

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Appeal No.891 of 2000

The State of Madhya Pradesh (now Chhattisgarh)

---- Appellant

versus

1. Jagdish Prasad Pandey, aged about 55 years, son of Shri R.P. Pandey, Dy. Inspector (Police), R/o Police Line, Janjgir, M.P. (now Chhattisgarh)
2. Laxman Prasad Patel, aged about 39 years, son of Shri T.R. Patel, Assistant Deputy Inspector (Police), R/o Police Line, Janjgir, District Janjgir, M.P. (now Chhattisgarh) --- **Appeal against him is abated**

--- Respondents

For Appellant/State	:	Smt. Hamida Siddique, Dy. Advocate General
For Respondent No.1	:	Shri Ranbir Singh, Advocate

Hon'ble Shri Justice Arvind Singh ChandelJudgment on Board8.1.2020

1. Vide order of this Court dated 3.9.2019, the instant appeal, so far as it relates to Respondent No.2, Laxman Prasad Patel, has been abated.
2. The appeal is directed against the judgment dated 30.9.1999 passed by the Special Judge under the Prevention of Corruption Act, 1988 (henceforth 'the PC Act')/1st Additional Sessions Judge, Bilaspur in Special Criminal Case No.13 of 1997, whereby Respondent No.1, Jagdish Prasad Pandey has been acquitted of the charges framed under Sections 7, 13(1)(d) read with Section 13(2) of the PC Act.
3. Facts of the case, in brief, are that at the relevant time Respondent

No.1 was posted as a Sub-Inspector at Police Station Malkharauda. Complainant Ramdeen Verma (PW1) and his nephew Peris Talastan (PW2) purchased a land measuring 4.80 acres from Krishna Vallabh Vaishnav in the month of January, 1996. One of the relatives of Krishna Vallabh Vaishnav, namely, Narmada Prasad Vaishnav also got executed a will in his favour from Krishna Vallabh Vaishnav. On 22.9.1996, Narmada Prasad Vaishnav made an application against Ramchandra, Ramdeen Verma (PW1) and Peris Talastan (PW2), which was sent for inquiry to Respondent No.1. On 13.10.1996, Respondent No.1 called Ramdeen Verma (PW1) and other purchasers in Police Station Malkharauda. Respondent No.1 threatened Ramdeen Verma (PW1) that he had purchased the land illegally and he also demanded a bribe of Rs.50,000/- from him. Finally, Ramdeen Verma (PW1) agreed to give bribe of Rs.20,000/- to Respondent No.1. On 15.10.1996, Ramdeen Verma (PW1) gave Rs.10,000/- to Respondent No.1 as illegal gratification. Remaining amount of Rs.10,000/- was demanded by Respondent No.1 and he gave time till 24.10.1996 to Complainant Ramdeen Verma (PW1). Since Ramdeen Verma (PW1) did not want to give the remaining amount of bribe to Respondent No.1, he made a written complaint (Ex.P1) and submitted the same before Lokayukta, Bilaspur on 24.10.1996. On the basis of Ex.P1, unnumbered First Information Report (Ex.P2) was registered. Panch witnesses V.N. Mishra (PW7) and Mahendra Singh Baghel (PW5) were called. Complainant Ramdeen Verma (PW1) had brought 22 notes in the denomination of Rs.100/- and 56 notes in the denomination of Rs.50/-, total Rs.5,000/-. Their numbers were noted in the preliminary panchnama. On completion of other necessary formalities, trap

party reached Malkharauda in the intervening night of 24th and 25th of October, 1996 at about 2 a.m. Complainant Ramdeen Verma (PW1) entered the house of Respondent No.1 and on his demand gave him bribe money of Rs.5,000/- and thereafter he gave a signal to the trap party and called them. The trap party reached to Respondent No.1 and the bribe money was recovered from the drawer of a table kept in the room of Respondent No.1. Hands of Complainant Ramdeen Verma (PW1), panch witnesses Mahendra Singh Baghel (PW5) and V.N. Mishra (PW7) were washed in solutions of sodium carbonate on which colour of the solutions turned into pink. Other formalities were also completed. Statements of witnesses were recorded and thereafter a charge-sheet was filed. Charges were framed.

4. In support of its case, the prosecution examined as many as 16 witnesses. Statement of Respondent No.1 was recorded under Section 313 of the Code of Criminal Procedure in which he denied the guilt. Constable Mudit Bhaskar Sharma (DW1) and Head Constable Krishna Kumar Sharma (DW2) were examined in defence.
5. On completion of the trial, the Trial Court, vide the impugned judgment, acquitted Respondent No.1 of the charges framed against him as mentioned in the second paragraph of this judgment. Hence, this appeal by the State.
6. Learned Counsel appearing for the State/Appellant submits that the Trial Court has not properly appreciated the evidence adduced by the prosecution. The entire judgment of the Trial Court is based upon improper appreciation of the evidence on record. Finding of the Trial Court is improper. Ramdeen Verma (PW1) and Peris

Talastan (PW2) have vehemently supported the case of the prosecution, but the Trial Court has ignored their evidence without there being any sufficient and cogent reason. Therefore, the judgment of acquittal passed by the Trial Court is unsustainable and deserves to be set aside.

7. Per contra, Learned Counsel appearing for Respondent No.1 opposes the arguments advanced on behalf of the State/Appellant and supports the impugned judgment of acquittal. He further submits that after due appreciation of the entire evidence available on record, the Trial Court has rightly acquitted Respondent No.1. The prosecution has failed to prove its case beyond reasonable doubt. The finding of the Trial Court is based on the material available on record. The Trial Court has passed a well reasoned judgment which does not warrant any interference.
8. I have heard Learned Counsel appearing for the parties and perused the record minutely.
9. It is not in dispute that at the relevant time, Respondent No.1 was posted as a Sub-Inspector at Police Station Malkharauda. There is also no dispute that the raid was conducted in midnight at 2 a.m. in the house of Respondent No.1.
10. In his Court statement, Ramdeen Verma (PW1) has deposed that for arranging money he had gone to Jagdish Prasad Patel (PW4). He had also told him about the demand made by Respondent No.1. Since Jagdish Prasad Patel (PW4) did not have money, both went to Kharsiya. There, this witness obtained Rs.15,000/- from the son of one Jagannath. According to Ramdeen Verma (PW1), at the first instance, he gave a sum of Rs.10,000/- to Respondent

No.1 in his police station. Who were present in the police station at that time, has not been disclosed by this witness.

11. According to Jagdish Prasad Patel (PW4), he and Complainant Ramdeen Verma (PW1) had obtained a sum of Rs.15,000/- from Arun (PW15), son of Jagannath. But, Arun (PW15) has not supported the statement of Ramdeen Verma (PW1) and Jagdish Prasad Patel (PW4). This witness has turned hostile.
12. With regard to the complaint (Ex.P1), Complainant Ramdeen Verma (PW1) has deposed that on 24.10.1996, he went to the office of Lokayukta, Bilaspur along with Anil Sharma (PW3) and Fulpuri (PW8) and submitted the complaint (Ex.P1), which was written by Anil Sharma (PW3). He has further deposed that at that time, he had kept Rs.5,000/- with him and had submitted the same along with the complaint. But, Anil Sharma (PW3) has stated that the written complaint which was submitted by them was kept by the Deputy Superintendent of Police Sitaram Singh (PW14) with him and on being asked by him they submitted another written complaint, i.e., Ex.P1. With regard to the bribe money of Rs.5,000/-, contrary to the statement made by Ramdeen Verma (PW1), both Anil Sharma (PW3) and Fulpuri (PW8) have submitted that after submission of the written complaint, Dy.S.P. Sitaram Singh (PW14) asked them to arrange bribe money then they went to Arvind Mehta and obtained the sum of Rs.5,000/- from him and thereafter they gave the said amount to Dy.S.P. Sitaram Singh (PW14). Contrary to the statement of Anil Sharma (PW3) and Complainant Ramdeen Verma (PW1), Fulpuri (PW8) has deposed that the written complaint (Ex.P1) was written by Anil Sharma (PW3) in Sakti and in Sakti itself, Ramdeen Verma (PW1) had put

his signature on the complaint (Ex.P1).

13. All the witnesses have deposed that the trap was conducted in the house of Respondent No.1 in the midnight at 2 a.m. In what circumstances the trap was conducted at 2 a.m., there is no reasonable explanation submitted by the prosecution. Regarding the trap proceeding, according to Ramdeen Verma (PW1), he knocked the door of the house of Respondent No.1. Then Respondent No.1 asked his name and on telling his name, Respondent No.1 opened the door of his house. After opening the door, Respondent No.1 asked him whether he had brought money or not. After telling that he had brought the money, gave the bribe money of Rs.5,000/- to Respondent No.1. Respondent No.1 received the bribe money and kept the same in a drawer of the table kept near him. Thereafter, on giving a signal by him, the trap party entered the room of Respondent No.1. In paragraph 34, this witness has admitted that thereafter who opened the drawer of the said table, he does not know and when he again entered the room of Respondent No.1, at that time, the bribe money was kept over the said table. Both panch witnesses Mahendra Singh Baghel (PW5) and V.N. Mishra (PW7) have deposed that when they proceeded for the trap, at that time, they had asked Dy.S.P. Sitaram Singh (PW14) that what was the necessity of making trap in the midnight at 2 a.m., the trap could be done in the morning also. But, Dy.S.P. Sitaram Singh (PW14) did not agree and told them that there were directions of higher officers. Both these witnesses, during their cross-examination, have further admitted that on the way Complainant Ramdeen Verma (PW1) was told by Dy.S.P. Sitaram Singh (PW14) that if Respondent No.1 does not open the door then he was to be told that a riot had taken place in

the village and thus the door was got to be opened. According to V.N. Mishra (PW7), Complainant Ramdeen Verma (PW1), after reaching at the door of the house of Respondent No.1, gave him call by saying Saheb Saheb. Thereafter, Respondent No.1 asked who was there and what was his work. Then Complainant Ramdeen Verma (PW1) said that a riot had taken place in the village and he had come to him to intimate him about the riot. On this, Respondent No.1 asked him who was he and from which village he had come. In reply, Complainant Ramdeen Verma (PW1) told about him. Both Mahendra Singh Baghel (PW5) and V.N. Mishra (PW7) have deposed that when they entered the room of Respondent No.1, at that time, bribe money did not appear to them. Ramdeen Verma (PW1) told that the bribe money was kept in the drawer of the table then they saw the bribe money. V.N. Mishra (PW7) has further deposed that at that time when Dy.S.P. Sitaram Singh (PW14) asked Respondent No.1 where had he kept the bribe money then Respondent No.1 replied that he did not receive bribe money and Ramdeen Verma (PW1) should be asked about the bribe money. When Dy.S.P. Sitaram Singh (PW14) asked Ramdeen Verma (PW1) then he pointing towards the drawer of the table told that the bribe money was kept there. Both Mahendra Singh Baghel (PW5) and V.N. Mishra (PW7) have also admitted that after the trap, when hands of Respondent No.1 were got washed, colour of the solution did not turn into pink. From the statements of Mahendra Singh Baghel (PW5), V.N. Mishra (PW7), Constable Sudh Vishal (PW13) and Dy.S.P. Sitaram Singh (PW14), it is also established that when they were returning after the trap proceeding, at that time, on the way, they had met with an accident and one person had died as a result of the said accident. From the

admission made by Dy.S.P. Sitaram Singh (PW14), he himself had not made any report in police station about the said accident. From the statement of Head Constable Krishna Kumar Sharma (DW2), it is also established that during investigation of the said accident, vide seizure memo (Ex.D8), broken pieces of glasses of bottle and one dented cap of a bottle were seized from inside the jeep and some broken pieces of glass were also seized from the spot. According to V.N. Mishra (PW7), after 2-4 days of the said accident, Dy.S.P. Sitaram Singh (PW14) had come to him and saying that his signatures were left in 2-3 documents he had obtained his signatures on some documents. Mahendra Singh Baghel (PW5) has also admitted that 3-4 days after the accident, one Constable of Lokayukta office had come to him and saying that his signatures were left on some documents he had obtained his signatures on some documents.

14. On a minute examination of the above evidence, it is clear that there are material contradictions and omissions in the statements of Ramdeen Verma (PW1), Peris Talastan (PW2) and Anil Sharma (PW3). According to Ramdeen Verma (PW1), he had arranged an amount of Rs.15,000/- from Arun (PW15) for the purpose of giving bribe. But, Arun (PW15) has not supported the above statement of Complainant Ramdeen Verma (PW1). From the statements of Ramdeen Verma (PW1), Anil Sharma (PW3) and Fulpuri (PW8), it is also established that the complaint which was already written by them was kept by Dy.S.P. Sitaram Singh (PW14) with him and on being asked by Dy.S.P. Sitaram Singh (PW14), Anil Sharma (PW3) had written another complaint (Ex.P1) and the same was submitted in the Lokayukta office. Why was another complaint got written by Dy.S.P. Sitaram Singh (PW14) has not been made clear by the

prosecution nor the earlier written complaint which was kept by Dy.S.P. Sitaram Singh (PW14) with him has been produced by the prosecution on record. This creates a serious doubt. From the statements of the witnesses, it is also established that panch witnesses Mahendra Singh Baghel (PW5) and V.N. Mishra (PW7) had asked not to conduct raid in the midnight and they had told that the same could be done in the morning also, but, despite that, without showing any reasonable cause, the raid was conducted in the midnight at 2 a.m. From the statements of panch witnesses Mahendra Singh Baghel (PW5) and V.N. Mishra (PW7), it also reveals that Complainant Ramdeen Verma (PW1) was already tutored that if the door is not opened by Respondent No.1, it was to be got opened by telling a lie that a riot had taken place in the village. Why was done so, has also not been explained by the prosecution. This also creates a doubt about the case of the prosecution. From the statements of panch witnesses Mahendra Singh Baghel (PW5) and V.N. Mishra (PW7), it is also established that after the trap, when the hands of Respondent No.1 were got washed in a solution of sodium carbonate, colour of that solution did not turn into pink. From the evidence on record, it is also established that the bribe money was not recovered from the hands or pocket of Respondent No.1. Though in the FSL report, colour of the solution with which hands of Respondent No.1 were washed was found to be pink, there is also evidence on record which shows that while returning after conducting the raid, an accident had taken place in which the jeep had turned turtle. From the statement of Head Constable Krishna Kumar Sharma (DW2), it is also established that seizure of broken pieces of glass of bottle, one dented cap of a bottle were made from inside the jeep and

some broken pieces of glass were also seized from the spot and no report regarding the accident was made by Dy.S.P. Sitaram Singh (PW14) himself in police station. From the statements of Mahendra Singh Baghel (PW5) and V.N. Mishra (PW7), it is also established that 3-4 days after the accident, their signatures were obtained on some documents saying that their signatures were left on those documents. Looking to the above, possibility of breaking of the bottles filled with solutions which were used and seized at the place of raid cannot be ruled out and after the accident fresh solutions would have been prepared for sending to the FSL for examination.

15. From the aforesaid discussion, I find that the Trial Court has duly appreciated the evidence on record and has rightly arrived at the finding of acquittal. The judgment of acquittal is based on the evidence available on record. Even otherwise, it is a settled legal position that after perusal of the evidence available on record, if two views appear in the case then the view favouring the accused has to be taken into consideration. Thus, the finding of acquittal arrived at by the Trial Court is just and proper.
16. Consequently, the appeal is dismissed.
17. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
JUDGE