THE HIGH COURT OF ORISSA AT CUTTACK

CRLLP No.88 of 2012
CNR No.ODHC010303992012

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

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

-Versus-

Rabinarayan Mohanty ……. ***Opposite Party***

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

For the Opposite Party : Mr. B.N. Mohapatra, Advocate

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 28.09.2011 passed by the learned Special Judge (Vigilance), Cuttack in T.R. Case No.38 of 2007, whereby the learned trial Court acquitted the respondent-Rabinarayan Mohanty of the charge under Section 13(2) read with Section 13(1)(d) and Section 7 of the

Prevention of Corruption Act, 1988 (hereinafter referred to as "the P.C. Act").

2. Heard Mr. Sangram Das, learned Standing Counsel (Vigilance) for the petitioner and Mr. B.N. Mohapatra, learned counsel for the opposite-party.

3. The prosecution case, in brief, is that the opposite party was serving as an Assistant Sub-Inspector of Police at Balikuda Police Station. According to the prosecution, one Surendra Padhi of Balikuda had lodged a case against the informant-Umakanta Padhi and two others, namely, Brahmananda Mohanty and Sarat Chandra Kanungo. In connection with investigation of the said case, the opposite party had visited their village on 24.10.1992 and, according to the prosecution, had ascertained that the case was false. Subsequently, on 26.10.1992, the informant and the other accused persons were called to Balikuda Police Station through a Gramarakshi.

4. It is the further case of the prosecution that when the informant and the other persons questioned the opposite party as to why they had been called to the Police Station, the opposite party demanded Rs.1,000/-

from them and, upon their request, ultimately agreed to accept Rs.300/- for releasing them on bail. They were asked to bring the amount on a particular day. Being aggrieved by the demand, the informant approached the Vigilance authorities and lodged a written report before the Superintendent of Police, Vigilance, Cuttack Division, Cuttack.

5. On the basis of the said report, Cuttack Vigilance P.S. Case No.44 dated 30.10.1992 was registered for the offences under Section 13(2) read with Section 13(1)(d) and Section 7 of the P.C. Act. Inspector A.K. Ray was entrusted with the investigation. A trap party was constituted consisting of Vigilance officials, the informant and official witnesses. The informant produced Rs.300/- consisting of three currency notes of Rs.100/- denomination. The numbers of the currency notes were noted in the preparation report and the informant was instructed to hand over the tainted currency to the respondent only upon demand.

6. The trap party thereafter proceeded towards Balikuda Police Station. The respondent was not initially present there and, therefore, the members of the trap party waited for his arrival. At about 5.55 p.m., the respondent arrived at the Police Station. According to the prosecution

witnesses, after his arrival, the informant met him and thereafter, pursuant to the pre-arranged arrangement, the tainted currency notes were handed over by the informant to the opposite party. The prosecution case is that the opposite party received the money by his left hand and kept the same in the left side pocket of his full pant. The overhearing witness thereafter relayed the pre-arranged signal to the members of the trap party.

Upon receiving the signal, the Vigilance officials immediately proceeded towards the respondent and apprehended him. According to the prosecution witnesses, the respondent denied having received any bribe. His hands and the left side pant pocket were thereafter subjected to sodium carbonate wash and the resultant solution turned pink. The wash solutions were collected and preserved separately. However, despite search, the tainted currency notes could not be recovered from the respondent.

7. To establish its case, the prosecution examined seven witnesses. P.W.1 was the official overhearing witness. P.W.2 was one of the persons against whom the case had been registered at Balikuda Police

Station along with the informant. P.W.3 was the then Superintendent of Police, Jagatsinghpur, who accorded sanction for prosecution. P.W.4 was the complainant. P.W.5 was the Gramarakshi attached to Balikuda Police Station. P.W.6 was the then DSP, Vigilance, Cuttack Division, who was associated with the trap proceedings. P.W.7 was the Trap Laying Officer-cum-Investigating Officer. No witness was examined by the defence.

8. Upon appreciation of evidence, the learned trial Court held that the prosecution had failed to establish the charge beyond reasonable doubt. The learned trial Court particularly took note of the fact that the tainted money was not recovered from the respondent, that there were discrepancies regarding the exact place and manner of payment of the alleged bribe, and that the evidence regarding the respondent allegedly handing over the money to P.W.5 was introduced at a later stage. The learned trial Court also noticed the alleged relationship between P.W.5 and one Vigilance DSP, his alleged stay at the latter's house, the recording of his statement under Section 164 Cr.P.C. and his admission that he had deposed in Court as instructed by Vigilance officials. The

learned trial Court further noticed discrepancies as to whether the respondent arrived at the Police Station in a jeep or on a motorcycle, whether the transaction took place near a jeep or near a tree, and whether the respondent was apprehended while sitting in a jeep or while attempting to leave on a scooter. It was also held that the prosecution had not satisfactorily established the circumstance in which the tainted money disappeared from the possession of the respondent. Ultimately, the learned trial Court extended the benefit of doubt to the respondent and acquitted him under Section 248(1) Cr.P.C. The relevant part of the aforesaid judgment is reproduced herein for ready reference:-

> *"32. So far as the alleged demand of bribe is concerned, except the informant and P.W.2 no other prosecution witnesses have stated as to what was the conversation between the informant-decoy and the accused and what transpires between them. P.W.1 could not say what was the talk between the informant and the accused. It has also been proved through P.W.7 that P.W.2 has not stated before him during investigation that the accused has demanded Rs. 1,000/- from the informant and the accused threatened them that he will put all of them behind the bar. Under the above circumstances and the evidence discussed above, no reliance can safely be placed on the discrepant and contradictory statement of the prosecution witnesses.*
> *In the result the accused is found not guilty for commission of the offence U/s.13(2) read with Section*

13(1)(d) and 7 P.C. Act, 1988 and is acquitted therefrom U/s.248(1) Cr.P.C."

9. The learned counsel for the petitioner-State contended that the learned trial Court has failed to properly appreciate the evidence of P.W.1, the overhearing witness, and P.W.4, the complainant, which clearly establishes the demand and acceptance of illegal gratification by the respondent. The evidence of these witnesses is duly corroborated by the evidence of the other prosecution witnesses and the surrounding circumstances, including the preparation report, detection report and the positive hand-wash and pocket-wash of the respondent. According to the learned counsel, the fact that the tainted currency could not ultimately be recovered from the respondent cannot by itself demolish the prosecution case, particularly when the evidence establishes that the respondent received the tainted money and his hand-wash gave a positive reaction.

10. He further submitted that the learned trial Court committed an error in giving undue importance to discrepancies regarding the precise place of occurrence, the vehicle used by the respondent and other peripheral matters, which, according to the petitioner, were minor discrepancies naturally occurring with the passage of time and did not

affect the core of the prosecution case. The learned counsel submitted that the FIR, preparation report, detection report, chemical examination report and the consistent evidence of the prosecution witnesses, when considered cumulatively, establish the demand and acceptance of the bribe amount. The learned trial Court also failed to properly appreciate the evidence of P.W.5 and the circumstances emerging from the trap proceedings. According to the petitioner, the mere fact that the tainted money was not recovered from the respondent could not constitute a valid ground for acquittal when the prosecution evidence otherwise established acceptance and the chemical examination furnished corroborative evidence. It was, therefore, urged that the findings recorded by the learned trial Court suffer from improper appreciation of the evidence and that the order of acquittal deserves to be set aside.

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 as

well as the learned counsel for the respondent at length. The rival submissions have been duly considered in the light of the materials available on record.

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:*
>
> *(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 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.

15. Accordingly, the CRLLP stands dismissed.

(S.S. Mishra)
Judge

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

Signature Not Verified
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