THE HIGH COURT OF ORISSA AT CUTTACK

CRLLP No.41 of 2012
CNR No.ODHC010008882012

(In the matter of an application under Section 378 (1) & (3) of the Criminal Procedure Code, 1973)

State of Orissa ……. ***Petitioner***

-Versus-

Niranjan Kumar Dhir ……. ***Opposite Party***

For the Petitioner : Mr. Sangram Das, SC (Vigilance)

For the Opposite Party : None

CORAM:
THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 17.09.2026 : Date of Judgment: 31.10.2026

S.S. Mishra, J. The present appeal is directed against the judgment of acquittal dated 22.09.2011 passed by the learned Special Judge (Vigilance), Baleswar in T.R. No.279 of 2007 arising out of V.G.R. No.13 of 1994, whereby the opposite party/accused Niranjan Kumar Dhir was acquitted of the offences punishable under Sections 7 and

13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

2. Heard Mr. Sangram Das, learned Standing Counsel (Vigilance) for the petitioner.

3. The prosecution case, in brief, is that the complainant, Manas Ranjan Mohapatra, was a college student in the year 1993 and had a dispute with the sons of Sasadhar Mohapatra, in connection with which both sides had lodged cases at Dhusuri Police Station. The prosecution alleged that the opposite party, who was working as the Sub-Inspector of Police at Dhusuri Police Station and had dealt with the investigation of those cases, called the complainant and demanded a sum of Rs.3,000/- for extending assistance to him by minimizing the penal section/offence in the charge-sheet so that he would not face difficulty before the Court. According to the prosecution, when the complainant expressed his inability to pay the demanded amount, the demand was reduced to Rs.1,500/- and the complainant was asked to arrange the amount within two or three days. It was further alleged that the opposite party

subsequently called the complainant on 05.07.1994 for payment of the amount.

The complainant, being unwilling to pay the demanded amount, approached the Vigilance authorities. His report was registered and a trap was arranged. On 06.07.1994, two official witnesses were associated with the trap proceedings. The complainant narrated before the trap party that the opposite party had demanded Rs.1,500/- from him. The tainted currency notes were thereafter kept in a paper packet and handed over to the complainant with instructions to give the same to the opposite party on demand.

4. The trap party thereafter proceeded towards Dhusuri Police Station. The complainant and the over-hearing witness went ahead, while the other members of the trap party took their respective positions. At about 2.30 P.M., a signal was received by the trap party. The members of the trap party entered the residential quarters of the opposite party. The prosecution case was that the complainant had given the tainted money to the opposite party and the money was kept on a sofa under a cover file. The hands of the opposite party were washed separately in sodium

carbonate solution and the solutions turned pink. When the opposite party was asked to produce the money, he allegedly declined to do so. Thereafter, P.W.6, the Investigating Officer, asked P.K. Nayak to bring the money. The currency notes were brought from the sofa, counted and compared with the numbers noted in the preparation report, and the numbers were tallied. The relevant hand-wash solutions, currency notes and other materials were seized during investigation.

5. The Investigating Officer examined the witnesses, prepared the spot map and detection report, arrested the opposite party and released him on bail. The chemical examination report was received and, after obtaining sanction from the competent authority and completing investigation, charge-sheet was submitted for the offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

6. Upon appreciation of evidence, the learned trial Court held that the prosecution failed to prove the essential ingredients of demand and acceptance of illegal gratification beyond reasonable doubt. The trial Court relied upon the evidence of P.W.3 (complainant) and P.W.1 (over-

hearing witness), who did not support the prosecution regarding demand and acceptance of the bribe. It was further observed that the tainted currency notes were recovered from the sofa in the accused's residential quarters and not from his physical possession, while the positive hand-wash was explained by the accused as having handled the currency notes at the direction of the Vigilance officials. Accordingly, extending the benefit of doubt, the learned trial Court acquitted the accused under Section 248(1) Cr.P.C. The relevant part of the aforesaid judgment is reproduced herein for ready reference:-

> *"13. In view of the aforesaid analysis of the evidence of the witnesses and the principles of the decisions quoted above, I am of the opinion that either in view of his transfer or in view of the transfer of the case records from the purview of the investigation by the accused, the complainant had no work with him for which there could not have been any occasion for the accused to demand the bribe. It is the prosecution who depended upon the contents of the F.I.R. Hence, prosecution has to explain satisfactorily as to why and under what circumstance prosecution permitted the complainant to write in the F.I.R. that the accused had already been transferred and that the accused had already given charge of his seat to his successor and before leaving the headquarters the accused can help the complainant. The prosecution has not explained as to how and why the complainant mentioned in the F.I.R. about the transfer of accused.*

The omission to explain such fact by the prosecution casts serious doubt as to if actually the complainant had any work with the accused or not. In the facts and circumstances of the case the benefit of doubt as well as the benefit of the above mentioned decisions that the complainant had no work with the accused even on the date of the F.I.R. will be given to the accused, because the prosecution is expected to come in a clean hand.

14. Therefore, keeping in view to the aforesaid analysis of facts, circumstances and evidence on record, I am of the opinion that the prosecution has failed to prove its case against the accused under Sections-7 and 13(2) read with 13(1)(d) of the P.C. Act beyond all reasonable doubt. As such the accused is found not guilty for the offences for which he was called upon to face trial and he is entitled to an acquittal."

7. The learned counsel for the petitioner-State submitted that the learned trial Court failed to properly appreciate the evidence of P.W.6, the Investigating Officer, regarding the hand-wash of the accused. P.W.6 had categorically stated that the left and right hands of the accused were washed separately in sodium carbonate solution and both the solutions turned pink colour. According to learned counsel, the said scientific circumstance clearly established that the hands of the accused had come into contact with the phenolphthalein-treated currency notes. The learned trial Court ought to have considered this circumstance along

with the recovery of the tainted currency notes and the surrounding circumstances of the trap, instead of treating the recovery merely as a recovery from the sofa situated in the residential quarters of the accused. He further submitted that the learned trial Court ought to have properly appreciated the evidence of P.W.6 relating to the recovery of the tainted currency notes and the knowledge of the accused regarding the place where the money had been kept. According to learned counsel, the recovery of the tainted money, coupled with the positive hand-wash of both hands of the accused, constituted material incriminating circumstances and the learned trial Court erred in failing to draw the statutory presumption under Section 20 of the Prevention of Corruption Act, 1988, once the foundational facts relating to acceptance or obtaining of gratification were established. He contended that the evidence on record, when considered cumulatively, warranted drawing of the statutory presumption that the gratification was accepted as a motive or reward for the purpose contemplated under Section 7 of the P.C. Act, and the contrary finding of the learned trial Court was therefore unsustainable.

8. This Court has carefully examined the judgment passed by the learned trial Court, the reasons assigned therein, and the evidence adduced by both the prosecution and the defence during trial. This Court has also considered the grounds urged in the present appeal and heard the learned counsel appearing for the petitioner-State at length.

9. Before interfering with an order of acquittal, this Court is also required to bear in mind the well-settled principles governing an appeal against acquittal. In ***Tulasareddi @ Mudakappa & Anr. v. State of Karnataka & Ors.,*** reported in ***2026 INSC 67***, the Hon'ble Supreme Court has reiterated that where 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. It has further been held that if the view taken by the trial Court is a possible view based on the evidence available on record, the appellate Court cannot overturn the order of acquittal merely because another view is also possible. Interference is warranted only when the judgment of acquittal suffers from patent perversity, is

based on misreading or omission of material evidence, or where compelling and substantial reasons exist showing that the acquittal is clearly unreasonable. The relevant part of the aforesaid judgment is reproduced herein for ready reference:-

> *"29. From the aforesaid decisions rendered by this Court, it can be said that if two reasonable conclusions are possible on the basis of the evidence on record, the Appellate Court should not disturb the findings of acquittal recorded by the Trial Court. Further, if the view taken is a possible view, the Appellate Court cannot overturn the order of acquittal on the ground that another view was also possible. The following principles have to be kept in mind by the Appellate Court while dealing with the appeals against an order of acquittal:*
>
> *(a) whether the judgment of acquittal suffers from patent perversity;*
>
> *(b) whether the judgment is based on misreading/omission to consider the material evidence on record;*
>
> *(c) an order of acquittal is to be interfered with only when there are "compelling and substantial reasons" for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference.*
>
> *(d) the appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;*
>
> *(e) if the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and*
>
> *(f) the appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was*

proved beyond a reasonable doubt and no other conclusion was possible."

Equally, in ***Mallappa & Ors. v. State of Karnataka*****,** reported in ***2024 INSC 104***, the Hon'ble Supreme Court has held that the presumption of innocence, which every accused enjoys during trial, gets strengthened and concretized once the trial culminates in an order of acquittal. Consequently, while exercising appellate jurisdiction against an acquittal, a higher threshold is required to rebut such reinforced presumption. Unless the findings recorded by the trial Court are manifestly unsustainable or perverse, the appellate Court ought to exercise great restraint in upsetting the acquittal. It was held thus:-

"24. We may firstly discuss the position of law regarding the scope of intervention in a criminal appeal. For, that is the foundation of this challenge. It is the cardinal principle of criminal jurisprudence that there is a presumption of innocence in favour of the accused, unless proven guilty. The presumption continues at all stages of the trial and finally culminates into a fact when the case ends in acquittal. The presumption of innocence gets concretized when the case ends in acquittal. It is so because once the Trial Court, on appreciation of the evidence on record, finds that the accused was not guilty, the presumption gets strengthened and a higher threshold is expected to rebut the same in appeal."

10. The appellate jurisdiction against an order of acquittal is, therefore, not intended to facilitate a fresh substitution of the opinion of the trial Court merely because a different view on the evidence is conceivable. As reiterated by the Hon'ble Supreme Court in ***Tulasareddi @ Mudakappa & Anr. v. State of Karnataka & Ors. (supra)***, the appellate Court must first satisfy itself that the judgment of acquittal is vitiated by patent perversity, misreading or non-consideration of material evidence, or is so unreasonable that no prudent person could have arrived at such a conclusion. Equally, as held in ***Mallappa & Ors. v. State of Karnataka (supra)***, the reinforced presumption of innocence following an acquittal places a higher threshold upon the appellate Court before upsetting the findings recorded by the trial Court. Thus, unless the conclusions reached by the trial Court are wholly unsustainable on the evidence available on record, judicial restraint rather than substitution of views remains the governing principle in an appeal against acquittal.

Applying the aforesaid principles to the present case, this Court finds that the appreciation of evidence by the learned trial Court cannot be said to be either perverse or wholly unreasonable. Merely because

another view may also be possible, the same cannot furnish a ground to reverse the acquittal in exercise of appellate jurisdiction.

11. At this distant point in time, the absence of compelling and substantial reasons warranting interference, reversal of the acquittal would itself occasion serious prejudice and would be a travesty of justice. At this belated stage, presumption of innocence prevailed in favour of the opposite party for more than 15 years, as he was acquitted by the Court below. Reversing such presumption at this stage would not only be harsh, but it would be against the cardinal principle of reformatory criminal jurisprudence. This Court, therefore, finds no legal or factual justification to unsettle the well-reasoned judgment of acquittal passed by the learned trial Court. In view of the aforementioned, this Court is not inclined to grant leave against the judgment of acquittal impugned herein.

12. Accordingly, the CRLLP stands dismissed.

(S.S. Mishra)
Judge

The High Court of Orissa, Cuttack
Dated the 1st October, 2026/Ashok

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Signed by: ASHOK KUMAR JAGADEB MOHAPATRA
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