THE HIGH COURT OF ORISSA AT CUTTACK

CRLLP No.130 of 2013
CNR No. ODHC010060232013

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

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

-Versus-

Uma Charan Barik ***…….*** ***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 08.07.2011 passed by the learned Special Judge (Vigilance), Berhampur, Ganjam, in T.R. No.72 of 1999, arising out of Berhampur Vigilance P.S. Case No.65 of 1997, whereby the opposite

party, Uma Charan Barik, was acquitted of the charges 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 opposite party was serving as the Officer-in-Charge of Junagada Police Station at the relevant time. In connection with a murder case arising out of a dispute between members of the Pujari family concerning their land and property, the opposite party allegedly demanded illegal gratification of Rs.25,000/- each from Mukhiram Dandasena, the informant, and two other persons, threatening to implicate them in the murder case in the event of non-payment. It was alleged that the other two persons managed to avoid the demand by making payment, whereas the informant, being a poor person, could pay only Rs.1,000/- and promised to pay the remaining amount in instalments. As the opposite party allegedly continued to demand money, the informant, being unwilling to make the

payment but apprehending implication in the criminal case, approached the Vigilance authorities and lodged a written complaint.

4. On the basis of the aforesaid complaint, a vigilance case was registered and an investigation was undertaken. The Vigilance authorities thereafter arranged a trap on 01.02.1997 in the presence of the informant, independent witnesses and members of the vigilance team. When the vigilance party approached, the opposite party allegedly threw away the money and attempted to flee, but was apprehended by the vigilance personnel. The hand wash and the wash of the pocket of the opposite party were thereafter taken in a chemical solution, which reportedly turned pink. The currency notes were verified, and their numbers were found to correspond with those recorded during the pre-trap proceedings. A detection report was subsequently prepared. Upon completion of the investigation and receipt of the requisite sanction for prosecution, the investigating agency submitted a charge-sheet against the opposite party for the offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

5. During trial, the prosecution examined eleven witnesses in support of its case, whereas no witness was examined on behalf of the defence. The prosecution relied upon the testimony of the informant, the accompanying witness, the vigilance officers and the other witnesses associated with the trap proceedings, together with the documentary evidence, the preparation report, the detection report and the chemical examination material. The opposite party denied the allegations and pleaded that he had neither demanded nor accepted any illegal gratification from the informant.

6. Upon appreciation of evidence, the learned trial Court held that the prosecution had failed to establish the charges beyond reasonable doubt. The learned trial Court placed particular reliance upon the fact that the informant, examined as P.W.5, did not support the prosecution case regarding demand and acceptance of illegal gratification and stated that the opposite party had not demanded any money from him. The court also found the evidence of the accompanying witness, P.W.2, unreliable, particularly in view of his stated distance from the garage and the circumstances in which he claimed to have overheard the

conversation and witnessed the transaction. The learned trial Court further observed that, in the absence of reliable proof of demand, the recovery of the tainted currency notes and the positive chemical test results were insufficient to establish the alleged offence. Holding that the prosecution had failed to prove its case beyond reasonable doubt, the learned trial court acquitted the opposite party. The relevant part of the aforesaid judgment is reproduced herein for ready reference:-

> *"From there it appears that the accused took the decoy in his jeep, to a garage. There is ample scope of transaction inside the jeep. The overhearing witness has stated in his evidence that he was 100 meters away from the garage. He further says, that the jeep went in a separate route. Therefore, it must not have been possible on his part to hear a conversation between the decoy and accused. A overhearing witness is always sent to the spot of trap because, the decoy's evidence itself may not be trustworthy. Overhearing witness can give better evidence of transaction, of bribe and handing over and acceptance of the same. Here, the evidence of the over-hearing witness i.e. the accompanying witness, is not believable so also the acceptance of bribe by the accused is not believed. Moreover, it is not known how the accompanying witness, gave signal to others making tingings from a distance of three hundred feet i.e. 100 meters. From the evidence of the decoy, the demand of bribe has not been proved and the over-hearing witness, the acceptance of bribe is also not proved. The tainted money found from the hand wash*

of the accused will not prove that, accused demanded and accepted bribe. In the absence of proof of demand, the presumption of acceptance would not have been gathered from the hands wash of the accused. Though it has been stated that the decoy signed in the loan in the original murder case, no bona fide whatsoever has been seized and filed before the court or proved. This being the situation, the prosecution has not proved the charges against the accused beyond all reasonable doubt.

9. *As such I hold the accused not guilty U/Ss. 7/13(1)(d) punishable U/S.13(2) of the Prevention of Corruption Act, 1988, and acquit him, U/S.248(1) Cr.P.C."*

7. The learned counsel appearing for the State submitted that the learned trial court failed to attach due importance to the evidence of P.Ws.1, 2, 8, 10 and 11, as well as the contemporaneous documents prepared during the pre-trap and post-trap proceedings. According to the State, the evidence of the vigilance personnel and the accompanying witness, considered together with the recovery of the tainted currency notes and the positive reaction of the hand wash and pocket wash of the opposite party, sufficiently established the prosecution case. The fact that P.W.5, the informant and decoy, turned hostile during trial ought not to have resulted in the rejection of the entire prosecution case.

8. He submitted that the learned trial court failed to consider that the opposite party had allegedly taken the informant in his official jeep to the garage, where the transaction took place, and that the other members of the trap party were positioned at some distance. It is argued that the evidence of the accompanying witness and the other witnesses associated with the trap proceedings should have been evaluated in the context of the surrounding circumstances, rather than discarded on the ground that the informant did not support the prosecution version. The State accordingly submits that the circumstances surrounding the movement of the opposite party and the informant, the recovery of the tainted currency notes and the chemical test results lend corroboration to the allegation of acceptance of illegal gratification.

9. Learned counsel for the State has further submitted that once the tainted currency notes were recovered and the chemical tests yielded positive results, the learned trial court ought to have considered the statutory presumption under Section 20 of the Prevention of Corruption Act, 1988, to the extent applicable to the

charge under Section 7 of the Act. It is argued that the said presumption is rebuttable and that the opposite party did not adduce any evidence to substantiate his denial or explain the circumstances relied upon by the prosecution.

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:*
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> *(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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