

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No.37 of 2009**

State of Chhattisgarh, Through Lakayukta Karyalaya
Special Police Establishment Bilaspur

----- Appellant

Versus

Parasnath Singh S/o Ramadhin Singh, aged about 63 years,
R/o Ashok Nagar, Sarkanda Bilaspur

----- Respondent

For Appellant	:	Mr.Matin Siddiqui, Dy.A.G. with Mr.Ravi Bhagat, Dy.G.A.
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Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

26.05.2020

1. This acquittal appeal under Section 378(1) of the CrPC is directed against judgment dated 29.11.2003 passed by the First Additional Sessions Judge-cum Special Judge, Bilaspur in Special Case No.8/97, whereby learned Special Court acquitted the respondent herein from the charges under Section 13(1)e) read with Section 13(2) of the Prevention of Corruption Act, 1988 (hereinafter called as 'PC Act').
2. The respondent herein at the relevant point of time from the check period 1.1.1985 to 25.3.1995 was working as Agricultural Assistant in the office of Assistant Director (Agriculture) and said to have

amassed ₹ 12,46,184/- against his known source of income. The Special Court after considering oral and documentary evidence on record accepted the explanation offered by the respondent herein regarding income found in excess i.e. ₹ 12,46,184/- and acquitted the respondent.

3. Mr. Matin Siddiqui, learned Deputy Advocate General for the appellant/State, would submit that the Special Court is absolutely unjustified in accepting the explanation offered by the respondent by holding that the respondent did not have income more than the known source of income and thereby committed illegality in accepting the explanation by acquitting the respondent, as such, the judgment of acquittal is perverse and liable to be set aside.

4. I have heard learned counsel for the appellant/State, considered their submissions and gone through the records with utmost circumspection.

5. The Supreme Court in the matter of **Tulsiram Kanu v. The State**¹ has held that the appellate court would be justified in reversing the acquittal only when very substantial question and compelling reasons are present.

6. Recently, the Supreme Court in the matter of **Satish**

¹ AIR 1954 SC 1

Kumar v. The State of Himachal Pradesh² following the principle of law laid in the matter of Chandrappa and others v. State of Karnataka³ has held as under:-

"11.....This Court in Chandrappa and Others v. State of Karnataka [2007 (4) SCC 415] considered the scope of powers of the appellate court against an order of acquittal passed by the trial court under the code and held as under:-

"42. From the above decision, in our considered view, the following general principles regarding powers of appellate Court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate Court has full power to review, re-appreciate and reconsider the evidence upon which the order of acquittal is founded;

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate Court on the evidence before it may reach its own conclusion, both on questions of fact and of law;

(3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds" "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate Court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate Court to interfere with acquittal than to curtail the power of the Court to review the evidence and to come

2 2020 SCC OnLine SC 267

3 2007(4) SCC 415

to its own conclusion.

(4) An Appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court."

7. Thus, it is quite vivid that this Court (High Court) should not re-appreciate the evidence on record and come to a different conclusion by interfering with the order of acquittal except in cases where the interest of public justice requires interference for correction of a manifest illegality or the prevention of gross miscarriage of justice. The interference with the order of acquittal passed by the trial Court is limited only to exceptional cases when it is found that the order suffers from glaring illegality or has caused miscarriage of justice or when it is found that the trial court has no jurisdiction to try the case or where the trial court has illegally shut out the evidence which otherwise ought to have been considered or where the

material evidence which clinches the issue has been overlooked.

8. Applying the principle of law laid down by the Supreme Court in Chandrappa (supra) followed in Satish Kumar (supra) to the facts of the present case, it is quite vivid that if two reasonable conclusions are possible on the basis of the evidence on record, the appellate Court should not disturb the finding of acquittal recorded by the trial court.
9. The prosecution submitted the charge-sheet that the respondent was having income more than his known source of income to the extent of ₹ 12,86,224.86/- and thereafter with due sanction of the State Government, charge-sheeted the respondent herein. The following chart would show the explanation which the Special Court has accepted:-

	Amount	Explanation
1.	5,30,000/-	Department official amount (which were meant for workers distribution). (In search of accused residential house Rs.5,63,086 was recovered) confirmed by p.w. 24 i.e. S.S. Baghel (Search witness)
2.	3,48,000/-	Income from agricultural land (situated at U.P. was in the name of accused and his wife (total land 7.85 Acre) not included. Ex.P-111 and 112 (land records) Ex.P-125 (income certificate from agriculture)
3.	20,553/-	National Savings Certificate purchased on 13/06/1983 from Post Office, Maharaj Ganj, in the name of Smt.Meera Devi (maturity held in the year 1989 of Rs.20,583)
4.	80,000/-	Details from different sources:-

		a) Marriage gift - 40,000/- b) Marriage gift - 10,000/- c) Money to V.P. Singh for contracting - 30,000/-
5.	67,841/-	8% of Rs.848,021.91 expenses incurred by accused's son towards contractor work and its payment for the year 1990 to 1993. (Ex.P-52)
6.	58,806 24,586/-	and 8% of Rs.7,35,081 and 3,07,330/- respectively, expenses incurred by accused's son towards contractor work and its payment Exs.P-53 and 54 Ex.P-63
7.	47,700/-	Exp.-19, 20, 21 and 23 income from agriculture
8.	1,80,000/-	Income from poultry form for the year 1993 to 1995
9.	65,000/-	Ornaments (3.5 Tola, 10 Tola and 8 Tola to accused, Son V.P. Singh and Narad Singh respectively) received on accused sons marriage. Exp-97 to 99
10.	50,000/- 1,80,000/-	and Money (as gift) received on Narad Singh marriage. Income earned from poultry form.

10. Applying the law governing scope of interference culled out from the above noticed judgments, it is quite vivid that the Special Court has accepted the explanation offered by the respondent/accused taking a reasonable view of the matter holding that the respondent did not amass the property disproportionate to his known source of income, which is neither perverse nor contrary to record. I do not find any merit in this acquittal appeal warranting interference by this Court and also taking into consideration that incident is of

1995 and the respondent has also superannuated from the office.

11. Accordingly, the acquittal appeal being devoid of merit is liable to be and is hereby dismissed.

Sd/-

(Sanjay K.Agrawal)
Judge

B/-