THE HIGH COURT OF ORISSA AT CUTTACK

CRLLP No.153 of 2013
CNR No. ODHC010307142013
(In the matter of an application under Section 378 of the Criminal Procedure Code, 1973)

State of Orissa ……. ***Petitioner***

-Versus-

Saroj Kumar Nayak ……. ***Opposite Party***

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

For the Opposite Party : Mr. M.K. Chand, Advocate

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 12.08.2013 passed by the learned Special Judge (Vigilance), Sambalpur, in T.R. Case No. 07 of 2002, whereby the opposite party 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 and Mr. M.K. Chand, learned counsel for the opposite-party.

3. The prosecution case, in brief, is that Saroj Kumar Nayak, formerly working as a Junior Engineer under the Block Development Officer, Nuagaon, had placed an order for the supply of 25 iron windows and 23 iron doors with M/s. Mahalaya Welding and Fabrication Industry, Koelnagar, belonging to Khirod Sahu. The complainant, Laxmikanta Sahu, who was the brother of the proprietor and was looking after the management and supply of materials, delivered the articles at the Block Office on 20.09.2001. The opposite party, who was then serving as the Junior Engineer, checked the quality and weight of the supplied articles. It was alleged that when the complainant sought payment of the bill amounting to Rs.66,378/-, the opposite party demanded illegal gratification calculated at ten per cent of the bill amount for facilitating payment. As the complainant was allegedly unable to meet the demand,

he approached the opposite party on subsequent occasions, but the latter allegedly insisted upon payment of Rs.6,000/- as a condition for releasing the cheque.

4. The complainant approached the Block Development Officer regarding the non-release of payment and was informed by the cashier that the cheque could not be issued without clearance from the opposite party. Having allegedly agreed to pay the demanded amount, the complainant approached the Vigilance authorities and submitted a written report to the Superintendent of Police, Vigilance, through the Deputy Superintendent of Police, Vigilance, Rourkela. On the basis of the complaint, a trap was arranged on 04.10.2001. The currency notes produced by the complainant were treated with phenolphthalein powder, and the requisite demonstration was conducted in the presence of the accompanying witnesses. As the opposite party was not present at the Block Office, the trap party proceeded to Kadalibahal Upper Primary School, where he was stated to be performing official duties. At approximately 11.15 A.M., the complainant approached the opposite party in the presence of the accompanying witness, Harekrushna Ojha

(P.W.1), and allegedly handed over the tainted currency notes pursuant to the demand. Upon receipt of the pre-arranged signal, the Vigilance officials apprehended the opposite party, recovered the tainted money, and conducted washes of his hands and shirt pocket in sodium carbonate solution, which reportedly turned pink. Following investigation, including chemical examination and obtaining sanction for prosecution, the investigating agency submitted the charge-sheet.

5. The prosecution examined five witnesses to establish the charges. P.W.1, Harekrushna Ojha, was the accompanying witness who was allegedly deputed to overhear the conversation between the complainant and the opposite party and witness the transaction. P.W.2, Surei Chandra Hembrum, was the official witness who participated in the trap proceedings and verified the serial numbers of the currency notes. P.W.3, Laxmikanta Sahu, was the complainant. P.W.4, Nabakishore Pattnaik, the then Deputy Superintendent of Police, Vigilance, Rourkela, was the Trap Laying Officer, and P.W.5, Akshaya Kumar Sahu, was the Investigating Officer. The prosecution also relied upon the complaint, trap preparation report, detection report, seizure lists, chemical

examination report, sanction order and the relevant office records. The defence examined Ranjan Rashmi Nayak, the then Assistant Engineer, as D.W.1, who was present with the opposite party at the place of occurrence.

6. Upon appreciation of evidence, the learned trial Court held that the prosecution had failed to establish beyond reasonable doubt the essential ingredient of demand of illegal gratification. The learned trial Court noticed discrepancies between the complainant's statement in the F.I.R. and his deposition before the Court regarding the occasions on which the alleged demand had been made. It further found that P.W.1, the accompanying witness, had given a version in Court that the complainant thrust the tainted currency notes into the hands and shirt pocket of the opposite party despite his refusal, and that the evidence of D.W.1 supported such version. The learned trial Court also relied upon the office records indicating that the opposite party had already furnished the requisite certificate regarding the supplied materials and that the bill had been processed for payment. Although the recovery of the tainted currency notes and the positive chemical reaction of the hand and shirt-

pocket washes were noticed, the learned trial Court held that those circumstances, in the absence of reliable proof of demand and voluntary acceptance, were insufficient to establish the charges. Accordingly, extending the benefit of doubt, the opposite party was acquitted of the offences under Section 7 and Section 13(2) read with Section 13(1)(d) of the P.C. Act. The relevant part of the aforesaid judgment is reproduced herein for ready reference:-

> *"22. So far the evidence as placed by prosecution is concerned, it is not established beyond doubt that on 20.09.2001, after the informant gave delivery of the ordered iron doors and windows at the Block Office concerned, the accused, who was J.E. of the Block, made any demand of bribe to pass the cheque, which was not his duty so far his official work is concerned. Further, it is not established beyond doubt that the amount recovered from the accused during the trap was the amount paid to him by the informant as per his demand. It is not either established from the evidence that the accused during the trap at the spot, made any demand of bribe to do any undue official work for the informant. So the allegation of misconduct abusing his official position or obtaining any pecuniary advantage or gratification of Rs.6000/- for himself as brought against the accused, is not established. The accused, in the circumstance, is entitled to benefit of doubt and consequently an acquittal from the charges brought against him.*

23. In the result, the accused is found not guilty of the offences U/S.13(2) r/w Sec.13(1)(d) and U/S.7 of the P.C. Act, 1988 and is acquitted thereof U/S.248(1), Cr.P.C. He be set at liberty forthwith and bail-bond furnished by him be discharged."

7. Assailing the aforesaid judgment, learned counsel appearing for the State submitted that the learned trial Court erred in treating the complainant as an accomplice and in requiring corroboration of his evidence in material particulars. It was contended that the complainant's testimony, when read with the surrounding circumstances, the recovery of the tainted currency notes and the positive hand wash and shirt-pocket wash tests, was sufficient to support the prosecution case. The learned State counsel further submitted that the learned trial Court failed to draw the appropriate inference from the proved circumstances and ought to have considered the evidentiary principle under Section 114 of the Indian Evidence Act, 1872, while evaluating the recovery and the explanation offered by the opposite party.

8. The learned State counsel further contended that, upon establishment of the foundational facts, the learned trial Court ought

to have raised the statutory presumption under Section 20 of the P.C. Act and examined whether the opposite party had rebutted the same by acceptable evidence. Reliance was placed on ***T. Shankar Prasad v. State of Andhra Pradesh***, ***AIR 2004 SC 1242***. It was submitted that the evidence of D.W.1 did not satisfactorily rebut the prosecution case and that the passing of the bill before registration of the F.I.R. did not explain the recovery of the tainted money during the trap. The learned State counsel also challenged the reliance placed on the testimony of P.W.1 despite his being declared hostile and contended that the statements elicited from him by the prosecution, together with the evidence of the Trap Laying Officer, had not been properly appreciated. On these grounds, the State sought leave to challenge the judgment of acquittal.

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 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.

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

Signature Not Verified
Digitally Signed
Signed by: ASHOK KUMAR JAGADEB MOHAPATRA
Reason: Authentication
Location: High Court of Orissa
Date: 05-Nov-2026 19:59:15