THE HIGH COURT OF ORISSA AT CUTTACK

CRLLP No.32 of 2011
CNR No.ODHC010364622011

(In the matter of an application under Section 378(5) of the Criminal Procedure Code, 1973)

State of Odisha (Vigilance) ***…….*** ***Petitioner***

-Versus-

Kallola Kumar Das & others ***…….*** ***Opposite Parties***

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

For the Opposite Parties : Mr. P.K. Padhi, 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 30.06.2010 passed by the learned Special Judge (Vigilance), Balasore in C.R. No.143 of 2007 arising out of V.G.R. Case No.41 of 2000, whereby the learned trial Court acquitted the accused-

opposite parties of the charges under Sections 13(2) read with Sections 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act, 1988 and Sections 468, 471, 477-A and 120-B of the Indian Penal Code.

2. During the pendency of the trial Opposite Party No.3 namely Radhashyam Mantri died, and the proceedings stood abated on account of his death.

3. Heard Mr. Sangram Das, learned Standing Counsel (Vigilance) for the petitioner and Mr. P.K. Padhi, learned counsel for the opposite-parties.

4. The prosecution case was initiated on the basis of a written report submitted by B.K. Pattnaik, the then Inspector of Vigilance Unit, Bhadrak, on 24.08.2000 before the Superintendent of Police, Vigilance, Balasore Division. The allegation was that the settlement operation in Mouza-Ganeswarpur had concluded and the final R.O.Rs. had been published, but thereafter certain settlement cases were allegedly instituted with antedated dates and pattas were directed to be issued in favour of private persons. It was further alleged that the accused persons

had thereby facilitated conversion of Government land into private holdings and caused loss of Government revenue.

During the Hal Raghupati Method Survey and Settlement operation in respect of Mouza-Ganeswarpur, the final R.O.Rs. had already been published and distributed, but accused Kallola Kumar Das, who was then functioning as the Major Settlement Officer, Balasore, allegedly entertained settlement cases under Section 41 of the Orissa Survey and Settlement Act, 1958, on the basis of certain sale deeds and passed orders for issuance of pattas, allegedly resulting in inclusion of Government land in private holdings. It was further alleged that the other accused persons, who were associated with the settlement process, aided and abetted such acts and that the accused persons thereby committed offences of forgery, falsification of records and criminal misconduct.

5. The prosecution examined 19 witnesses and relied upon documentary evidence including the settlement case records, R.O.Rs., reports of the Settlement Office, reports of the District Sub-Registrar and Tahasildar, registered sale deeds and the opinion of the Handwriting Expert. P.W.19 was the Investigating Officer.

6. Upon appreciation of evidence, the learned trial Court held that the prosecution had failed to establish that the settlement cases had been falsely or ante-datedly instituted or that the accused had illegally manipulated the settlement records and granted pattas over Government land. The learned trial Court, on appreciation of the evidence of the official and other witnesses as well as the settlement records and R.O.Rs., found that the impugned orders had not been set aside or declared illegal by any competent authority and that there was no cogent evidence to establish that Government land had been converted into private land or that the accused had obtained any pecuniary advantage. The Court further held that the prosecution had failed to prove the ingredients of forgery, use of forged documents or falsification of accounts and that the evidence of the witnesses did not satisfactorily establish the alleged conspiracy or fabrication of the settlement records. It was also noticed that the prosecution had not specifically established which documents were allegedly falsified for attracting Section 477-A of the I.P.C. and that the evidence regarding the alleged manipulation of the settlement cases and the role of the co-accused was insufficient.

Accordingly, extending the benefit of reasonable doubt to the accused, the learned Special Judge held that the prosecution had failed to prove the charges beyond reasonable doubt and acquitted all the accused persons. The relevant part of the aforesaid judgment is reproduced herein for ready reference:-

> *"**21.** Under the O.S.S. Act, 1958, the settlement authorities have been vested with powers to prepare R.O.Rs. There are different stages for preparation of R.O.Rs. The Act does not bar preparation of R.O.R. at different stages. Under section-41 of the O.S.S. Act, the Settlement Officer has been vested with power to correct R.O.Rs, maps on the ground of mistake and clerical errors. Though in the case in hand, the prosecution alleges that the impugned orders were passed by accused Kalipada Das to gain pecuniary advantage, yet the prosecution has failed to place any cogent material to show that the impugned orders have been held to be illegal by the higher authorities.*
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> *In paragraph-19 of his evidence, P.W.19(I.O.) has stated that he cannot say whether the impugned orders have been interfered with by the Revisional authority.*
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> *P.W.19(I.O.) has admitted in paragraph-1.9 of his evidence that in all the cases, the State of Orissa was a party. On going through those case records, it is found that Additional Government Pleader of Balasore Madhusudan Panda was appearing in those cases on behalf of the State. There is no material to show that impugned orders were challenged before higher forum.*
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> *Prosecution witnesses, who are acquainted with survey and settlement operation such as; P.Ws 3,5,7,8,12 and 16 have not deposed about any defect or illegality in the impugned orders and the R.O.Rs. prepared in pursuant thereto. There is also no evidence in what manner accused Rajanikanta and Radhasyam fabricated amin reports. A perusal of the settlement case records reveals the same to have been instituted after execution of the sale deeds in respect of which*

the cases were instituted. The R.O.Rs(Exts.3,4,5,25,26,27,28,29,30 & 31) which the prosecution terms as illegal have not been set aside or held to be incorrect by competent authorities. It is trite that change in the R.O.Rs as per the orders of competent authority takes effect for fiscal purpose from the date it was finally published. In sum the oral and documentary evidence adduced by the prosecution is not in consonance with its allegations. From the mere fact of passing of those orders criminal liability cannot be fastened upon the accused. Considering the entire gamut of the prosecution case, it is found that the prosecution has not been able to substantiate its allegations that the impugned settlement cases were fake ones and accused Kallola Das with the help of other two accused passed illegal orders for issue of Pattas, thereby committed the offence under Sections-468 and 471 I.P.C..

22. *So far as the offence u/s.-477-A I.P.C. is concerned, it is found that the prosecution has not specified the documents which the three accused falsified. Pattas/R.O.Rs (Exts.3,4,5,25,26,27,28,29 and 30) which were prepared in pursuant to the impugned orders till date have not been challenged or held to be illegally prepared by any competent authority. I have already held that the prosecution has not been able to establish that the Government lands were included in the Pattas granted in pursuant to the impugned orders. Thus, the prosecution has also failed to establish the charge u/s.-477-A I.P.C.*

23. *Coming to the charge u/s.-13(1)(c) & (d) of the P.C.Act, 1988, it is found that the said charges have been levelled against the accused on the ground that they dishonestly and fraudulently converted the Government lands into their own use, gained pecuniary advantage by enhancing area in pattas and kissa[m] of lands causing loss of revenue to the State. At the risk of repetition it is noted here that the prosecution has failed to establish that any Government land was converted into a private holding for the personal use of three accused or of their relatives. The impugned orders in those settlement cases may not have been passed in legally correct manner, yet the same having not been set aside by the higher authority, it cannot be said that the three accused gained pecuniary advantage, increased the area of plots and changed Kissam of lands thereby caused loss of revenue to the state. This court*

being a criminal court cannot brand the impugned orders as illegal and hold the accused guilty of criminal misconduct. No witness has been examined by the prosecution to show that he obtained patta by bribing the accused. There is absolutely no evidence of any worth to conclude that the three accused obtained any kind of pecuniary advantage by obtaining the impugned pattas. From the above discussions, I am of the view that the prosecution has not also been able to establish the charges under Section-13(1) (c) & (d) of P.C Act.

24. *The three accused have been charged for commission of offence u/s.-120(B) I.P.C. The prosecution having failed to establish the principal charges, the offence of criminal conspiracy u/s.-120(B) I.P.C. must also fail.*

Before parting with the case, I may note here that out of 19 witnesses examined by the prosecution, eight important witnesses have turned hostile against the prosecution. So far as the rest witnesses, except the I.O. (P.W.19), are concerned, there is nothing substantial in their evidence to fasten the criminal liability upon the accused.

In view of the above, I conclude that the prosecution has failed to establish the charges levelled against the three accused beyond reasonable doubt. Accordingly, I hold them not guilty of the charges, hence, they are acquitted of the same u/s.-235(1) of Cr.P.C."

7. The learned counsel for the petitioner-State submitted that the learned trial court failed to properly appreciate the evidence of P.Ws.3, 12 and 19 regarding the legal effect of the final publication of the Record-of-Rights (R.O.R.) and the consequent lack of jurisdiction of the Settlement Officer to alter the status or rent fixation of the lands or to institute proceedings under Section 41 of the O.S.S. Act and grant pattas. It is contended that, despite the final

publication of the R.O.R. of Mouza-Ganeswarpur on 31.03.1998, accused-opposite party No.1 purchased land on 24.04.1998 and thereafter, in collusion with the other accused, managed to institute Settlement Case Nos.159/98, 150/98 and 884/98 by antedating the proceedings to 01.04.1998, got lands recorded in their names and obtained orders for issuance of pattas. Such acts, according to the appellant, clearly disclose manipulation and creation of false documents with intent to defraud, attracting Sections 468, 471 and 477-A IPC, besides the ingredients of Sections 13(1)(d) read with Section 13(2) and Section 7 of the Prevention of Corruption Act, 1988. The learned trial court further erred in discarding the testimony of P.W.10 regarding coercive purchase and manipulation of the recorded area, as well as the evidence of P.W.17, the Handwriting Expert, and the admission of accused-opposite party No.1 under Section 313 Cr.P.C. that he had passed orders in the relevant settlement cases.

8. He further submitted that the learned trial court committed material irregularity in placing undue reliance upon the defence

evidence and minor discrepancies while failing to appreciate the consistent and corroborated testimony of the prosecution witnesses, particularly P.W.19, a police officer whose evidence could not have been discarded merely on account of his official status when otherwise found reliable and corroborated. The defence witnesses, who allegedly introduced an entirely new story at the far end of the trial, ought not to have been relied upon, particularly in the absence of any credible explanation furnished by the accused-opposite parties. The appellant therefore contends that the acquittal is contrary to the evidence on record, suffers from perversity and non-consideration of material evidence, and is not supported by substantial, compelling or cogent reasons.

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 parties for more than 16 years, as they were 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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