**THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLLP No.137 of 2013**
**CNR No. ODHC010059182013**

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

***State of Orissa*** ……. ***Petitioner***

***-Versus-***

***Dr. Parsuram Sahu*** ……. ***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 18.05.2013 passed by the learned Special Judge (Vigilance), Cuttack, in T.R. Case No. 77/2007, arising out of Cuttack Vigilance P.S. Case No. 29 of 1997. By the impugned judgment, the

learned trial Court acquitted the opposite party, Dr. Parsuram Sahu, of the charges under Sections 7 and 13(1)(d) read with Section 13(2) 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 on 24.04.1997, the complainant, Dilip Sahoo, lodged a written report before the Vigilance authorities alleging that his maternal grandfather, Giridhari Sahoo, had been admitted to the District Headquarters Hospital, Kendrapara, for treatment of a fracture injury. The opposite party, who was then working as an Orthopaedic Specialist in the said hospital, allegedly demanded illegal gratification for providing treatment to the patient. According to the prosecution, the initial demand was for Rs.1,000/-, which was subsequently reduced to Rs.500/-. The complainant allegedly agreed to pay the said amount and approached the Vigilance authorities, pursuant to which Cuttack Vigilance P.S. Case No. 29 of 1997 was registered for the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

**4.** During the course of investigation, a trap was arranged on 25.04.1997. The prosecution case is that the complainant produced six currency notes amounting to Rs.500/-, consisting of four notes of Rs.100/- each and two notes of Rs.50/- each. The serial numbers of the currency notes were recorded, and the notes were treated with phenolphthalein powder after the demonstration of its reaction with sodium carbonate solution. The complainant was instructed to hand over the tainted money to the opposite party upon demand, while P.W.1, Asis Kumar Swain, was selected as the overhearing witness and instructed to observe the transaction and relay the prearranged signal. The trap party thereafter proceeded to the residence of opposite party at Kendrapara. The prosecution alleged that the opposite party accepted the tainted money from the complainant and kept it in the left chest pocket of his wearing shirt. Upon receipt of the signal, the Vigilance officials intervened, recovered the tainted currency notes and conducted the hand-wash test, which allegedly resulted in the sodium carbonate solution turning pink. The tainted money, the wearing shirt and other relevant

articles were seized, and, upon completion of investigation and obtaining the requisite sanction for prosecution, the charge-sheet was submitted.

**5.** The prosecution examined five witnesses during trial. P.W.1 was the overhearing witness, P.W.2 was the Deputy Secretary in the General Administration Department who dealt with the sanction for prosecution, P.W.3 was the independent witness associated with the trap, and P.Ws.4 and 5 were Vigilance officials, the latter being the trap-laying officer-cum-investigating officer.

**6.** Upon appreciation of evidence, the learned trial Court held that the prosecution had established that the opposite party was a public servant and that the tainted money of Rs.500/- had been recovered from his possession. Nevertheless, the learned trial Court found that the prosecution had failed to establish the demand for illegal gratification beyond reasonable doubt, particularly in view of the non-examination of the complainant and the absence of any explanation from the investigating officer as to why the complainant could not be examined. The learned trial Court also noticed discrepancies in the evidence of the witnesses concerning the place where the trap preparations had been

made and found that P.W.1 had not heard the conversation between the complainant and the opposite party. With regard to the defence, the learned trial Court accepted the explanation offered by the opposite party during his examination under Section 313 Cr.P.C. concerning the payment towards car expenses and held that the burden resting upon him under Section 20 of the Prevention of Corruption Act had been discharged. Accordingly, the opposite party was acquitted of the charges under Sections 7 and 13(1)(d) read with Section 13(2) of the said Act. The relevant part of the aforesaid judgment is reproduced herein for ready reference:-

> *"**20.** P.W.1 has specifically stated in his evidence that during the process of detection he accompanied the complainant and the complainant went inside the house of the accused and he stood at the door and he saw the complainant giving the tainted money to the accused, but the conversation in between the complainant and the accused was not audible to him. In such circumstances and in view of the principle of law settled in the case of State of Kerala and another (supra) as cited above, it cannot be held that the prosecution has able to prove the alleged demand of bribe of Rs.500/- from the complainant by the accused beyond reasonable doubt and as such the accused cannot be convicted for the alleged offence U/s.13(1)(d) r/w.13(2) of the P.C. Act.*
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> ***21.** Coming to the offence U/s.7 of the Act, P.Ws. 1, 3, 4 and 5 have categorically stated about the recovery of the tainted money of Rs.500/- from the possession of the accused which was given by the complainant to the accused. The accused has also not disputed the said recovery. But the specific plea of the*

*accused is that on 23.4.1997 the complainant had come to his residence and told him to go to village Kusunpur for the treatment of his maternal grandfather and he (accused) told him (complainant) that he (accused) will go by his private car and Rs.500/- is required for the expenses and the complainant agreed to give the same. The further plea of the accused is that he himself and his assistant Alok Ranjan Khuntia went to village Kusunpur in his private car and during the treatment of the said patient, he found that the patient needs indoor treatment and he gave preliminary treatment to the patient and advised the complainant to admit the patient on 24.04.97 in the Hospital. The further plea of the accused is that on the same day the complainant had not paid the said amount of Rs.500/- and on 24.4.97 the complainant admitted his maternal grandfather in the District Headquarter Hospital, Kendrapara and went to his (accused's) residence and told that the patient has been admitted and then the accused asked him to give Rs.500/- for the expenses of his car incurred on 23.4.97 and the complainant did not give and on the other hand made exchange of hot words with the assistant of the accused and on 25.4.97 the complainant came and gave Rs.500/- towards the car expenses which he incurred on 23.4.97 and the same was recovered from him by the vigilance police. The accused also stated the same during his examination U/s.313 Cr.P.C. In view of the law settled in the case of State of Maharashtra (supra) by stating the aforesaid plea during his examination U/s.313 Cr.P.C the accused has discharged the onus lies on him under Section 20 of the Act and as such no conviction can be warranted against the accused for the offence U/s.7 of the Prevention of Corruption Act.*

***22.*** *From the aforesaid discussion, I came to a conclusion that the prosecution has failed to prove its case against the accused beyond reasonable doubt and hence, the accused is found not guilty of offence punishable U/s.13 (1)(d) r/Av.13(2)/7 of the PC Act 1988 and acquitted U/s.248(1) Cr.P.C. and set at liberty forthwith."*

**7.** Assailing the aforesaid judgment, learned counsel appearing for the State submitted that the learned trial Court erred in attaching

undue importance to the non-examination of the complainant without properly appreciating the evidence of P.W.1 and the other members of the trap party, who supported the prosecution case regarding acceptance and recovery of the tainted currency notes. It was contended that the serial numbers of the recovered currency notes tallied with those recorded in the preparation report and that the hand-wash of the opposite party with sodium carbonate solution turned pink, thereby corroborating the circumstances of acceptance. The learned trial Court ought to have considered the cumulative effect of these circumstances and drawn an appropriate inference by applying the principles of prudent reasoning and the statutory presumption under Section 20 of the Prevention of Corruption Act, 1988, in respect of the charge under Section 7 of the said Act. Reliance was placed upon the decision of the Hon'ble Supreme Court in ***T. Shankar Prasad v. State of Andhra Pradesh***, reported in ***AIR 2004 SC 1242***.

**8.** He further contended that the learned trial Court failed to properly scrutinise the explanation offered by the opposite party that

the amount of Rs.500/- was received towards car expenses incurred for travelling to village Kusunpur for the treatment of the complainant's maternal grandfather. According to the State, the said explanation ought to have been assessed in the light of the recovery of the tainted money, the positive hand-wash test and the other circumstances established by the prosecution, instead of being accepted without adequate scrutiny. The State submitted that the opposite party's explanation was not supported by independent evidence and that the learned trial Court failed to consider whether it was sufficient to rebut the statutory presumption, if attracted. Accordingly, it was argued that the findings of acquittal suffered from erroneous appreciation of the evidence and warranted appellate examination.

**9.** 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.

**10.** 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."*

**11.** 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.

**12.** 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 13 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.

**13.** 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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