



Presented on : 25-06-2013
Registered on : 25-06-2013
Decided on : 25-03-2026
Duration : 12 years 9 months, 0 days.

**IN THE COURT OF THE CIVIL JUDGE AND J.M.F.C.,
AT CHITTAPUR:**

-:: PRESENT ::-

Sri Abhishek Ramachandra Joshi

B.A.L., LL.B.,

Civil Judge & JMFC, CHITTAPUR.

C.C.No.168/2013

DATED THIS 25th DAY OF MARCH-2026

COMPLAINANT

State through Chittapur P.S.

(Asst. Public Prosecutor)

// Versus //

ACCUSED

Gopal S/o Ramu Rathod,

Age 40 years, Occ: Assistant Engineer,

R/o: Zilla Panchayat Engineering,

Sub-Division, Chittapur.

Now residing at Basavanagar, Sedam.

(By Sri. C.B.A., Advocate)

1	Date of commission of offence	01-01-2013 to 31-12-2014
2	Date of report of offence	27-09-2005
3	Date of arrest of the accused	---



4	Name of the complainant	
5	Date of recording evidence	13-09-2021
6	Date of closing evidence	15-12-2025
7	Offences complained of	Secs. 409 & 420 of IPC.
8	Opinion of the Judge	As per final order.

C.J. & JMFC, Chittapur.

J U D G M E N T

The accused is facing trial for the charge sheet submitted by CPI of Chittapur Range for the offences punishable U/Secs., 409 and 420 of IPC.

2. **The brief facts of the prosecution case are as follows:-**

The accused was working as Assistant Engineer in Zilla Panchayat Engineering Sub-Division at Chittapur. The accused was assigned the works of 1) Ambedkar Bhavan in Kamarwadi, 2) Check dam, in Bommanhalli village, 3) Gokatta in Allur Village. The accused was given such works under scarcity relief works and SGRY works for the year 2003-04. The accused had acknowledged the same. The total outstanding amount given to the accused in cash and food grains was Rs.3,45,627/-. The accused has not utilized the food grains and



cash issued to him against the works assign to him. Even after repeated warnings, the accused has not completed the outstanding work and has not settled the accounts. This shows that, the accused has mis-used and mis-appropriated the Government fund. Accordingly the present complaint was filed by Superintendent Engineer, Zilla Panchayat Engineering Division of Kalaburagi.

3. Based on the complaint investigation was conducted and the police had filed B-Report. Against the said report protest petition was filed by the complainant. My predecessor in office after going through the materials has rejected the B-report and handed over further investigation to S.P.Kalaburagi. Thereafter the present charge sheet is filed.

4. The cognizance is taken for the aforesaid offences against the accused and issued summons to the accused. In response to the summons, accused has appeared before the Court through his counsel and got enlarged on bail. Copy of the prosecution papers are furnished to the accused as per provision of Section 207 Criminal Procedure Code. Charges are framed and read over to the accused. The accused has denied the charges and claims to be tried.



5. In order to bring home the guilt of the accused, the prosecution has examined 14 witnesses as per P.W.1 to PW-14 and got marked 11 documents as per Ex.P.1 to P-11, MO 1 to MO 6 is marked and closed its side. The statement of the accused U/s.313 of Cr.P.C. is recorded and accused is explained the incriminating evidence found against him. The accused has denied the incriminating evidence and has not lead any evidence on his behalf.

6. Heard both sides and perused the evidence available on record.

7. Upon the hearing arguments advanced from the both side and on perusal of materials placed on record, following points arise for consideration:-

1. ***Whether the prosecution proves beyond reasonable doubt that the accused being the Assistant Engineer in Zilla Panchayat Engineering Sub-Division Chittapur, has committed criminal breach of trust with respect to food grains and cash entrusted upon him and there by has committed criminal breach of trust and there by committed an offence Punishable U/s 409 of IPC?***
2. ***Whether prosecution proves beyond reasonable doubt that the accused being***



the public servant working as Assistant Engineer in Zilla Panchayat Engineering Sub-Division, Chittapur, has dishonestly mis-appropriate food grains and cash entrusted upon him to the tune of 3,45,627/-there by committed an offence Punishable U/s 420 of IPC?

3. What order?

8. My findings to the above points are:-

Point No.1: In the Negative;

Point No.2: In the Negative;

Point No.3: As per final order for the following:-

REASONS

9. POINTS NO.1 AND 2 :-

As these points are inter connected they are taken up together for common consideration.

10. Before discussing the case on its merits, it is necessary to go into the ingredients required to convict an accused for offence punishable under sec. 409 of IPC.

- A. The accused must be public servant.**
- B. There must be entrustment of the property on to the accused.**
- C. The accused must have mens rea.**
- D. The accused must have committed a breach of trust regarding the property entrusted.**



10.1 To convict an accused for any offense punishable U/s 420 of IPC the prosecution has to prove the following ingredients.

- A. Deception of any person.**
- B. fraudulent or dishonest inducement to deliver property or alter/destroy valuable security.**
- C. Mens rea at the time of inducement.**

If any of the ingredients is not proved, then the prosecution has to fail.

11. CW-1/PW-1 is the complainant in this case. He in his chief-examination has deposed that, from 2005 to 2009 he has worked as AEE of Chittapur Range. He further stated that, the accused was working as Junior Engineer for the year 2003-2004. He was assigned to construct Ambedkar Bhavan in Kamarwadi village, Check-dam in Bommanhalli village and Gokatta in Allur village under scarcity relief works and SGRY works for the year 2003-04. For construction of such project, the accused was given Rs. 1,91,877/- in cash and Rs.1,57,750/- (246 Quintals of Food-grains), totaling Rs.3,45,627/-. However, the accused has not completed his works inspite of repeated notices given to him. This fact was brought to the notice of the higher officials of Zilla Panchayat Engineering Department by audit conducted by the officials. Based on the audit report, and on the directions of the higher officials, the present



complaint is filed. The witness is cross-examined by advocate for accused. During the course of cross-examination, the witness admitted that, the accused did not work under him during his tenure. He also admitted that, he has no personal knowledge about the case and he is only deposing on the basis of documents available. The witness further deposed that, he does not know the estimation of the work allotted to the accused. When the accused was asked regarding the report given by the committee regarding the work conducted by accused, the witness deposed that, in the report it is submitted that, the work conducted by accused was incomplete and substandard. Hence, they have not released the full amount to the accused. Rest of the suggestions were denied by the witness.

12. CW-3/PW-2 is the retired Accountant of Zilla Panchayat Engineering Sub-Division. He deposed that, he has given amount of Rs. 39,000/- on 11-09-2003, Rs. 50,000/- on 28-10-2003, Rs. 1,20,000/- on 05-09-2003, Rs. 50,000/- on 28-07-2003 to the accused and took receipts from the accused. He also deposed that, due to non completion of work complaint was given by the complainant. He is cross-examined by advocate for accused. During the course of cross-examination the witness admitted that, he has not worked under the complainant. He further admitted that, after lapse of one



year of his transfer the present complaint was registered. He denied rest of the suggestions put to him by the advocate for accused.

13. CW-16/PW-6, CW-15/PW-8 are the spot panchas of Check dam situated in Bommanhalli village. CW-16/PW-6 in his chief-examination fairly stated that, in his presence no spot panchanama was conducted. The police had taken his signature on certain documents when he was going to Wadi village. Hence, the witness was treated as hostile witness and with the permission of the court was cross-examined by Learned APP. However the witness denied all the suggestions put to him. CW-15/PW-8 being the another pancha submitted that, he has no knowledge about the case. He deposed that, around 15 years prior to him giving evidence, he was called regarding non completion of check dam. Hence, he has signed on the panchanama. As the witness had partly deposed contrary to the case of prosecution, he was treated as partly hostile witness and with the permission of the court, was cross-examined by learned APP. During the course of cross-examination the witness admitted that, on 02-03-2016 panchanama was drawn in his presence. The witness is cross-examined by advocate for accused. During the course of cross-examination, the witness admitted that, he does not



know the contents of panchanama marked as EX. P-5. Rest of the suggestions were denied by the witness.

13.1 CW-8/PW-3 is the witness who is stated to be member of Bommanhalli Gram Panchayat. He in his chief-examination has deposed that, he has no information regarding the case and he has not given any statement to the Police. As the witness had deposed contrary to the case of prosecution, he was treated as hostile witness and with the permission of the court was cross-examined by learned APP. During the course of cross-examination, the witness admitted that, he was member of Gram Panchayat of Bommanhalli village for the year 2006. However, the witness denied any suggestions put to him regarding permission and construction of check-dam in Bommanhalli village. He was also confronted with his statement, but the witness denied it.

14. CW-11/PW-4, is the spot pancha witness with regard to construction of Ambedkar Bhavan in Kamarwadi village, he deposed that, in his presence no panchanama is drawn in he does not know the contents of panchanama marked as Ex. P-3. As the witness deposed contrary to the case of prosecution, he was treated as hostile witness and with the permission of the court, he is cross-examined by learned APP. All the



suggestions put to him by the learned APP was denied by the witness.

15. CW-13/PW-5, CW-14/PW-10 are the spot pancha witnesses of Gokatta in Allur village. CW-13/PW-5 in his chief-examination stated that, the Police had taken his signatures with regard to non completion of road work. The witness identified his signature on panchanama marked as Ex. P-4. As the witness had deposed partly supporting the case of prosecution, he was treated as partly hostile witness and with the permission of the court was cross-examined by learned APP. During the course of cross-examination the witness admitted that, on 02-03-2006 in his presence panchanama was drawn. The witness is cross-examined by advocate for accused. During the course of cross-examination the witness admitted that, he does not know the contents of Ex. P-4 panchanama and in his presence no panchanama was drawn. The witness further admitted that, only on the request of CW-6 he had signed on Ex. P-4 panchanama. CW-14/PW-10 being the other pancha, has deposed that, around 18 to 20 years prior to him giving evidence the police had taken his signatures on one document. However, in his presence no panchanama was drawn and no spot was shown to him. The witness was treated as hostile witness and with the permission



of the court, was cross-examined by learned APP. The witness denied all the suggestions put to him.

16. CW-2/PW-7 is the Account Officer of Zilla Panchayat Engineering Department he deposed as he has not provided any documents to the police and he has not given any statement to the police. The witness was treated as hostile witness and with the permission of the court he is cross-examined by learned APP. The witness denied all the suggestions put to him.

17. CW-9/PW-9 is the pancha in whose present documents were seized and signatures of accused were taken for FSL. He deposed that, in his presence the police have not seized any receipts or cash book. He further deposed that, in his presence the signatures of accused were not taken. The witness fairly deposed that, even though his signatures are found on panchamas marked as Ex. P-6 to P-8, he does not know the contents of such panchanamas. As the witness had deposed contrary to the case of prosecution, he was treated as hostile witness and with the permission of the court, was cross-examined by learned APP. The witness denied all the suggestions put to him.



18. CW-17/PW-11 is the police official who had taken the documents connected with this case to FSL Bengaluru. He in his chief examination deposed that, as per the orders of CW-18 he had taken the documents connected with this case to FSL Bengaluru. He is cross-examined by advocate for accused. The witness denied the suggestions put to him.

19. CW-20/PW-13 is the IO. He in his chief-examination deposed that, as per the complaint given by CW-1, he has registered the case and filed FIR. He further deposed that, in the presence of panchas, he has conducted spot panchanamas and also took signatures of the accused for FSL. He further deposed that, in the presence of panchas he has seized the documents of this case. The witness is cross-examined by advocate for accused. During the course of cross-examination the witness admitted that, the initial investigating officer had filed B-report in this case. He further admitted that, due to the letter issued by SP Kalaburagi, he has filed the final report. He also admitted that, he has not mentioned the cause of delay in filing FIR and also admitted that, properties of this case were seized after six months of the filing of the complaint. Rest of the suggestions were denied by the witness.



20. CW-21/PW-12 is the another IO. He deposed that, during his investigation the complainant had failed to produce documents. Hence, he had filed B-report in this case. The witness is cross-examined by advocate for accused. The witness denied all the suggestions put to him.

21. CW-22/PW-14 is the IO who file the final report. He deposed that, after taking permission from the Government to initiate criminal proceedings against the accused, he has filed the final report. This witness is also cross-examined by advocate for accused. The witness admitted that, initially B-final report was filed in this case. Rest of the suggestions were denied by the witness.

22. I have carefully perused the materials available on record. There is no dispute in this case that the accused is Assistant Engineer in Zilla Panchayat Engineering Department. It is also not in dispute that, during his official duty, he was given amount of Rs. 1,91,877/- and pulses of 246 quintals having value of Rs.1,57,750/-. The case of the prosecution is that even though the accused received such amount and pulses (food for work program), but he has misappropriated such amount and did not complete the construction. In the present case the prosecution in order to prove the guilt of the accused, has to prove that, the accused has not constructed



the buildings even though he has received the amount. However, the prosecution has not at all produced any documents to show what was the order for construction of buildings. The prosecution ought to have produced the Government order, which shows the measurement, location and type of construction to be made by accused. In the absence of such order, this court cannot ascertain as to what was the construction to be done and to what extent the accused had made construction. The complainant was cross-examined on this point and the witness fairly admitted that, before filing the complaint he had never visited the site of constructions. He further stated that, due to the substandard work done by the accused, the complete payment of the order was not made to the accused. That being the case the prosecution had to produce document to show the situation on the ground and to what extent the construction was made. However, the prosecution has not at all produced any valuation report or photographs to show the laxity on part of the accused. When the complainant admits that, there was some sort of construction made by the accused even though it is deemed to be substandard, the complainant ought to have given report as to how they have calculated the amount mentioned in the complaint regarding sim-appropriation by the accused. All these points clearly goes to show that, the prosecution has failed to prove the ingredients required with



regard to offences alleged against him. When the prosecution has failed in its duty, the court is left with no other choice but to answer the above points in the negative.

23. **POINTS No.3:-** In view of the above findings, I proceed to pass the following order:-

: ORDER :

In the exercise of powers U/S.248(1) of Cr.P.C., accused is acquitted of the offences punishable U/Secs. 409 and 420 of IPC.

The accused is set at liberty. Bail bond of accused and surety stands continue till the 6 months as per the amended provision of 437(A) of Cr.P.C.

(Dictated to the Typist-Copyist, transcribed by him, then corrected by me and pronounced in open court on this the 25th DAY of March 2026)

(Abhishek Ramachandra Joshi)
Civil Judge & JMFC, Chittapur.



: ANNEXURE :

LIST OF WITNESSES EXAMINED FOR PROSECUTION:-

PW.1	Refvanasiddappa S/o Ranappa
PW.2	Baburao Jamadar S/o Gurappa.
PW.3	Naganna Mamani S/o Jagadevappa.
PW.4	Hanamanthraya Bolewad, S/o Sangappa.
PW.5	Sanjureddy Belageri S/o Mallareddy.
PW.6	Jagadevappa Hotti S/o Mallappa.
PW.7	Gurupadayya Swamy S/o Shambulingayya.
PW.8	Basavaraj Ivani S/o Anaveerappa.
PW.9	Nagendra Guttedar S/o Krishnayya.
PW.10	Mallareddy Idlur S/o Sidramreddy.
PW.11	Bhaganna S/o Ranganna.
PW.12	Prabhu Soorin S/o Basavantappa.
PW-13	Prabhu T.T. S/o Devappa.
PW-14	Chandrakanth Pujari S/o Siddaraju

LIST OF WITNESSES EXAMINED FOR DEFENSE:-

- NIL -

LIST OF DOCUMENTS MARKED FOR PROSECUTION:-

Ex.P.1	:	Complaint, (a) Witness signature, (b) signature.
Ex.P.2	:	Witness statement, (a) signature.
Ex.P.3	:	Spot Panchanama (a), (b) Witness Signature.
Ex.P.4	:	Spot Panchanama (a) (b) and (c) Signature.
Ex.P.5	:	Spot Panchanama (a) and (c) Signature.
Ex.P.6	:	Seizure panchanama (a) and (b) signature.



- Ex.P.7 : Seizure panchanama (a) and (b) signature.
Ex.P.8 : Handwritten and signed Panchanama,
(a) (b) signature.
Ex.P.9 : Requisition (a) Signature.
Ex.P.10 : FIR (a) Signature.
Ex. P.11 : Statement (a) Signature.

LIST OF DOCUMENTS MARKED FOR DEFENSE:-

-NIL-

LIST OF MATERIAL OBJECTS:-

(Abhishek Ramachandra Joshi)
Civil Judge & JMFC, Chittapur.





(Judgement pronounced in the open Court
vide separate order) “

: O R D E R :

**In the exercise of powers U/S.248(1) of
Cr.P.C., accused is acquitted of the offences
punishable U/Secs. 409 and 420 of IPC.**

**The accused is set at liberty. Bail bond
of accused and surety stands continue till
the 6 months as per the amended provision
of 437(A) of Cr.P.C.**

**Civil Judge & JMFC,
Chittapur.**