HC-KAR

NC: 2026:KHC:64256
CRL.A No. 1422 of 2015

CNR: KAHC010470092015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1422 OF 2015 (A)

BETWEEN:

1. STATE OF KARNATAKA
   REPRESENTED BY
   THE POLICE INSPECTOR
   KARNATAKA LOKAYUKTA,
   MYSURU - 570024.

...APPELLANT

(BY SRI. VENKATESH S. ARBATTI.,ADVOCATE)

AND:

1. SRI D V NAGENDRA
   AGE 37 YEARS
   SON OF LATE SRI VENKATACHALAIH
   VILLAGE ACCOUNTANT
   GUJJEGOWDANAPURA CIRCLE
   JAYAPURA HOBLI, MYSURU TALUK,
   RESIDING AT NO.86, KHB COLONY,
   4TH STAGE, 6TH CROSS,
   KUVEMPUNAGAR, MYSURU-570023.

...RESPONDENT

(BY SRI. P N HEGDE.,ADVOCATE)

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LAKSHMINARAYAN N
Location: High Court of
Karnataka

CRL.A. FILED U/S.378(1) AND (3) OF CR.P.C BY THE SPL.P.P. AND ADVOCATE FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO GRANT LEAVE TO FILE THE APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 31.03.2015 IN SPL.C.NO.47/2013 PASSED BY THE III ADDL. SESSIONS AND SPL. JUDGE, MYSURU AND ETC.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

1. The appellant / Karnataka Lokayukta, Mysuru, has preferred this appeal against the Judgment of Acquittal dated 31.03.2015 passed in Special Case No.47/2013 by the III Additional Sessions and Special Judge, Mysuru (for short, 'the trial Court').

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

3. Brief facts leading to this appeal are that the Police Inspector, Karnataka Lokayukta, Mysuru, submitted charge sheet against the accused for the offence 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, on 31.10.2012 between 2:45 and 3:00 pm, in front of Nimishambike Enterprises situated at Shivarampet, Devaraja Market, Mysuru, the accused,

being a Government Servant working as Village Accountant of Gujjegowdanapura demanded and accepted bribe amount of Rs.4,000/- for correction in the RTC of land from CW1-Prasanna-Complainant, which is not the legal remuneration by abusing his position as a public servant. Thus, the accused has committed the alleged offences.

4. In pursuance of summons, accused appeared before the Special Court and released on bail. On hearing, the trial Court has framed the charges against the accused for the commission of above said 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, in all, 9 witnesses were examined as PWs.1 to 9, 36 documents were marked as Exs.P1 to P36, 10 material objects were marked as MOs.1 to 10. On closure of prosecution side evidence, statement under Section 313 of Cr.P.C. was

recorded. The accused has denied the evidence of prosecution witnesses and he did not choose to lead any defence evidence on his behalf. The accused has submitted written statement under Section 313 of Cr.P.C. However, Ex.D1 is marked during the course of cross-examination of prosecution witness.

6. Having heard the arguments on both sides, the trial Court has acquitted the accused. Being aggrieved by the Judgment of Acquittal, the Lokayukta has preferred this appeal.

7. Sri Venkatesh S Arabatti, the learned counsel for the appellant would submit that the impugned judgment acquittal is opposed to law and facts and contrary to the material evidence on record. The learned trial Judge has observed that hands of the respondent/ accused being dipped in the solution for hand wash test before the accused took out the bait Cash (MO.2) from his pocket. The solution turned to pink colour. The learned

judge failed to appreciate that statement of the accused that bait cash MO.2 was thrust into his pocket, was not at all true. Further it is submitted that PW1-Complainant was treated as a hostile witness as he has partly supported the case of the prosecution. But however, he has admitted that he had submitted an application for survey and measurement of the land as he had to get the name of his grandmother entered in the RTC by deleting the existing name. That on the day prior to the seizure/Trap mahazar of Ex.P2, complainant met to the accused regarding the deletion of name of Sri. Javaregowda from the RTC that he had earlier paid an amount of Rs.20,000/- to the accused. That the accused demanded an amount of Rs.4,000/- as required to be paid to the surveyor. He recorded the conversation between him and the accused on his mobile phone. Ex.P1 was got written through his friend Sri. Shungar Sarja-PW3. He had signalled to the Investigating Officer-PW9, after payment of bait cash MO.2 as instructed in the pre-trap proceedings. This

testimony corroborates the evidence of the other witnesses. The learned Judge failed to appreciate that after the bait cash (MO.2) was recovered from the accused, the result of the hand wash test went against the respondent/accused and testimony of the shadow witness and the bait cash MO.2 was paid, the presumption under Section 20 of Prevention of Corruption Act is available and the burden shifts on the accused to prove his case. The accused has not led any evidence on his behalf.

8. Further, it is submitted that the learned Judge erred in fully discarding the evidence of PW1 and PW4 on the ground that they have become hostile and the same is inconsistent. The learned Judge has erred in coming to the conclusion that evidence of the Investigating Officer-PW9 does not reveal "Demand". The learned Judge failed to appreciate that the IO came to the scene only after signalling by PW1 and he could not have heard the "Demand" from such a distance. The learned Judge erred

in not considering the recorded conversation of the Respondent/accused and Complainant/PW1 on the mobile phone, Digital Voice Recorder and CDs, on the ground that same were not in accordance with the Section 65B of the Indian Evidence Act, 1872. The learned Judge erred in not considering the transcripts of the same in Ex.P3, which was drawn after the identification of the voice by Sri. H.P. Raviprasad-PW2, Deputy Tahsildar, Jayapura.

9. Further, it is submitted that the learned Judge failed to appreciate the FSL report Ex.P34 in the right perspective, which clearly confirms the existence of phenolphthalein powder in the hand wash of the respondent/accused. On all these grounds, it is sought for allowing the appeal.

10. As against this, Sri P.N Hegde, the learned counsel for the respondent/accused would submit that the material witnesses PW1 and PW4 have not fully supported the case of the prosecution. PW1 has clearly stated that he

has not paid the amount as a bribe to the accused. PW5-Tahsildar has clearly admitted that no work was pending before the accused as on the date of commission of alleged offence. The Investigating Officer has not sent the sample voice between the accused and complaint for FSL. The IO has not explained anything as to not sending the alleged conversation between the accused and complainant to the FSL. The trial Court has properly appreciated the evidence on record that, the IO has not complied the mandatory provisions of Section 65B of the Evidence Act. The accused has not demanded any amount and accepted the bribe. The trial Court has properly appreciated the evidence on record in accordance with law and acquitted the accused. Absolutely, there are no materials to interfere with the impugned judgment of acquittal and hence, sought for dismissal of the appeal.

11. To substantiate his argument, the learned counsel for the respondent/accused has relied on the

decision of the Hon'ble Supreme Court in the case of CONSTABLE 907 SURENDRA SINGH AND ANOTHER vs. STATE OF UTTARKHAND in CRL.A.NO.355/2013 and also in the case of ASHAD SINGH NEGI vs. STATE OF UTTARAKHAND in CRL.A.NO.788/2013 both cases reported in (2025) 5 SCC 433.

12. Having 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 Lokayukta has made out grounds to interfere with the impugned judgment of acquittal?

(2) What order?

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

Point No.1 in Negative
Point No.2 as per final order

14. Before appreciating the evidence on record, it is necessary to mention here as to the guidelines issued by

the Hon'ble Supreme Court in the case of BABU SAHEBAGOUDA RUDRAGOUDAR vs. STATE OF KARNATAKA reported in (2024) 8 SCC 149 and also in the case of H.D. SUNDARA vs. STATE OF KARNATAKA reported in (2023) 9 SCC 581. Same reads as hereunder:

> *"(1) An appellate court has full power to review, re-appreciate 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 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."

15. I have examined the materials placed before this Court. In the case on hand, PW1-Prasanna is the complainant. He has not fully supported to the case of the prosecution and he was treated as hostile witness and cross-examined by the prosecution. PW4-Jayamallaraje Urs, who is the shadow witness, has also not fully supported to the case of the prosecution. He was treated as hostile with the permission of the court and cross-examined. PW5-T.Rameshbabu has clearly deposed in his evidence that no work was pending as on the date of commission of offence. Considering the evidence of all the

prosecution witnesses in length, the trial Court has observed in Paragraphs 20 to 29 of the judgment as under:

> *"20. I have scrutinized the aforesaid evidence of the prosecution. P.W.1-Prasanna, the Complainant in his written complaint has stated that, 2 years prior to the date of filing of the complaint, i.e. 2 years prior to 31-10-2012, he had met the accused for correction in the RTC. At that time, the accused had taken Rs.20,000/- from him and made correction to the extent of 10 acres in the RTC. But in the RTC, the name of Javaregowda and others is mentioned, instead of mentioning the name of Venkatamma, W/o late Kempegowda. When he met the Surveyor on 29-12-2011 to prepare the sketch pertaining to the land bearing Sy.No.56, the Surveyor Manjunath told him that, there is no proper correction in the RTC and the name of Javaregowda is mentioned in the RTC and that has to be deleted from the RTC and then only sketch can be prepared. Accordingly, on 30-10-2012, he met the accused and told him that he had given Rs.20,000/- to him. But he has not corrected the RTC properly and as such, sketch is not prepared and asked him to delete the name of Javaregowda appearing in the RTC. So, he asked the accused to refund Rs.20,000/- paid by him earlier. For that, the accused replied that the said amount has been received for the correction made by him earlier and the accused demanded him Rs.4,000/- for deleting the name of*

Javaregowda. The accused demanded as to, he would get the work done if the bribe amount is paid to him. Whereas, P.W.1- Prasanna, the Complainant has deposed before the Court that, he had gone to the Survey Office to survey the land of his grand mother. The name of his grand father was mentioned in the records. The Survey Authorities have told him that they will survey the said land if the name of his grand father is deleted and asked him to meet the accused/Village Accountant. So he went to the accused and brought him to the office of the Survey Department. At that time, the Survey Authority asked him to pay the money for deleting the name of his grand father. He went to the accused and talked with him in this regard. The accused told him to pay the said amount to them and then they will do the work. Accordingly, he paid the amount in the Survey Office. But the Survey Authorities did not done his work even after lapse of 2 years. Thereafter, he again talked with the accused in this regard. The accused told him to get the work done by going to the Survey Office and it is not possible for him to come there and he himself should go and get the work done. Thereafter, somebody informed him that he has to go to Lokayuktha office and then his work will be done. So, he came to Lokayuktha office and filed a complaint and paid a sum of Rs.4,000/- to the Lokayuktha Inspector. The evidence given by P.W.1/Complainant before the Court does not reveal that the accused has demanded to pay him the bribe amount and he has paid the bribe amount of Rs.20,000/- to the accused earlier. Whereas, his written

complaint reveals that he has paid Rs.20,000/- to the accused earlier for correction in the RTC and subsequently the accused has further demanded bribe amount of Rs.4,000/- for deleting the name of his grand father.

21. P.W.1/Complainant has further deposed in his evidence that, during trap proceedings, he went near the shop situated near Rajkamal Theatre as called for by the accused to that place and he gave the documents to the accused and he put Rs.4,000/- in the pocket of the accused and told him that, his grand mother is abusing him and asked him to get the work done early. Thereafter, he gave hand signal as instructed by the Inspector. So, considering the said evidence of P.W.1, it is further clear that the accused has not demanded the bribe amount from the Complainant. The Complainant only has put the bribe amount in the pocket of the accused.

22. It is the further evidence of P.W.1/Complainant that, he had not given the statement before the police as to he had paid a sum of Rs.20,000/- to the accused earlier. This witness has turned hostile to the case of the prosecution. During the course of cross- examination when made by the Special Public Prosecutor, this witness has denied that the accused had demanded him to pay Rs.20,000/- for getting the work done and obtained Rs.20,000/- from him, when suggestions were put by the learned Special Public Prosecutor to this witness. This

witness during the course of cross- examination when made by the learned Special Public Prosecutor deposes that, he had told to the accused to get refund Rs.20,000/- to him which had been received from him in the Survey Office by other persons. P.W.1 has admitted that the accused told him that the said amount of Rs.20,000/- had been adjusted for the correction made earlier. He denies that the accused had demanded the bribe amount of Rs.4,000/- for making correction when a suggestion was put by the learned Special Public Prosecutor to this witness. This P.W.1 has voluntarily deposed that the accused had told him that Rs.4,000/- has to be paid to the Surveyor and he will get the work done and asked him to go. This witness has denied that, he is deposing falsely at the request of the accused as the accused had told him that he will return the bribe amount and not to depose against him, when a suggestion was put by the learned Special Public Prosecutor to this witness. This P.W.1 has again denied that he is deposing falsely as to he had voluntarily put Rs.4,000/- in the pocket of the accused though the accused did not demanded the bribe amount and he also denied that the accused has demanded him to pay the bribe amount Rs.4,000/- and taken it with his hands and put the said amount in his pocket, when suggestions were put by the learned Special Public Prosecutor to this witness. P.W.1 has further deposed that, when the hands of the accused were washed near the shop, the water tuned to pink colour. Considering the averments made by the Complainant in his written complaint-Ex.P1 and

the facts deposed by him in his oral evidence before the Court, it is clear that both are contradicting with each other. They are not consistent.

23. P.W.1/Complainant has further deposed in his evidence that, after he gave hand signal to the Inspector after he paid the amount to the accused, the Inspector came and snatched the paper from the hands of the accused and washed the hands of the accused near the shop and taken the money from the accused. The details of the said currency notes were matching with the details of the currency notes already written. Thereafter all of them came to the office of Lokayuktha. The pant pocket of the accused got washed in the water. Said water turned to pink colour.

24. P.W.4-Jayamallaraje Urs is a shadow witness. He has deposed in his evidence that, during trap proceedings, he was observing the events that were taking place between the accused and the Complainant by standing at a distance of 10 feet away from the said place, as instructed by the Inspector. The Complainant met the accused and gave 2 papers to the accused and thereafter the Complainant gave signal. The Inspector came to that place. He also went there. Many people had gathered there. Police staff have caught hold the accused. The Inspector informed the accused that a complaint is filed against him and asked him whether he is having the money. Lokayuktha police did not asked him anything. Lokayuktha police informed him that they caught hold

the accused. The accused is having money and they are taking the said money. Police asked the accused to produce the money. The accused taken out the money from his pant pocket and gave the same to the police staff. Thereafter the hands of accused were got dipped in the water. It turned to pink colour. The money was paid to the hands of panch witness No.1. Considering the said evidence of P.W.4/shadow witness, it does not reveal that, he has seen the Complainant while the Complainant paid the money to the accused. He has not deposed as to accused demanded the Complainant to give the bribe amount and the Complainant has paid the money to the accused. It is also not deposed by P.W.4/shadow witness that police have got dipped the hands of the accused immediately after his arrest before receiving the money from the accused. According to the evidence of P.W.4, it goes to show that the hands of accused were washed in the liquid after the accused produced the money. According to the evidence of P.W.1/Complainant, he only put the money in the pocket of the accused voluntarily. The Investigating Officer ought to have washed the hands of the accused before receiving the money from the accused. But in the instant case, according to P.W.4/shadow witness, after accused produced the money, the hands of the accused were washed and it turned to pink colour. P.W.4 has further deposed that, he has not stated as to the Complainant paid the money to the accused while he was giving the papers and the accused after receiving the money kept the said money in his pant pocket. This witness has turned hostile to the

case of the prosecution. This witness has denied in his cross-examination when made by the learned Special Public Prosecutor as to, he has seen as to the Complainant taken out the money from his pocket and handed over the same to the accused and the accused received the said amount through his hands and kept the said amount in his pant pocket, when a suggestion was put by the learned Special Public Prosecutor to this witness. This P.W.4/shadow witness further admits that the police got washed the hands of the accused immediately after they reached near the shop and thereafter the police received the money from the accused which was kept in the pant pocket of the accused when suggestions were put by the learned Special Public Prosecutor to this witness. Said admission given by P.W.4 in his cross- examination is fully corroborating with the evidence given by him in the examination-in-chief. He gives one type of version in his chief-examination and another type of version in the cross- examination on the same set of facts. This P.W.4 has denied in his cross-examination as to he has seen the accused while receiving the money from the Complainant and the hands of the accused were washed earlier to the accused received the money when suggestions were put by the learned Special Public Prosecutor to this witness. He has further denied in his evidence that, he is deposing falsely that, though he has seen that the hands of the accused got washed earlier and he is deposing falsely that his hands are not washed earlier when suggestions were put by the learned Special

Public Prosecutor to this witness. This witness has further deposed that, he does not remember as to whether the hands of the accused got washed earlier or later.

25. Considering the evidence of P.W.4-Jayamallaraje Urs given in his examination-in-chief and in his cross-examination, it is clear that both are not corroborating and consistent with each other. It is contradicting to the case of the prosecution. The evidence of P.W.4 does not inspire confidence of the Court. So, I have not accepted the evidence of P.W.4 for any purpose.

26. P.W.7-Ganesh, panch witness No.1 has deposed in his evidence that, during the course of trap proceedings, they had gone near Rajkamal Theatre. At that time, the Complainant went near the accused. They were observing the events that were taking place at that place. The Complainant and the accused were talking with each other for a period of 5 to 10 minutes. The Complainant gave the money to the accused. The accused received the money and kept the said amount in his pant pocket. Thereafter, all of them and the Inspector went to that place. The Police staff caught hold the hands of the accused. The Inspector taken the money from the possession of the accused and gave the said money o him and asked him to verify the same. He got verified the said currency notes with the details of the currency notes already written in Ex.P4. They were matching. A liquid ha been prepared in 2 glasses. The right hand of the accused got dipped in the said liquid. It turned to

pink colour. Said evidence of P.W.7/panch witness No.1 who also observed the events that has been taken place between the Complainant and the accused at the time of trap does not reveal that the accused demanded the Complainant to pay him the bribe amount of Rs.4,000/-. This witness has only deposed that the Complainant has paid the money to the accused. So, it goes to show that the Complainant has paid the amount to the accused voluntarily. Said evidence of P.W.7-Ganesh further reveals that, the hands of accused got dipped in the liquid after taking the money from the accused. Said evidence further clarifies that the hands of the accused did not got dipped in the liquid immediately after arresting him before the receipt of the money from the accused. Said evidence of P.W.7 is contradicting with the case of the prosecution. This witness has turned hostile to the case of the prosecution. This witness has deposed that he has not stated before the Investigating Officer that the money has been received from the accused after the hands of the accused got washed. He has denied in his cross-examination as to he is giving evidence falsely in order to help the accused as to the hands of the accused got washed after receipt of the money from the accused though the hands of the accused were washed prior to the receipt of the money from the accused, when suggestion was put by the learned Special Public Prosecutor to this witness in this regard.

27. P.W.9-Dharmendra, the Investigating Officer has deposed in his evidence that, during trap proceedings,

the Complainant was standing in front of Nimishamba Enterprises. After some time, the accused came there. Panch witness No.2 was also present and observing the events. The Complainant talked with the accused and gave the documents to his hands. Thereafter the Complainant gave the Phenolphthalein Powder applied currency notes to the hands of the accused. The accused received the money through his right hand and put the said money in the pocket of his pant. Said evidence of P.W.9 also does not reveal that the accused demanded and received the bribe amount from the Complainant. On the other hand, it goes to show that, the Complainant has voluntarily gave the money to the accused. P.W.9 further deposes that, the accused after keeping the money in his pant pocket, the Complainant gave hand signal. Accordingly, he went to that place. The Complainant shown the accused and informed that the accused only received the money from him and kept the said money in his pant pocket. He got introduced with the accused. Police staff caught hold the accused. He made an enquiry with the Complainant. The Complainant informed that, when he reached to the place where the accused had called him to come, the accused received the documents from him. After he handed over the said documents to the accused, he told the accused that, he had already given Rs.20,000/- and why he is asking Rs.4,000/- once again. For that, accused told that, he should give Rs.4,000/- and obtained said amount of Rs.4,000/- from him and kept the said amount in his pant pocket. The said evidence of P.W.9- Investigating

Officer is not consistent with the evidence of P.W.1/Complainant. P.W.1/Complainant has not deposed the said facts in his evidence and it is not the case of the Complainant/P.W.1 as such. The evidence of P.W.9-Investigating Officer reveals that the hand of the accused was got dipped in the sodium carbonate liquid before receiving the bribe amount from him and at that time, the said liquid turned to pink colour and thereafter, he asked the accused about the bribe amount, and at that time, the accused produced the bribe amount from his pant pocket. Said evidence of P.W.9 is not corroborating with the evidence of the Complainant/P.W.1, P.W.4-shadow witness and P.W.7-Ganesh, panch witness No.1, as discussed by me in the paragraphs supra. I have also observed that the evidence of P.W.4-shadow witness is not satisfactory and it does not conspire the confidence of this Court, as discussed by me in the paragraphs supra.

28. In the instant case, I have not considered the recorded conversation of accused and the Complainant in the mobile, Digital Voice Recorder and the C.Ds. as the evidence adduced by the prosecution in this regard is not proved in terms of Sec.65(B) of the Indian Evidence Act.

29. Considering the evidence of the prosecution, it is clear that, it is not corroborative, consistent and acceptable one. It does not inspire the confidence of the Court as to accused demanded and accepted the bribe amount from the Complainant in terms of the case of the

prosecution. It creates doubt over the story of the prosecution. The prosecution has failed to prove the alleged offences against the accused beyond all reasonable doubts. Hence, I am of the opinion that the accused is entitled to have the benefit of doubt. Under the circumstances, I am of the opinion that the accused is entitled to be acquitted for the alleged offences by extending the benefit of doubt to him. Accordingly, I answer points-1 and 2 in the ***Negative.****"*

16. On re-appreciation / re-examination and reconsideration of the entire materials on record, I do not find any legal or factual error in the Judgment of acquittal. Considering the facts and circumstances of the case and also keeping in mind the decisions of the Hon'ble Supreme Court relied upon by the learned counsel for the respondent, I answer point No.1 in Negative.

Regarding Point No.2

17. 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
List No.: 1 Sl No.: 30