



2026:CGHC:10630

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****ACQA No. 573 of 2024**

State Of Chhattisgarh Through State Economic Offence Wing And Anti
Corruption Bureau, Chhattisgarh, Raipur (C.G.)

... Appellant**versus**

Ku. Nanda Sahu, S/o Shri Sevaram Sahu, Aged About 27 Years P.H. No.
33, Komakhan, Tahsil Bagbahra, District Mahasamund (C.G.), Permanent
R/o Ayodhya Nagar, Ward No. 03, Near Goodshepard School, Mahasamund
(C.G.)

... Respondent

(Cause title taken from Case Information System)

For Appellant/State : Mr. Ashutosh Trivedi, Panel Lawyer

For Respondent : Ms. Surya Kawalkar Dangi, Advocate

Hon'ble Shri Justice Ravindra Kumar Agrawal**Order on Board****28/02/2026**

1. Present is an acquittal appeal filed by the State under Section 378(1) of the Code of Criminal Procedure, 1973 against the impugned judgment of acquittal dated 21.09.2021, passed by the learned Special Judge (Prevention of Corruption Act) Mahasamund, in Special Case No. H-1/2018, whereby the respondent/accused, who



was at the relevant time working as Patwari, Village Komakhan, has been acquitted of the charges under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

2. Brief facts of the case are that the complainant-Nagendra Singh Thakur (PW-8), made a complaint to the Superintendent of Police, Anti Corruption Bureau, Raipur, on 12-10-2017, alleging that the respondent-accused demanded ₹20,000/- in lieu of issuing a new Rin Pustika of his land, as illegal gratification. Since, he did not want to give her the bribe, he made a complaint to the Anti Corruption Bureau. The officers of the Anti Corruption Bureau gave the complainant a digital voice recorder to get the conversation recorded with the accused.

On 26.10.2017, the complainant informed the investigating officer that, he recorded the conversation with the accused in the digital tap recorder and settled the amount of bribe of ₹15,000/-, out of which ₹5,000/- he has already paid. The complainant was asked to appear in the office of Anti Corruption Bureau on 30.10.2017, at about 5:00 AM. At the relevant time, when the complainant appeared at the office of Anti Corruption Bureau, a trap was constituted, FIR was registered, pre-trap panchnama were drawn and after completion of usual formalities, the trap party proceeded towards the place of incident. At the office of the respondent-accused, the complainant handed over the tainted currency notes to the accused and made a gesture and then the members of the trap party went



there and caught hold the accused. The hands of the accused were washed and the colour of the solution turned into pink colour.

3. Necessary panchnamas were prepared and after completion of usual investigation, charge sheet was filed against the respondent-accused for the offence under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 before the learned trial Court.
4. The learned trial Court framed charge under Sections 7, 13(1)(d), 13(2) of the Prevention of Corruption Act, 1988, which the respondent-accused has denied and claimed trial. The prosecution has examined as many as 16 witnesses to prove the charge against the respondent-accused. The statement of the respondent-accused under Section 313 of Cr.P.C. has also been recorded, in which she denied the circumstances that appears, pleaded innocence and submitted that she has been falsely implicated in the offence and she is innocent. Two defence witnesses, Noharlal (DW-1) and Chaman Thakur (DW-2) have been examined by the respondent-accused.
5. After appreciation of the oral as well as documentary evidence led by the parties, the learned trial Court acquitted the respondent-accused from the alleged offence holding that the prosecution could not prove its case beyond reasonable doubt and the three limbs of the offence, i.e. demand, acceptance and recovery are shaky and on the basis of the evidence available on record, conviction cannot be made and the demand has not been proved and mere recovery is not sufficient to hold guilty of the respondent-accused. The other material witnesses



have not been examined. The said judgment of acquittal is under challenge in the present acquittal appeal.

6. The learned counsel appearing for the appellant-State would submit that, the prosecution has proved its case beyond reasonable doubt. But for minor omissions or contradictions, the evidence of the prosecution witnesses are satisfied the ingredients of demand, acceptance and recovery. Though there are some omissions or contradictions in the evidence of the complainant- Nagendra Singh Thakur (PW-8), but the said omissions or contradictions are trivial in nature which does not affect the prosecution's case. Even if, it is held that the complainant did not supported the case of the prosecution, the allegation has been supported by the other witnesses, who are the panch witnesses and duly proved the trap proceeding. The transcript prepared at the time of pre-trap panchnama clearly demonstrated the conversation between the complainant and the respondent-accused and demand made by her in lieu of issuing a new Rin Pustika to the complainant.

He would further submit that the tainted currency note had been recovered from the drawer of the table belongs to the accused, which clearly shows that she accepted the illegal gratification from the complainant and kept in her drawer and the solution of her hand wash turned into pink colour. He would also submit that, when the transaction of handing over the illegal gratification was made, the respondent-accused has handed over the subject Rin Pustika to the brother of the complainant- Manish Thakur (PW-16), which has also



been seized from him, which clearly shows that the delivery of said Rin Pustika was withheld only to obtain the illegal gratification and it is only handed over when the complainant gave the illegal gratification to the accused. Therefore, there are sufficient and overwhelming evidence against the respondent-accused to convict her for the offence in question, yet the learned trial Court acquitted the respondent-accused, which is liable to be set aside.

7. On the other hand, learned counsel appearing for the respondent-accused supported the impugned judgment of acquittal and submits that the complainant is turned hostile and not supported the prosecution's case. He admitted in paragraph 20 of his evidence that the accused has never demanded any money and he also did not give any amount to her in lieu of issuing the fresh Rin Pustika. In view of her clear admission in the evidence, the demand has not been proved and when the demand itself has not been proved, no conviction under Sections 13(1)(d) or 13(2) of the Prevention of Corruption Act, 1988.

She would also submit that the investigating officer admitted in his evidence that the hand wash, though seized from the respondent-accused and witnesses, but there was no marking, as to which hand wash belongs to which accused persons and in absence of that, it cannot be said that the hand wash kept in the bottle is seized from accused, for which the chemical report has been obtained from the FSL. The evidence are shaky and does not constitute the offence of taking illegal gratification. She would also submit that though there is



a transcript recorded at the time of pre-trap panchnama, but there is no voice sample to prove that it is the voice of the respondent-accused. In view of the clear admission made by the complainant that, the respondent-accused has never demanded any money, conviction cannot be made on the basis of the transcript. She would also submit that the transcript has been prepared on the basis of the digital voice recorder, but the time gap between handing over the digital voice recorder as well as its recording and handing over back to the officers of the ACB has not been proved that it was a genuine conversation between the respondent-accused and the complainant. Therefore, she would further submit that the consideration of the learned trial Court is based on proper appreciation of evidence and is one of the plausible and possible views taken by it, which cannot be upset while invoking the jurisdiction of acquittal appeal. Therefore, the acquittal appeal does not have any merits and is liable to be dismissed.

8. I have heard learned counsel for the parties and perused the record of the trial Court with utmost circumspection.
9. Having heard learned counsel for the parties at length and on perusal of the entire record, this Court is conscious of the settled legal position governing an appeal against acquittal under Section 378 of the Code of Criminal Procedure. Unless the findings recorded by the trial Court are perverse, manifestly illegal or wholly unreasonable, and unless the view taken is not a possible view on the evidence available on record, interference in an acquittal appeal is not



warranted. If two views are possible, the one favouring the accused must ordinarily be adopted.

10. In a prosecution under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, the foundational facts of *demand* and *acceptance* of illegal gratification are sine qua non. Mere recovery of tainted currency notes, divorced from proof of demand and voluntary acceptance, is not sufficient to sustain conviction.
11. In the present case, the complainant Nagendra Singh Thakur (PW-8), in his examination-in-chief, has admitted his signatures on various documents including the complaint (Ex.P-22) and other trap related documents. However, in his substantive deposition before the Court, he has categorically resiled from the prosecution case. In paragraph 20 of his deposition, he has clearly stated that the accused never demanded any bribe from him, that he never paid any bribe to her, that no bribe amount was recovered from her in his presence, and that no hand wash or chemical process was conducted before him. He has further stated that he did not intend to lodge any complaint regarding demand of bribe and that the complaint was written as per the advice of the Anti Corruption Bureau officials. Paragraph 20 of deposition made by the complainant-Nagendra Singh Thakur (PW-8) is necessary to reproduce hereinunder:-

“20. यह कहना सही है कि आरोपिया नंदा साहू ने कभी भी किसी कार्य के लिए मुझसे रिश्वत की कोई मांग नहीं की। यह कहना भी सही है कि नंदा



साहू ने कभी भी मेरे हाथ से कोई रिश्वती रकम नहीं ली है और न ही मैंने कभी भी रिश्वत के रूप में कोई रकम उसे दी है। यह कहना सही है कि मेरे समक्ष आरोपिया से कोई रिश्वती रकम उसके हाथ या उसके कार्यलयीन टेबल से बरामद नहीं की गयी है। यह कहना सही है कि मेरे समक्ष आरोपिया से रिश्वती रकम जप्त किये जाने की कार्यवाही के दौरान कभी भी नंदा साहू का हाथ धुलवाकर किसी प्रकार का रासायनिक घोल तैयार नहीं किया गया है। यह कहना भी सही है कि मेरे समक्ष एन्टी करप्शन ब्यूरो के अधिकारियों के द्वारा आरोपिया के प्रकरण से संबंधित किसी भी प्रकार के घोल या अन्य किसी सामग्री की बरामदगी या जप्ती नहीं की गयी है।.....”

12. Thus, the star witness of the prosecution has not merely failed to support the prosecution version but has given a categorical and unambiguous denial of demand and acceptance. His evidence goes to the root of the matter and demolishes the substratum of the prosecution case. In absence of proof of demand, the presumption under Section 20 of the Prevention of Corruption Act cannot be invoked.
13. The prosecution has sought to rely upon the transcript allegedly prepared from the digital voice recorder. However, PW-8 has specifically denied that any digital voice recorder was given to him or that he recorded any conversation with the accused. He has also denied that any conversation regarding settlement of bribe amount was recorded. In absence of proof of proper handing over of the recording device, continuity of custody, and in absence of voice sample to establish that the voice was that of the accused, the



transcript by itself cannot be treated as reliable substantive evidence of demand.

14. As regards the recovery and chemical examination, the deposition of Sheikh Ahmed Khan (PW-13) reveals significant procedural deficiencies. He has admitted that though the solution obtained from the hand wash of the accused was sealed and marked 'C' by him, such marking was not specifically mentioned in the trap panchnama. He has further admitted that the markings 'A to E' were assigned at the time of sending the articles to the FSL and that in the forwarding letter and FSL report, there is no detailed description as to which bottle pertained to which specific solution. The FSL report merely refers to properties marked 'A to E' without expressly indicating that the solution relating to the accused's hand wash tested positive for sodium carbonate, except by way of oral clarification from the witness.
15. The omission to clearly and contemporaneously document the identification and marking of the seized solutions, coupled with absence of detailed description in the forwarding memo and FSL report, creates a reasonable doubt regarding the integrity of the chain of custody and correlation of the tested sample with the alleged hand wash of the accused. In a trap case, where chemical evidence is relied upon to corroborate acceptance, strict adherence to procedural safeguards is expected. Any serious lacuna in this regard enures to the benefit of the accused.



16. Furthermore, when the complainant himself denies recovery of bribe amount and denies that any hand wash was conducted in his presence, the evidentiary value of the trap proceedings becomes further diluted. The prosecution has not examined all material witnesses to remove these doubts, as has been observed by the learned trial Court.
17. The learned Special Judge has considered the evidence in detail and recorded a finding that the three essential ingredients demand, acceptance and recovery have not been proved beyond reasonable doubt and that mere recovery, even if assumed, is insufficient in absence of proof of demand. The appreciation of evidence by the trial Court cannot be said to be perverse or contrary to record. On the contrary, it reflects a plausible and legally sustainable view based on the material available.
18. In view of the categorical denial of demand and payment by the complainant (PW-8), the procedural inconsistencies in the trap and chemical examination as borne out from the deposition of PW-13, and the absence of unimpeachable evidence establishing demand and voluntary acceptance, this Court is of the considered opinion that the prosecution has failed to dislodge the presumption of innocence attached to the respondent-accused. The view taken by the learned trial Court is a possible and reasonable view.
19. Recently, applying the law governing the scope of interference in an appeal against acquittal, the Hon'ble Supreme Court in the case of



State of Rajasthan Vs. Kistoora Ram, 2022 SCC OnLine SC 984,

has held as follows:

"8. The scope of interference in an appeal against acquittal is very limited. Unless it is found that the view taken by the Court is impossible or perverse, it is not permissible to interfere with the finding of acquittal. Equally if two views are possible, it is not permissible to set aside an order of acquittal, merely because the Appellate Court finds the way of conviction to be more probable. The interference would be warranted only if the view taken is not possible at all."

20. Further, in case of **Jafarudheen and Others Vs. State of Kerala**, 2022 (8) SCC 440, the Hon'ble Supreme Court has considered the scope of interference in appeal against acquittal in judgment at para 25, which reads as under :-

"25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.P.C., the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that ensures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters."

21. Considering the evidence available on record as well as law laid down by Hon'ble Supreme Court in the aforesaid cases. This Court is of the considered opinion that the complainant has failed to make out any ground to interfere with the impugned order of acquittal passed



by learned trial Court particularly in view of the aforesaid judgments passed by Hon'ble Supreme Court.

22. Consequently, no case for interference with the judgment of acquittal dated 21.09.2021 passed by the learned Special Judge (Prevention of Corruption Act), Mahasamund, in Special Case No. H-1/2018 is made out. The present acquittal appeal, being devoid of merit, deserves to be and is hereby **dismissed**.

Sd/-
(Ravindra Kumar Agrawal)
Judge

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