THE HIGH COURT OF ORISSA AT CUTTACK

CRLLP No.135 of 2013
CNR No. ODHC010299812013
(In the matter of an application under Section 378 of the Criminal Procedure Code, 1973)

State of Orissa ……. ***Petitioner***

-Versus-

Panchanan Palai ……. ***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 10.04.2013 passed by the learned Special Judge (Vigilance), Berhampur, Ganjam, in G.R. Case No.6 of 2006 (V), corresponding to T.R. No.44 of 2006, arising out of Berhampur

Vigilance P.S. Case No.06, whereby the opposite-party Panchanan Palai, a retired Revenue Inspector, was acquitted of the charges under Section 7 and Section 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, Biranjan Majhi, had applied on 04.05.2006 before the Tahasildar, Paralakhemundi, for issuance of a legal heir certificate in connection with the claim relating to the arrear family pension of his deceased mother. The Tahasildar forwarded the application to the respondent, who was then serving as the Revenue Inspector of Machamara Revenue Circle, for enquiry and submission of a report. As the enquiry report had not been submitted, the complainant approached the respondent in connection with the pending work. It was alleged that the respondent demanded illegal gratification of Rs.300/- from the complainant as a motive or reward for submitting the requisite enquiry report. On the

basis of the written report lodged by the complainant before the Vigilance authorities, a decision was taken to lay a trap.

4. It is further alleged that, pursuant to the trap arrangement, the complainant proceeded to the office of the respondent accompanied by the designated overhearing witness and other Vigilance personnel. At about 11.00 A.M., the respondent arrived at the office and, during the ensuing interaction with the complainant, the tainted currency notes amounting to Rs.300/- allegedly came into his possession. On receiving the pre-arranged signal, the Vigilance officials entered the office and apprehended the respondent. The tainted currency notes were recovered, and the hands of the respondent as well as his shirt pocket were washed in sodium carbonate solution, which reportedly turned pink.

5. Upon completion of investigation and obtaining the requisite sanction for prosecution, the investigating agency submitted a charge-sheet against the respondent for the offences punishable under Section 7 and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

6. In order to establish its case, the prosecution examined eight witnesses and exhibited documentary and material evidence relating to the complaint, preparation of the trap, detection, seizure and chemical examination. The complainant, Biranjan Majhi, was examined as P.W.1, while Manoj Kumar Choudhury, the Junior Engineer selected as the overhearing witness, was examined as P.W.2. Ramesh Chandra Sahu, the other official witness associated with the trap, was examined as P.W.3. The Tahasildar concerned was examined as P.W.4, and the prosecution also examined witnesses connected with the investigation and chemical examination. The defence examined D.W.1 and relied upon the documents marked as Exts.A and B in support of its plea.

7. Upon appreciation of evidence, the learned trial Court held that the prosecution had established that the complainant's application for a legal heir certificate had been forwarded to the respondent for enquiry and that the respondent was a public servant at the relevant time. The learned trial Court, however, found material inconsistencies in the evidence relating to the alleged initial demand of Rs.300/- and the circumstances in which the money was allegedly handed over or

received during the trap. The Court noted that the complainant's version regarding the initial demand was not consistent with the contents of the written complaint and that the evidence of P.W.2 did not satisfactorily corroborate the alleged conversation between the complainant and the respondent. Although the recovery of the tainted currency notes and the positive chemical examination report were accepted, the learned trial Court held that those circumstances, in the absence of reliable proof of demand and voluntary acceptance, were insufficient to establish the offences charged. Consequently, the respondent was acquitted under Section 248(1) Cr.P.C. The relevant part of the aforesaid judgment is reproduced herein for ready reference:-

> *"**23.** Considering the cumulative effect of the evidence of P.W.1, P.W.2 and others vis-à-vis D.W.1, the Court arrives at a finding that the demand and acceptance by the accused to submit an inquiry report of P.W.1 is not fully established. The prosecution needs to prove the case beyond all reasonable doubt. According to the Court, doubt looms large especially when the evidence of P.W.1 and 2 and others are appreciated in proper perspective. Thus ultimate conclusion is that the prosecution utterly failed to bring sufficient evidence in order to discharge the burden of proof and to hold the accused culpable for offences punishable U/s.7 and Section 13(2) of the Act. Hence ordered.*

In the result the accused is found not guilty for offences punishable U/s.7 and Sec.13(2) of the Prevention of Corruption Act, 1988 and accordingly he is acquitted U/s.248(1) Cr.P.C. The accused is set at liberty forthwith."

8. Assailing the aforesaid judgment, learned counsel appearing for the State submitted that the learned trial Court failed to appreciate the evidence of the complainant in conjunction with the evidence of the official witnesses. It is contended that P.W.1 categorically stated that the respondent asked him whether he had come prepared and, upon receiving an affirmative answer, instructed him to keep the money in his shirt pocket. According to the State, the conduct of the respondent in verifying the money after it had been placed in his pocket, considered together with the recovery of the tainted currency notes, sufficiently establishes conscious acceptance of the illegal gratification. The learned trial Court ought not to have discarded the complainant's testimony merely because the overhearing witness could not hear the precise conversation between the parties.

9. Learned counsel for the State further submits that the evidence of P.Ws.2, 3 and 7, read with the preparation report, detection report,

seizure documents and the chemical examination report, corroborates the material circumstances of the trap. He argued that the hand-wash and shirt-pocket-wash solutions turning pink and the subsequent detection of phenolphthalein provide significant corroborative evidence concerning the handling of the tainted currency notes. He also submitted that the defence plea of forcible insertion of the money is inconsistent with the circumstances established during the trap and is not supported by any independent evidence sufficient to rebut the prosecution case. The testimony of D.W.1, according to the State, ought not to have been accorded undue weight merely because he supported the respondent's version.

10. He contended that the learned trial Court failed to apply the statutory presumption contemplated under Section 20 of the Prevention of Corruption Act, 1988, as discussed in the decision of the Hon'ble Supreme Court in ***T. Shankar Prasad v. State of Andhra Pradesh***, reported in ***AIR 2004 SC 1242***. According to the State, once the tainted money was recovered from the respondent and the chemical test yielded a positive result, the Court ought to have

examined whether the respondent had discharged the burden of rebutting the statutory presumption. It is also urged that the findings of the learned trial Court regarding demand and acceptance are based upon an erroneous appreciation of the evidence and that the acquittal is liable to be interfered with.

11. 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.

12. 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."

13. 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.

14. 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.

15. 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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