CGHC010387902026

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HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 207 of 2026

Vishnu Singh S/o Late Dhanushdhari Singh Aged About 70 Years Belonging To Rajgond (S T) Community, R/o Village Patna, Baikunthpur, P.S. Patna, District Koriya Chhattisgarh

... Appellant

versus

1 - State Of Chhattisgarh Through The Station House Officer, Police Station Ajak, Baikunthpur, District Koriya Chhattisgarh

2 - Sanjay Agarwal S/o Mahangilal Agrawal Aged About 52 Years R/o Schoolpara Main Road P.S. Baikunthpur, District Koriya Chhattisgarh (Accused)

... Respondent(s)

For Appellant	**:**	Mr. Aman Tamrakar, Advocate
For Respondent No.1	**:**	Mr. Atanu Ghosh, Dy.G.A.

(Hon'ble Shri Justice Ravindra Kumar Agrawal, J.)

Order on Board

05/11/2026

1. The present acquittal appeal has been filed by the appellant under Section 14A(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 413 of the Bharatiya Nagarik Suraksha Sanhita, 2023 against the impugned judgment of acquittal dated 30.06.2024 passed by learned Special Judge under SC/ST (Prevention of Atrocities Act), Korea (Baikunthpur)

in Special Criminal (SC/ST Act) Case No.35/2021, whereby the respondent/accused has been acquitted from the offence under Section 341, 147, 150, 294, 506 Part 2, 323, 384 and 386 of the IPC and 3(1)(r), 3(1)(s) and 3(2)(v-a) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The case of the prosecution, in brief, is that the complainant Vishnu Singh (PW-7) lodged a written complaint (Exhibit P-15) on 28.01.2021 to the Station House Officer, Police Station - AJAK, Baikunthpur, District - Korea with the allegation that the respondent/accused has forged and fabricated the revenue documents of the land purchased by his father and get it mutated in the name of his firm Maa Vaishno Associates Private Limited and on 29.04.2017, he threw him and his family members out from the house and demolished his house, for which he lodged a report at Police Station – Baikunthpur. Thereafter, he regularly created pressure upon him to withdraw the complaint lodged against him. In the month of May 2018, he came to know that a closure report was submitted by the police on his complaint made against the respondent/accused and when he made a complaint to the Director, Prosecution Department, Raipur, investigation was again started on his complaint and then he threatened in his mobile phone with dire consequences. He also demanded Rs.60 lakhs by saying that he spent the said sum to manage the affairs on his complaint. On 13.12.2018 also, he sent the message through WhatsApp and threatened him. He tried to extort money of Rs. 8 lakh by sending message on 13.12.2018 and when he tried to take shelter in the house of his friend, on the way, he was being assaulted by the respondent/accused and his 7–8

musclemen, by abusing and threatened him. On 08.01.2021 and 24.01.2021, when he came to know that the present respondent/ accused has been arrested on his earlier report, he again lodged the report of subsequent incident. Based on the written complaint (Exhibit P-15), FIR (Exhibit P-16) was registered against the present respondent/accused and 7–8 other persons for the offence under Section 147, 148, 150, 341, 294, 506(B), 384 and 386 of IPC and 3(1)(r), 3(1)(s) and 3(2)(v-a) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The social status certificate of the complainant and one mobile phone (Exhibit P-18) have been seized vide seizure memo (Exhibit P-3). Spot map (Exhibit P-5) was prepared by Patwari and Exhibit P-17 was prepared by the police. The Customer Application Form and Call Detail Report of the complainant and one Satish Gupta has also been obtained by the police, which are Exhibit P-12 and Exhibit P-13. Certificate under Section 65B of the Evidence Act (Exhibit P-8) has also been obtained by the police. Certificate under Section 65B of the Evidence Act issued by the complainant Vishnu Singh (Exhibit P-14) has also been obtained by the police in support of his allegation. An affidavit dated 31.07.2023 executed by Vishnu Singh (Exhibit P-19) was also seized by the police. The respondent/accused Sanjay Agrawal was arrested on 08.02.2021. Statement under Section 164 of CrPC of witness Satish Gupta has been recorded, which is Exhibit P-2. Statement of other witnesses under Section 161 of CrPC have also been recorded and after completion of usual investigation, charge sheet was filed against the respondent/accused before the learned trial Court for the aforesaid offences.

3. The learned trial Court framed charge against the respondent/accused for the offence under Sections 341, 147, 150, 294, 506-B, 323, 384, 386 of IPC and 3(1)(r), 3(1)(s) and 3(2)(v-a) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The respondent/ accused denied the charge and claimed trial.

4. In order to prove the charge against the respondent/accused, the prosecution has examined as many as 11 witnesses. Statement of the respondent/accused under Section 313 of CrPC have also been recorded in which he denied the circumstances that appears against him, pleaded innocence and have submitted that he has been falsely implicated in the offence.

5. After appreciation of oral as well as documentary evidence led by the prosecution, the learned trial Court has acquitted the respondent/ accused from all the alleged offences by holding that the prosecution has failed to prove its case beyond reasonable doubt and by giving benefit of doubt, the respondent/accused has been acquitted. Hence, this appeal against acquittal.

6. Learned counsel appearing for the appellant would submit that the prosecution has proved its case beyond reasonable doubt but for minor omission or contradictions, the evidence of prosecution witnesses are sufficient and reliable to hold the conviction of the respondent/accused for the alleged offence. The learned trial Court has acquitted the respondent/accused on two grounds, i.e. 1) delay in lodging of the FIR and 2) the evidence of the Investigating Officer has not been properly appreciated by the learned trial Court. He would further submit that the respondent/accused is a political person having influence over the

higher authorities including the police authorities and due to his fear, the complainant could not lodge the report earlier against the respondent/accused and as and when he came to know that the respondent/accused was arrested on the earlier complaint made by the complainant, he came out from his fear and lodged the report with respect to subsequent incident. There is sufficient explanation for delay in lodging the report. However, the learned trial Court has not considered the same. He would further submit that the Investigating Officer has also duly supported the prosecution's case in support of the evidence of the complainant but the said evidence has also not been considered in its true spirit and by giving benefit of doubt, the respondent/accused has been acquitted. He would further submit that the minor and trivial omission or contradiction does not affect the prosecution's case and the complainant and his witnesses have duly supported and proved the allegation leveled by the complainant about the incident. Therefore, the impugned judgment of acquittal suffers from material irregularity and illegality and the same is liable to be set aside.

7. On the other hand, learned counsel appearing for the State would submit that the learned trial Court has passed the judgment on the basis of the evidence available on record.

8. I have heard learned counsel for the appellant and perused the record of the trial Court.

9. From perusal of the impugned judgment, the learned trial Court has considered that there is considerable delay in lodging the report and there is no sufficient explanation for delay in lodging of the FIR. From

perusal of the written complaint (Exhibit P-15), it transpires that the written complaint was lodged on 28.01.2021 to the Station House Officer, Police Station - AJAK, Baikunthpur, District - Korea, in which he disclosed that earlier also with respect to the incident of 29.04.2017, he lodged the report on which the FIR of Crime No. 131/2017 was registered at Police Station - Baikunthpur. Thereafter, he also alleged regular threats by the respondent/accused upon him for which he made repeated complaints to the authorities including the Director, Prosecution Department, Raipur and the investigation was reopened. He also alleged about threat of extortion of money and dire consequences up to 2018. The alleged incident occurred on 13.12.2018, when he was going to his friend's house to take shelter, the threat extended upon him by the accused. However, there is no complaint made by him till 28.01.2021 except the bald allegation that on the threat of the respondent/accused, he could not lodge the report and only came out from the fear when he came to know about the arrest of the accused in the earlier report on 08.01.2021 and 24.01.2021. The complainant made various complaints to the authorities including the Director, Prosecution Department, Raipur when he came to know that a closure report was submitted on his earlier complaint and allegedly suffered regular threats by the respondent/accused, it cannot be said that even on 13.12.2018 when the respondent/accused allegedly assaulted him, he was under fear and pressure of the respondent/accused which prevented him for lodging of any complaint. There is no evidence that immediately after 13.12.2018 with respect to alleged incident he made any complaint to authorities for which no action has been taken by the police authorities

or any higher authorities. Absolutely there is no evidence that on the date of incident i.e. 13.12.2018, he made any complaint with respect to the alleged incident and it is only on 28.01.2021, that is, after about two years, he made a complaint to the police on which the FIR was registered.

10. The complainant Vishnu Singh has been examined as PW-7. In his examination-in-chief, he stated about the incident and threats given by the respondent/accused regularly since 13.12.2018. However, in cross-examination, he admitted that against the respondent/accused Sanjay Agrawal, he filed a civil suit with respect to the land situated at Prema Bagh which is pending at the Civil Court, Baikunthpur and the subject land is the cause of their quarrel and incident. He admitted in para 15 of his cross-examination that he has to bypass Police Station - Patna to go to his house and he regularly visited to the Court as well as Baikunthpur. He further admitted that many of his family members are posted as higher administrative officer and also in police department. He also admitted in his cross-examination that nearby the place of alleged incident, the houses of others, including the house of Kameshwar Sahu, Advocate, was situated. He further admitted that he lodged the report after more than two years of the incident. He further stated that the accused Sanjay Agrawal has lodged a complaint case against him at Baikunthpur Court, in which an order has been passed against him for refund of the amount. The said order was challenged by him before the High Court and the order passed by the Sessions Court was stayed and it is only thereafter he lodged the present report. He also admitted that in the year 2017–18, his nephew Yuvraj Kumar

Singh was the President of Zila Panchayat, Korea. He further admitted that on the date of incident, he has not informed anyone of his family members about the incident.

11. From the evidence of the complainant, it could not be established that he was prevented for lodging of the report by any sufficient cause, as he himself was interested with a particular political party and his family members are also posted in higher administrative post as well as police department and his nephew was also the then President of Zila Panchayat, Korea. In such situation, it cannot be said that he was being threatened and having no assistance by others to protect him or to insist for lodging of the report with respect to the incident that allegedly occurred on 13.12.2018. Lodging of the complaint on 28.01.2021 with respect to the incident that allegedly occurred on 13.12.2018 cannot be said to be bonafide and there is no sufficient explanation for delayed lodging of the report. In the facts and circumstances of the case, as well as the dispute exists between the complainant and the accused, delayed lodging of the report have significance, as the complainant has lodged the report only after the arrest of the respondent/accused in the earlier report. Therefore, the learned trial Court has rightly considered that the delay in lodging the report makes the prosecution's case suspicious.

12. The other ground raised by the learned counsel for the appellant that the evidence of the Investigating Officer has not been properly considered, and from perusal of the impugned judgment passed by the learned trial Court, it transpires that the learned trial Court has considered in para 24 onwards about the evidence of Investigating

Officer. Even otherwise, the Investigating Officer can only be a procedural witness and they may say whatever they investigated into the matter. However, the substantive evidence is of the complainant's evidence who is allegedly suffered with the incident. When the evidence of the complainant itself was not found sufficient and there is considerable delay of lodging of the report after about two years, it cannot be said that the evidence of the Investigating Officer much have any significance in the facts of the present case. Yet the learned trial Court has properly considered the evidence of the Investigating Officer, and by giving benefit of doubt, the respondent/accused has been acquitted.

13. PW-1 Satish Gupta, PW-2 Prasanna Kumar, PW-3 Yogesh Gupta, PW-4 Ankur Gupta and PW-5 Surendra Kumar Gupta are the witnesses with respect to use of mobile phone for threatening to the respondent/ accused. However, their evidence also does not support the alleged incident that occurred on 13.12.2018 for which the present report has been lodged. PW-6 Jeet Kumar Kashyap is the person to whom the incident was disclosed by the complainant. He stated in his evidence that on 12.12.2018 in the morning, the complainant informed him that the respondent/accused assaulted him on the way alongwith his 7–8 other companions. This witness have disclosed that the complainant has disclosed about the incident on 12.12.2018, whereas the alleged incident as per the written complaint occurred on 13.12.2018, and therefore, the evidence of this witness itself is contradictory, as has been reflected that before the alleged incident, the complainant informed him about the alleged commission of maar-peet with him,

which itself is suspicious and cannot be relied upon.

14. The consideration in the appeal against acquittal has been settled by the Hon'ble Supreme Court in the case of **Tulasareddi @ Mudakappa & Another v. State of Karnataka**, reported in 2026 SCC OnLine SC 89, held that :

> "27. In the case of **Babu Sahebagouda Rudragoudar v. State of Karnataka**[1] this Court held in paragraphs 39 to 42 as under:
>
> > 39. This Court in Rajesh Prasad v. State of Bihar[2] encapsulated the legal position covering the field after considering various earlier judgments and held as below : (SCC pp.482-83, para 29)
> >
> > 29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words: (Chandrappa v. State of Karnataka[3], para 42)
> >
> > '42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:
> >
> > (1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.
> >
> > (2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the

1 . 2024 (8) SCC 149

2 . (2022) 3 SCC 471 : (2022) 2 SCC (Cri) 31

3 . (2007) 4 SCC 415 : (2007) 2 SCC (Cri)325], SCC p. 432

evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If 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.’

40. Further, in H.D. Sundara v. State of Karnataka[4], this Court summarised the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal

4 . (2023) 9 SCC 581 : (2023) 3 SCC (Cri) 748]

under Section 378 CrPC as follows : (SCC p. 584, para 8)

"8. … 8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to reappreciate the oral and documentary evidence;

8.3. 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;

8.4.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

8.5. 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."

41. Thus, it is beyond the pale of doubt that the scope of interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised within the four corners of the following principles:

41.1. That the judgment of acquittal suffers from patent perversity;

41.2. That the same is based on a misreading/omission to consider material evidence on record; and

41.3. That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

42. The appellate court, in order to interfere with the judgment of acquittal would have to record pertinent findings on the above factors if it is inclined to reverse the judgment of acquittal rendered by the trial court.

* * *

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 re-appreciating 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."

15. Having regard to the evidence available on record and the principles of law enunciated by the Hon'ble Supreme Court in the judgment referred to hereinabove, this Court is of the considered view that no sufficient ground has been made out by the complainant warranting interference with the impugned judgment of acquittal passed by the learned trial Court.

16. Accordingly, this Court does not find any merit in the acquittal appeal and the same is hereby **dismissed**.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE

Sumit