinquent Constable misbehaved with two girls under the influence of liquor, which is not expected from the member of disciplined force. Hence, I am of the considered view that the enquiry officer has rightly hold the delinquent guilty of the charge for which he cannot be pardoned and deserves penalty indeed for his gross misdeed.

Therefore, keeping in view of above discussion and overall facts and circumstances of the case in its totality and agreeing with the findings of the Enquiry Officer, I, Vikramjit Singh, Dy. Commissioner of Police, Outer District, Delhi, do hereby award the punishment of forfeiture of four (04) years approved service permanently to Constable Satyapal Singh Yadav, No. 2991/OD, entailing proportionate reduction in his pay. He is hereby reinstated from suspension with immediate effect and his suspension period from 03.06.2014 to the date of issue of this order is decided



as period “Not Spent on Duty”. Besides, his acquittal was examined under Rule 12 of Delhi Police (Punishment & Appeal) Rules, 1980 and observed that the delinquent Constable has been *acquitted due to hostility of the complainant and key witnesses*. Hence, he is being awarded the above punishment for his misdeed duly proved during DE proceedings. However, on acquittal, the name of Constable Satyapal Singh Yadav, No. 2991/OD is deleted from the list of police personnel facing criminal cases.”

(Emphasis supplied)

Ms. Bandhopadhyaya submits that the observation of the DCP that the respondent had been acquitted only because the witnesses against him had turned hostile suffices to satisfy the requirement of clause (b) in Rule 12 of the DPPAR.

12. We find ourselves unable to agree.

13. Clause (b) of Rule 12 of the DPPAR applies only where the acquittal of the police officer concerned, in criminal proceedings, is because the witnesses against him have been won over. A hostile witness is defined, in P Ramanatha Aiyar's Advanced Law Lexicon, thus:

“Hostile witness. The witness who makes statements adverse to the party calling and examining him, and who may, with the permission of the Court, be cross-examined by that party. A witness who, when giving evidence, conducts himself in a manner hostile to the party calling him, such that the party calling him may, by leave of the presiding judge, cross-examine him as if he were a witness for the other side. A witness is not hostile merely because he gives evidence unfavourably to the party calling him.”

14. A witness may turn hostile for a variety of reasons, and it cannot be presumed that hostility of the witness is, in every case, because he has been won over by the opposite party. Winning over of a witness is a positive act committed by the party who has won over the witness. In *Shankar v. State of UP*¹⁹, the Supreme Court held that the accused, in that case, had won over the witnesses, in the sense that the witnesses were not prepared to give evidence in the case for fear of their lives or otherwise. It is only, therefore, where the witness is unprepared to tender evidence or to support the case of the party who summons him into the witness box because of some overt or covert act committed by the opposite



party, by threat, inducement or the like that the witness can be said to have been won over.

15. Witnesses may, turn hostile because they have been won over by the accused, or for any other reason. Clause (b) of Rule 12 of the DPPAR would apply where *the witnesses turn hostile because they have been won over by the accused charged officer. It is not sufficient, therefore, for the Court, or the DCP, to hold, or opine, that the acquittal of the officer was because the witnesses turned hostile. The Court, or the DCP, must go a step further and hold, additionally, that the hostility of the witnesses was because the officer had won them over.*

16. This crucial latter requirement is not satisfied in the present case, either in the judgment of the learned MM or in the punishment order issued by the DCP.

17. It may not be necessary, for the purposes of the limited scope of this decision, to delve in detail into the degree of material which is required to be present in order for an inference, that a witness has been won over by the opposite party, to be drawn. What is clear in law, however, is that clause (b) of Rule 12 of the DPPAR requires a observation or a finding by the DCP, or the criminal court, that the acquittal of the charged police officer in the criminal proceeding was because he had won over the witness. A finding, or at least an observation, of such a positive misdemeanour having been committed by the police official, must figure in the opinion of the DCP.

18. A mere reference to witnesses having turned hostile does not, therefore, *ipso facto* or *ipso jure* lead to an inexorable inference that the witnesses had necessarily been won over by the charged police officer.

19. The DCP, in the present, has, therefore, obviously failed to appreciate the distinction between a finding that the witness had turned hostile and a finding that the witness had been won over.

20. We are in agreement with the finding of the learned Tribunal that, in fact, there is no observation by the DCP in his punishment order dated 9 March 2015 that the acquittal of the respondent in the criminal proceedings following FIR dated 3 June 2014 was because he had won over the witnesses who had earlier deposed against him.

22. The Tribunal has not regarded the observation, by the DCP,



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in the punishment order dated 9 March 2015 to the effect that the acquittal of the respondent was because witnesses had turned hostile, as equivalent to the expression of opinion that the witnesses had been won over by the respondent. We do not feel that the said view suffers from any inherent jurisdictional infirmity or patent error of law or fact, as would justify inference under Article 226 of the Constitution of India.

23. We, therefore, find no reason to upset the view of the Tribunal that the present case does not fall within clause (b) of Rule 12 of the DPPAR.”

24. This Court also reiterated, in the said decision, its earlier view in respect of the applicability of clause (a) of Rule 12, in which it once again relied on its earlier decision in *Krishan Kumar*.

25. *Vishambar Dayal* was again a case in which the department sought to invoke clause (b) of Rule 12 of the DPPAR. This Court, following its earlier decision in *Satyapal Singh Yadav*, rejected the submission. Paras 13, 15, 16, 17, 19 and 20 of the said decision merit reproduction, thus:

“13. Though the Tribunal has also gone into the merits of the case against the respondent, we are of the opinion that the judgment of the Tribunal is liable to be affirmed on a bare reading of Rule 126 of the Delhi Police (Punishment & Appeal) Rules, 19807. This provision is in a sense a provision sui generis - the logic of which, in some respects, befuddles us - which applies only to the Delhi Police. It completely proscribes departmental proceedings against a police officer who has been criminally tried for the same misconduct and who has been acquitted in the criminal proceedings. The rigour of this proscription is relaxed only if one or more of the exigencies, envisaged in clauses (a) to (c) of Rule 12 of the DPPAR, apply

15. Ms. Kaushik has predicated the case essentially on clause (b). She submits that the prosecution's case had failed because the prosecution witnesses had turned hostile. She points that one of the PWs, namely PW-6, was, in fact, declared hostile by the learned



MM.

16. We have reproduced the relevant paragraphs from the judgment dated 31 January 2012 of the learned MM in the criminal proceedings against the respondent. There is not even an observation, by the learned MM that the prosecution witnesses had been won over by the respondent.

17. We have, in a recent decision in **GNCTD v. Satyapal Singh Yadav**, noted that there is a difference between a prosecution witness being declared hostile and a prosecution witness being won over. Winning over of a prosecution witness is a positive act on the part of the accused. It can be engineered in a variety of ways, by inducement, by threat and the like. The mere fact that a prosecution witness may not, during trial, have adhered to the statement earlier given by him does not, ipso facto, indicate that he had necessarily been won over by the accused. It may equally be true that the prosecution witness's earlier statement was not correct and that he decided later to tell the truth.

19. There is no observation or finding, either by the learned MM or by the learned DCP, or by the learned Joint CP in the order dated 3 February 2017, that the respondent had won over the prosecution witnesses.

20. As such, in our view, clause (b) of Rule 12 of the DPPAR would not apply.”

Apropos the applicability of clause (a) of Rule 12, this Court reiterated its view in **Krishan Kumar**.

26. The most recent decision of this Court on the issue is **Ram Kishore Tyagi**, paras 19 to 22 of which read:

“19. We are unable to agree with Mr Chatterjee. Rule 12 of the DPPAR is clear and categorical. Save and except in the five circumstances envisaged in clauses (a) to (e) thereof, there is complete proscription of proceeding departmentally against an officer of the Delhi Police for the charges for which the officer has been acquitted in criminal proceedings. The present case does not fall within any of the enumerated clauses (a) to (e).



20. The only submission of Mr Akash Chatterjee, learned SPC for the petitioner is that the termination of the respondent is sustainable under Rule 12 of the DPPAR as his acquittal by the criminal court was on technical grounds.

21. In **Krishan Kumar**, this Court has already explained the concept of acquittal on technical grounds, which reads thus:

“30. There is, therefore, a clear and discernible difference between acquittal on benefit of doubt and acquittal on technical grounds. A finding that the charge against the accused has not been proved, whether by returning a positive finding of innocence or even - as in many cases - by terming the acquittal to be by granting “benefit of doubt”, is ipso facto not an acquittal “on technical grounds”.

31. We may also refer in this context on the judgment of the Supreme Court in **Ram Lal v. State of Rajasthan**²⁰ in which Courts were cautioned against being swept away by the use of the words “benefit of doubt” in the operative portion of the judgment of acquittal by the criminal court and were advised to examine the judgment of acquittal holistically to determine for themselves as to whether the acquittal was actually on benefit of doubt or honourable.

32. That aspect may not, however, specifically arise in the present case, as the protocol regarding the effect of acquittal in criminal proceedings on disciplinary proceedings as contained in Rule 12(a) of the DPPAR, is distinct and different. Where there is a statutory provision dealing with such an exigency, the Court has to be guided by the statute. The question of whether acquittal was honourable, or on benefit of doubt, is not a circumstance envisaged in any of the clauses of Rule 12 of the DPPAR. Rule 12(a) does not use the expression “honourable” or “benefit of doubt”. Instead, it uses the expression, “on technical grounds”.”

22. A reading of the order passed by the criminal court reveals that it cannot be said that the acquittal of the respondent was on technical grounds.”

27. Clearly, the facts of the present case attract the *ratio decidendi*



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of the aforesaid decisions.

28. The criminal proceedings against the respondent, which culminated in the judgment dated 16 August 2016 of the learned MM, were predicated on the same allegations and based on the same evidence as formed subject matter of the disciplinary proceedings. Rule 12 of the DPPAR was, therefore, squarely applicable. The learned MM completely exonerated the respondent, observing that the DWs, as well as the PWs, had confirmed that he was not involved in the assault on Lalit Kumar and his family members. The case does not, therefore, attract any of the clauses (a) to (e) under Rule 12 of the DPPAR.

29. The Tribunal is, therefore, justified in the view taken by it in the impugned judgment. We find no occasion to interfere with the impugned judgment of the Tribunal, which is therefore affirmed in its entirety. The petition is, therefore, dismissed.

C. HARI SHANKAR, J.

NIVEDITA ANIL SHARMA, J.

SEPTEMBER 28, 2026/aky/ar