THE HIGH COURT OF ORISSA AT CUTTACK

CRLLP No.128 of 2013
CNR No. ODHC01001222013

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

State of Odisha (G.A. Department) ……. ***Petitioner***

-Versus-

N.V. Jaiprakash Rao Pattnaik ……. ***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: 01.10.2026 : Date of Judgment: 31.10.2026

S.S. Mishra, J. The present appeal is directed against the judgment of acquittal dated 15.11.2011 passed by the learned Special Judge (Vigilance), Sambalpur, in TR No.46/2004, which arises out of Sambalpur Vigilance P.S. Case No. 30 of 2004, whereby the opposite

party was acquitted of the charge 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 informant, Hemanta Kumar Pradhan, was a resident of village Parmanpur under Attabira Police Station, in the district of Bargarh. An amount of Rs.40,000/- had been sanctioned for repair of a Nallah under Tope Grama Panchayat. According to the prosecution, the informant was selected as the village labour leader in a Palli Sabha for execution of the work and approached the Sarapanch for issuance of the work order. The Sarapanch instructed him to approach the respondent, N.V. Jaiprakash Rao Pattnaik, who was then serving as a V.L.W. and was in charge of the Secretary of the said Grama Panchayat. It was alleged that on 31.07.2004, the respondent demanded illegal gratification of Rs.2,000/- from the informant for processing the file and reiterated the demand when the informant approached him again on 03.08.2004.

4. On the basis of the written report lodged by the informant, the Vigilance authorities arranged a trap on 04.08.2004. Phenolphthalein powder was applied to twenty Government Currency Notes of Rs.100/- denomination each, and the informant was instructed to hand over the tainted money to the respondent only upon demand. During the trap, the informant allegedly placed the tainted money on a sofa in the respondent's house, as the respondent did not receive it in his hands. Upon receiving the pre-arranged signal from the accompanying witness, the Vigilance officials arrived and recovered the money from beneath the cushion cover of the sofa. The hand-wash of the respondent was found to contain phenolphthalein, as reflected in the chemical examination report.

5. Upon completion of investigation and obtaining sanction for prosecution, the respondent was charge-sheeted for the offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

6. In support of its case, the prosecution examined six witnesses, including the accompanying witness (P.W.1), the other trap witness, the sanctioning authority, the complainant, the trap-laying officer (P.W.5)

and the Investigating Officer (P.W.6). The prosecution also relied upon documentary evidence marked as Exts.1 to 14. No oral evidence was adduced on behalf of the defence, though documents marked Exts.A and B were relied upon.

7. Upon appreciation of evidence, the learned trial Court held that the prosecution had failed to establish the charges against the respondent beyond reasonable doubt. The learned trial Court observed that the Palli Sabha resolution allegedly selecting the informant as the village labour leader had not been produced and proved, and the tainted currency notes were recovered from beneath the cushion cover of a sofa in the respondent's house rather than from his person. It was further observed that the accompanying witness had not witnessed the alleged demand and acceptance of bribe and that the informant himself had admitted that the respondent had not received the money in his hands. The learned trial Court also entertained doubt regarding the positive hand-wash report in view of the circumstances in which the respondent's hands were caught hold of by the trap-laying officer before the hand-wash was taken. Holding that the prosecution case was not free from doubt, the learned

trial Court acquitted the respondent of the offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988, under Section 248(1) of the Code of Criminal Procedure. The relevant part of the aforesaid judgment is reproduced herein for ready reference:-

> *"**17.** To sum up, the accompanying witness has not disclosed anything regarding demand and acceptance of bribe money by the accused. Excepting the complainant, the other witnesses have also not seen the demanding and accepting of bribe by the accused from the complainant. Pramod Kumar Bhera, who is a material witness of this case, has not been examined by the prosecution. There is no evidence in the record to establish that the accused has handled the tainted money in question. The material documents like the Palli Sabha Resolution by which the complainant was elected/selected to execute the work in question, has not been filed and proved by the prosecution. Estimate, technical approval and administrative approval of the work in question have not been filed and proved by the prosecution. There is evidence in the record that the work in question was allotted to one Bhagabathi Bhoi. The complainant was aware of the provision regarding obtaining of work order where, the Secretary failed to issue the work order soon after passing of resolution in the Palli Sabha. Inspite of that, the complainant approached the accused for fifteen times. No document was filed and proved by the prosecution that, the complainant had lodged any complaint against the accused either before the Sarapanch or before the B.D.O. for issue of work order. Simply because the tainted money was seized from the Sofa of the accused, an inference cannot be drawn that, he has accepted any illegal gratification. For all these reasons, it can well be inferred that, the prosecution case is not free from doubt.*
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> ***18.** Keeping in view of my above discussed evidence, I step to a confirmed conclusion that, the prosecution has failed to*

establish its case U/Ss.7 and 13 (2) read with Sec.13 (1) (d) of the Act, against the accused. Hence, the points for determination, as set forth above, are answered in negative.
19. *In the result, I hold that, the accused is found not guilty of the offences punishable U/Ss.7 and 13 (2) read with Sec.13 (1) (d) of the Act."*

8. The learned counsel appearing for the State contended that the learned trial Court had failed to appreciate the evidence on record in its proper perspective. The prosecution had established the recovery of the tainted Government Currency Notes from the respondent's house, which, read with the evidence of the complainant, the trap witnesses, the preparation and detection reports, and the chemical examination report, sufficiently corroborated the prosecution case. It was argued that the learned trial Court had erroneously discarded the prosecution evidence and acquitted the respondent despite the incriminating circumstances established during the trap proceedings.

9. It was further contended that, once the prosecution had proved the recovery of the tainted currency notes from the respondent's possession, the statutory presumption under Section 20 of the Prevention of Corruption Act, 1988, was required to be drawn against him. It was argued that the respondent had failed to rebut the

said presumption by cogent evidence and, therefore, the learned trial Court ought to have drawn the presumption against him instead of acquitting him. It was also submitted that the learned trial Court had failed to properly appreciate the evidence of P.Ws.2 and 4 and had placed undue importance on the evidence of P.W.1, the accompanying witness, whose evidence, according to the State, did not establish that the respondent had not demanded the bribe. The FIR, preparation report, detection report, chemical examination report and the testimony of the prosecution witnesses, taken together, established the prosecution case. It was argued that the respondent's failure to explain satisfactorily how the tainted currency notes came to be found in his house, coupled with the positive chemical examination report, warranted drawing the statutory presumption under Section 20 of the Act.

10. 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..

11. 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."*

12. 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.

13. 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.

14. Accordingly, the CRLLP stands dismissed.

(S.S. Mishra)
Judge

The High Court of Orissa, Cuttack
Dated the 31st October, 2026/Ashok

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