HC-KAR

NC: 2026:KHC:64072
CRL.A No. 1375 of 2015

CNR: KAHC010459972015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1375 OF 2015 (A)

BETWEEN:

1. STATE OF KARNATAKA
   BY LOKAYUKTHA POLICE,
   MYSORE-01.

...APPELLANT

(BY SRI. B S PRASAD., SPL. PP)

AND:

1. M MAHADEVASWAMY
   S/O. LATE V. MADARI,
   AGE: 47 YEARS,
   OCC: GOVT
   KSHETRA SHIKSHANA SAMANVAYA ADHIKARI
   ADD;- BRC, PERIYAPATNA,
   MYSORE DISTRICT-1.

...RESPONDENT

Digitally signed by LAKSHMINARAYAN N
Location: High Court of Karnataka

(BY MS. VISMAYA D.A., ADV. FOR SRI. P N HEGDE, ADV.)

CRL.A. FILED U/S.378(1) AND (3) CR.P.C BY THE SPL.P.P. FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 15.05.2015 PASSED BY THE III ADDL. S.J. AND SPL. JUDGE, MYSORE IN SPL.C.NO.105/2012 THEREBY ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCE P/U/S 7,13(1)(d) R/W 13(2) OF THE P.C. ACT AND ETC.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CNR: KAHC010459972015

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

1. The appellant / Karnataka Lokayukta, Mysore has preferred this appeal against the judgment of acquittal dated 15.05.2015 passed in Special Case No.105/2012 by the III Addl. Sessions and Special Judge, Mysuru (for short, 'the trial Court').

2. For the sake of convenience, the parties herein are referred to as per the status before the trial Court.

3. Brief facts leading to this appeal are that the Police Inspector, Karnataka Lokayukta, Mysore submitted charge sheet against the accused for the offence punishable under Sections 7, 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988. It is alleged by the prosecution that the accused was working as a Kshetra Samanvaya Adhikari in Sarvajanika Shikshana Abhiyana, Periyapatna Taluk, Mysuru District prior to 08.09.2011. The accused being a Government Servant, demanded from

CW1 bribe amount of Rs.2,000/- and reduced the same to Rs.1,000/- and accepted Rs.700/- as advance bribe amount from CW1 and later, on 08.09.2011, he demanded and accepted the balance bribe amount of Rs.300/- from CW1 in order to submit the LPC, Service Register and to avoid delay in payment of increment arrears of fifteen years of service of CW1. Thus, the accused has committed the alleged offence.

4. After the registration of the case, accused appeared before the Court and enlarged on bail. Having heard the arguments on both sides, the trial Court has framed the charges against the accused for the commission of alleged offences. Same was read over and explained to the accused. Having understood the same accused pleaded not guilty and claimed to be tried.

5. To prove the guilt of the accused, the prosecution has examined 7 witnesses as PWs.1 to 7, 30 documents were marked as Exs.P1 to P30 and 12 material

objects were marked as MOs.1 to 12. On closure of prosecution side evidence statement under Section 313 of Cr.P.C. has been recorded. However, the accused himself examined as DW1 and 20 documents were marked as Exs.D1 to D20.

6. Having heard the arguments on both sides, the trial Court has acquitted the accused. Being aggrieved by the judgment of acquittal, the appellant/Lokayukta has preferred this appeal.

7. The learned counsel for the appellant Sri B S Prasad would submit that the judgment and order of acquittal passed by the learned Special Judge is contrary to the evidence on record. The evidence on record is not appreciated by the learned Special Judge in its proper perspective, which has resulted in miscarriage of justice.

8. The important witnesses in trap mahazar are the complainant and panchas. The ingredients would prove

the demand and acceptance of illegal gratification. The complainant adduced the evidence before the Court below as PW2 and he deposed according to the complaint lodged by him. The complainant has lodged the complaint stating that the accused demanded money. The same has been recorded in the voice recorder. The Court below failed to appreciate the same and passed erroneous judgment. The trial Court has held that, the prosecution has failed to prove the demand and acceptance of bribe, and acquitted the accused. The prosecution has proved that the accused demanded money and accepted the same before panchas. The voice recorder is a clear evidence of the demand. The accused has demanded the money and on bargain, he had reduced thereafter it was fixed. The voice recorder is disbelieved contrary to Evidence Act. PW1 and PW3 are panchas, have supported the case of the prosecution. The trial Court has failed to draw the proper inference from the facts and circumstances of the case under Section 20 of

the Prevention of Corruption Act. On all these grounds, it is sought for allowing this appeal.

9. The learned counsel for the respondent Ms. Vismaya D A, would submit that the trial Court has properly appreciated the evidence on record in accordance with law and facts. The impugned judgment of acquittal does not call for any interference by this Court and accordingly sought for dismissal of the appeal.

10. I have heard the arguments on both sides and on perusal of materials placed before this Court, the following points would arise for my consideration:

(1) Whether the special Court is justified in acquitting the accused?
(2) What order?

11. My answer to the above points are as under:

Point No.1: in the affirmative
Point No.2: as per final order.

Regarding Point No.1:

12. Before appreciation of evidence on record, it is necessary to mention as to the judgments of the Hon'ble Apex Court in the case of CONSTABLE 907 SURENDRA SINGH AND ANOTHER v. STATE OF UTTARAKHAND reported in (2025)5 SCC 433; BABU SAHEBGOUDA RUDRAGOUDAR AND OTHERS v. STATE OF KARNATAKA reported in (2024)8 SCC 149; CHANDRAPPA v. STATE OF KARNATAKA reported in (2007)4 SCC 415; and H.D. SUNDARA v. STATE OF KARNATAKA reported in (2023)9 SCC 581. The principles governing exercise of appellate jurisdiction while dealing with an appeal against judgment of acquittal under section 378 of Code of Criminal Procedure are, the acquittal of the accused further strengthens the presumption of innocence; the appellate court, while hearing an appeal against acquittal, is entitled to re-appreciate the oral and documentary evidence; 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; 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 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. The 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 only if the judgment of acquittal suffers from patent perversity; the same is based on a misreading/omission to consider material evidence on record; and 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.

13. I have examined the materials placed before this Court. It is the case of the prosecution that, the Police Inspector, Karnataka Lokayukta, Mysore submitted charge sheet against the accused for the offence punishable under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. It is alleged by the prosecution that the accused was working as a Kshetra Samanvaya Adhikari in Sarvajanika Shikshana Abhiyana, Periyapatna Taluk, Mysuru District prior to 08.09.2011. The accused being a Government Servant, demanded from CW1 bribe amount of Rs.2,000/- and reduced the same to Rs.1,000/- and accepted Rs.700/- as advance bribe amount from CW1 and later, on 08.09.2011, he demanded and accepted the balance bribe amount of Rs.300/- from CW1 in order to submit the LPC, Service Register of CW1 for payment of increment arrears.

14. To prove the guilt of the accused, the prosecution has examined 7 witnesses as PW1 to PW7.

PW1-Basavarju is the Complainant, PW2-Venkatesh, panch witness/shadow witness. PW5-Ratan Kumar is one of the panch witnesses. PW7-Gopalakrishna is the investigating officer.

15. The defence of the accused-DW1 reveals that, the complainant was working under him. The complainant was engaging in some other work other than the office work. In this regard, he was issuing notice to him and asking him to discharge his duty in accordance with law. The complainant was due to deposit of sum of Rs.19,980/- to the Government with regard to sale of students' and teachers' flags. In this regard, he had issued a notice to the complainant on 11.04.2011 as per Ex.D18. The complainant was getting special allowance from the Department disclosing that he is having only 2 children though he has 3 children. In this regard, he had issued a notice to the complainant and informed to the higher Authority/BEO in this regard. Thereafter, BEO had stopped

the payment of special allowance to the complainant since 2009. So, he asked the complainant to re-deposit the special allowances to the Government which he had taken already. But the complainant did not deposit the same. In this regard, he had given a report as per Ex.D4 to the BEO, Periyapatna. The Complainant was undertaking building contract work which is not relating to his official work. The Complainant had undertaken the construction work of a Primary School at Kottaiahnakoppalu. Since the work completed by the Complainant was of sub standard, he was home arrested by the public for 2 days. The same was published in news papers. DDPI of the Department, on seeing the said news in the news papers, asked him to take action against the Complainant. In this regard, he had issued notice to the Complainant as per Ex.D19. The Complainant admitted in writing that the work completed by his was of sub standard. The Complainant did not furnish the Assets and Liabilities statement every year. He had issued notice to the Complainant asking him to furnish

the said statement as per Ex.D20. In this regard, the Complainant had developed ill-will against him. No work of the Complainant was pending with him except sending LPC to the office of the BEO. He was not able to send the said LPC to the BEO as the Complainant did not submitted the report as to when he had joined the new place. He did not demand the money from the Complainant for any of his work and he did not talk with the Complainant in this regard. That on 08-09-2011, there was a meeting in the office of BRC. He came to his chambers to take a file. At that time, the Complainant all of a sudden entered into his chamber and gave the amount forcibly. He pushed his hands. The Complainant put the money in the pocket of his shirt. When he taken out the said money from his pocket in order to return the said money to the Complainant, Lokayuktha police came and caught hold him.

16. The trial Court has observed that there is no evidence on record either with regard to the complaint or the office of the complainant, where the complainant was transferred. So, it probabilizes the defence of the accused as to he was not able to send LPC of the complaint to the office of the BEO where the complainant was transferred as he did not receive the joining report of the complainant for having reported at the transferred place.

17. PW2-Venkatesha, shadow witness has not deposed as to the demand made by the complainant. On the other hand he has deposed that the complainant came out of the office of the accused and told that he came there after paying money to the accused.

18. In paragraphs 22 to 25 of the judgment, the trial Court has observed as under:

> *"22. The Complainant/P.W.1 has deposed in his evidence that, the accused demanded the bribe amount of Rs.2,000/- for submitting his Service Register and LPC to the office of the BEO and*

subsequently the accused reduced the said bribe amount of Rs.1,000/- and received advance bribe amount of Rs.500/- and Rs.200/- on different dates and finally received the balance bribe amount of Rs.300/- on 08-09-2011 when he was trapped. He has also deposed in his evidence that, he recorded the conversation of the accused in a Voice Recorder given by the Lokayuktha police when the accused had demanded to pay him the balance bribe amount of Rs.300/-, admitting the receipt of the earlier bribe amount of Rs.500/- and Rs.200/-. It has also come in the evidence of the prosecution that the said recorded voice of the accused was converted into CD and played and it was identified by P.W.4-Ganesh, an Assistant Teacher. I have not considered the said evidence of the prosecution with regard to recording of conversation of accused demanding bribe amount in a Voice Recorder and converting the said voice into C.D and identification of the voice of the accused recorded in the said Voice Recorder by P.W.4-Ganesh, as it is not proved in terms of Sec.65[B] of Indian Evidence Act. The evidence of the Complainant/P.W.1 with regard to payment of bribe amount by the accused is not corroborated with any other evidence on record. Though P.W.2-Venkatesh, a shadow witness was supposed to be present with the Complainant/P.W.1 while the accused demanding

and accepting the bribe amount, said P.W.2-Venkatesh has not spoken as to accused demanded the Complainant to pay the bribe amount in his presence and accepted the bribe amount. On the other hand, he has deposed in his cross-examination that the Complainant came out of the office of the accused and told that he came there by paying the money to the accused. Thereafter he went inside the office along with the police and at that time, he found the money in the hands of the accused. He has not supported the case of the prosecution. P.W.1 in his evidence has deposed that, on the alleged date, time and place, he went to the office of the accused and shown his face to the accused and the accused told him that "ಎಲ್ರೀ ಹಣ ಕೊಡ್ರಿ, ಇಷ್ಟೊತ್ತು ಎಲ್ಲಿ ಹೋಗಿದ್ದೀರಿ" The accused demanded to give him the money. So, he gave Rs.300/- which were applied with Phenolphthalein Powder to the accused. The accused received the said money through his right hand and kept the said money in the pocket of his shirt. Thereafter he gave signal. Lokayuktha police came and arrested the accused. The right hand of the accused got dipped in sodium carbonate liquid. It turned to pink colour. According to the said evidence of P.W.1/Complainant, it goes to show that the right hand of the accused was got dipped in sodium carbonate liquid immediately after he was arrested

by the Lokayuktha police. This witness has further deposed after remembering the events that the hand of the accused got dipped in sodium carbonate liquid after the bribe amount was taken out from the pocket of the shirt of the accused through accused. Said evidence of P.W.1/Complainant goes to show that the hand of the accused was not got dipped in sodium carbonate liquid immediately after he was arrested and before producing the bribe amount by the accused . said evidence of P.W.1/Complainant which he has deposed after remembering the events has not been denied by the prosecution and the prosecution has not treated this witness as hostile to the said portion of the evidence of the Complainant though the case of the prosecution is that the hand of the accused was dipped into sodium carbonate liquid immediately after the arrest of the accused and thereafter the accused has produced the bribe amount from his pocket. P.W.2- Ganesh/shadow witness has also deposed in his evidence that the accused was caught by the Lokayuktha police after he accepted the money from the Complainant. Thereafter the Inspector taken the money by saying that the said money is in the pocket of the accused. Thereafter the hand of the accused was got dipped into the liquid. Said evidence of P.W.2 goes to show that the hand of the accused was got dipped into the

liquid after the bribe amount was taken from the accused. It does not reveal that the hand of the accused was got dipped into the liquid before accused produced the money. This witness is treated as hostile to the case of the prosecution. This witness during the course of cross-examination when made by the learned Special Public Prosecutor has admitted the case of the prosecution as to the hand of the accused was got dipped in sodium carbonate liquid immediately after he was arrested and thereafter the accused produced the money when a suggestion was put by the learned Special Public Prosecutor to this witness. Later this witness during the course of cross-examination when made by the learned counsel for the accused has deposed that, when he entered inside the office of the accused along with the police, he found the money in the right hand of the accused. Thereafter the said money was put into the pocket of the accused and thereafter it was taken out and the hand of the accused was washed after the money was taken out from the pocket of the accused through accused. Considering the evidence of P.W.2, it goes to show that, he has not supported the case of the prosecution. He has deposed against to the case of the prosecution in his examination-in-chief. He supported the case of the prosecution in his cross-examination when made by

the learned Special Public Prosecutor after treating this witness has hostile witness and subsequently when he was cross-examined by the defence counsel, he denied the case of the prosecution and supported the defence of the accused. The evidence of P.W.2 is not acceptable one to accept the case of the prosecution, as he gives different versions at different times as discussed hereinbefore. He has not played his role in this case as a shadow witness, as instructed by the Inspector at the time of drawing up of Entrustment Mahazar.

23. P.W.5-Rathan Kumar is panch witness No.1. He had accompanied P.W.7-Inspector at the time of trap. He has deposed in his evidence that, on the alleged date time and place of trap, the accused was caught hold. Thereafter his right hand has been dipped into sodium carbonate liquid. It turned to pink colour. Thereafter the money was taken from the pocket of the accused through accused. Said evidenced of P.W.5-panch witness No.1 is corroborating with the evidence of P.W.7-Investigating Officer as to the money was taken out from the accused after his right hand has been dipped into sodium carbonate liquid. But it is the specific evidence of P.W.1/Complainant that before washing the hands of the accused in the liquid, the money was taken out from the pocket of the accused

through accused. Said evidence of P.W.1/Complainant is not denied by the prosecution and this witness is not treated as hostile by the prosecution to that extent of evidence, which is against to the case of the prosecution. Under such circumstances, the evidence of P.W.1/Complainant and the evidence of P.W.5-antoher panch witness and P.W.7-Investigating Officer are contradicting with each other as to whether the hand of the accused was got dipped into sodium carbonate liquid prior to taking out the money from the accused or after the accused produced the said bribe amount.

24. Considering the evidence of P.W.1 and the evidence of P.W.2-shadow witness as to the right hand of the accused was got dipped after the accused produced the money probablizes the defence of the accused as to the bribe amount was forcibly put by the Complainant in the shirt pocket of the accused.

25. Considering the evidence on record, I am of the opinion that the evidence of the prosecution is not clear, corroborative and consistent. On the other hand, it is contradicting. It creates doubt over the story of the prosecution. Under the circumstances, I am of the further view that the accused is entitled to have benefit of doubt and he has to be acquitted.

The prosecution has utterly failed to prove the alleged offences against the accused beyond all reasonable doubt. Accordingly, I answer Points-1 and 2 in the ***Negative****."*

19. On re-appreciation/re-consideration/re-examination of the entire evidence on record, I do not find any legal or factual error committed by the trial Court. Considering the facts and circumstances of the case and also keeping in mind the aforesaid decisions of the Hon'ble Supreme Court, I answer point No.1 in the affirmative.

Regarding Point No.2

20. For the aforestated reasons and discussions, I proceed to pass the following:

O R D E R

Appeal is **dismissed**.

The Registry is directed to send copy of this judgment along with Trial Court Records to the concerned Court.

Sd/-
(G BASAVARAJA)
JUDGE

DHA