



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 4TH DAY OF FEBRUARY 2026

BEFORE

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

CRIMINAL APPEAL NO.100010 OF 2016

BETWEEN:

THE STATE OF KARNATAKA
SPECIAL PUBLIC PROSECUTOR,
KARNATAKA LOKAYUKTA POLICE,
HIGH COURT OF KARNATAKA,
BENCH AT DHARWAD, DHARWAD.
(LOKAYUKTA POLICE DHARWAD)

...APPELLANT

(BY SRI.ANIL KALE, Spl.PP)

AND:

SRI.LAXMAN S/O. IRAPPA PATTAR,
AGE: 42 YEARS,
OCC. VILLAGE ACCOUNTANT,
KAMALAPUR/MALAPUR VILLAGE, TQ. DHARWAD.

...RESPONDENT

(BY SRI.MOHANKUMAR M., ADVOCATE FOR
SRI.SHANKAR HEGDE, ADVOCATE)



THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) & (3) OF CR.P.C., PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL PASSED BY THE III ADDL. DISTRICT & SESSIONS & SPECIAL JUDGE FOR THE LOKAYUKTA AND CBI CASES, AT DHARWAD DATED 29/7/2015 IN SPL.KLA C.C. NO.6/2014, TO SET ASIDE THE JUDGMENT AND ORDER OF ACQUITTAL PASSED BY THE III ADDL. DISTRICT & SESSIONS & SPECIAL JUDGE FOR LOKAYUKTA AND CBI CASES AT DHARWAD DATED 29/6/2015 IN SPL.KLA C.C. NO.6/2014 AND TO CONVICT THE SENTENCE THE RESPONDENT / ACCUSED PERSON FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 7, 13(1), (d) R/W. SECTION 13(2) OF PREVENTION OF CORRUPTION ACT, 1988 AND ETC.



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

CORAM: THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

ORAL JUDGMENT

1. The impugned judgment dated 29.06.2015 passed by the learned III Additional District and Sessions and Special Judge for Lokayuktha and CBI cases at Dharwad, in Special KLA C.C.No.6/2014, acquitting the accused of the offence punishable under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, is assailed in this appeal preferred by the State/Lokayukta Police.

2. Heard Sri. Anil Kale learned Special Public Prosecutor appearing for the appellant/Lokayukta and the learned counsel Sri. Mohankumar M. appearing for Sri. Shankar Hegde for the respondent/accused. Perused the evidence and material on record.

3. Briefly stated, it is the case of prosecution that the first informant's father late Somashekar Hatarki, resident of Dharwad had 3 brothers. After the death of Somashekar,



there was a suit for partition filed between the complainant's mother against his 3 uncles for partitioning the landed property bearing R.S. No.12 measuring 6 acres 34 guntas situated at Malapur village. They were allotted 1/4th share each in the landed property. On 19.03.2013, complainant's mother Smt. Nirmala (PW.3) filed an application for entering her name to the extent of 1/4th share in the aforesaid property, as per the decree. The accused, who was working as a Village Accountant, Malapur Village, Dharwad Taluk, did not carry out the work, in spite of several requests made by complainant's mother. On the other hand, he demanded bribe of ₹5,000/-. Initially, a sum of ₹2,500/- was paid to him by complainant's mother. She entrusted the work of getting the entries in revenue records to her son i.e. the complainant/PW1. When the complainant enquired the accused regarding the entry, he demanded the balance amount of bribe. Hence, not willing to pay the bribe, he lodged a complaint with the Lokayukta Police, Dharwad. The Lokayukta Police after preparing the Entrustment mahazar, proceeded to the office of the accused along with the



complainant and panchas. Accused was apprehended while taking the bribe. Trap Mahazar-Ex.P7 was drawn in the presence of panchas.

4. It is stated that, PW.2, working as FDC in Social Welfare Office, was secured to act as a shadow witness. The complainant and shadow witness along with the panchas and other police officials went to the office of accused i.e. Chavadi situated in the premises of the Tahsildar's Office, Dharwad. The complainant was instructed to give the bribe amount to the accused only when it was demanded. The complainant and the shadow witness went to the office of the accused. The accused demanded and accepted a sum of ₹2,000/- towards bribe from the complainant and at that point of time he was apprehended by the Lokayukta officials. The tainted currencies were recovered from the left side shirt pocket of the accused. The statement of the accused was obtained from him, marked as Ex.P.5. On completing the formalities and investigation, charge sheet was filed against the accused.



5. Charges were framed for the aforementioned offences for which, the accused pleaded not guilty and claimed to be tried.

6. The prosecution in all examined 10 witnesses and got marked 29 documents and M.Os.1 to 14. The defence of the accused was total denial.

7. In the course of trial, the complainant, who was examined as PW.1 and his mother, who was examined as PW.4, have completely turned hostile. Further, the prosecution also treated PW.2, PW.3 and PW.8 as hostile and they were cross-examined by the learned Special Public Prosecutor.

8. The learned Sessions Judge framed the following points for determination:

"Point No.1: Whether the prosecution proves beyond all reasonable doubts that, on 14.5.2013 at about 5.55 PM in his office (chavadi) situated in the premises of Tahasildar office, Dharwad, the accused being a public servant i.e. Village Accountant has demanded and accepted a bribe of Rs.2000/- from complainant for making division in survey No.12 measuring 6 acres 34 guntas of Malapur village and thereby he has committed an offence punishable under Section 7 of the Prevention of Corruption Act 1988 as alleged?"



Point No.2: Whether the prosecution beyond all reasonable doubts that, on 14.5.2013 at about 5.55 PM in his office (chavadi) situated in the premises of Tahasildar office, Dharwad, the accused being a public servant i.e. Village Accountant has demanded and accepted a bribe of Rs.2000/- from complainant as a bribe other than the legal remuneration to effect a division in survey No.12 measuring 6 acres 34 guntas of Malapur village and thereby he has committed an offence of criminal misconduct which is an offence punishable under Section 13(1)(d) r/w. Sec. 13(2) of Prevention of Corruption Act 1988 as alleged?

Point No.3: Whether the prosecution has made out sufficient grounds to initiate proceedings against P.Ws.1 to 4 and 8 as claimed U/s.340 Cr.P.C.?

Point No.4: What order?"

9. Vide impugned judgment, the learned Sessions Judge came to the conclusion that the prosecution has failed to establish the guilt of the accused and accordingly acquitted him.

10. According to prosecution, the accused working as a Village Accountant demanded bribe of ₹5,000/- from complainant's mother-PW.4 for entering her name to an extent of 1/4th share in the revenue records. It is alleged, initially, a bribe of ₹2,500/- was received by the accused and in spite of several requests made by PW.4, he did not get the



work done and demanded the balance amount. Hence, a complaint was lodged by her son-PW.1 with the Lokayukta Police, who prepared the pre-trap Panchanama, after securing the shadow witness and panch witnesses and proceeded to the office of the accused, wherein while demanding and accepting bribe, the accused was apprehended and the tainted currency of ₹2,000/- was recovered from his possession.

11. So far as initial payment of ₹2,500/- to the accused is concerned, there is absolutely no evidence placed on record. PW.1 being the complainant and PW.4, his mother, have turned hostile to the prosecution case. PW.1 has deposed that his uncle had requested him to appear before revenue authority and therefore he met the accused and as per the request of his uncle, he gave a sum of ₹2,000/- to the accused to enter the names in the concerned records as per partition. He has deposed that accused did not ask him for any bribe and he has not even lodged any complaint against the accused on his own.



12. In the cross-examination, he has denied the suggestion put to him by the Special Public Prosecutor that the accused demanded a bribe of ₹8,000/-, which is nobody's case. He has pleaded his ignorance about the initial payment of ₹2,500/- by his mother. Though, he stated that the accused had demanded balance bribe of ₹2,500/-, at another breath, he has stated that the accused has not demanded ₹2,500/- for entering their names in the concerned records through phone. He has also denied the fact of receiving the voice recorder from the Lokayukta Police given to him with an instruction to record the voice of the accused at the time of demanding the bribe.

13. Insofar as the complaint at Ex.P.1, PW.1 has admitted his signature, however, he has stated that he does not know the contents of Ex.P.1 and denied the suggestion that, as per his say, the police got typed the complaint.

14. The evidence of the complainant, examined as PW.1, does not throw any light on the prosecution case to prove that the accused has either demanded or accepted



bribe, to do an official favour. PW.4, complainant's mother has also denied the prosecution case in toto insofar as the accused demanding any bribe to enter the names in the concerned records. She has categorically stated that she has not paid any bribe to the revenue official i.e. the Village Accountant to enter their names in the concerned records. In the cross-examination conducted by the Special PP, she has denied the suggestion that the accused demanded a bribe of ₹5,000/- and she made initial payment of ₹2,500/- and then the accused insisting her son to pay balance amount of ₹2,500/-. She has also denied that the accused received a bribe of ₹2,000/- from her son.

15. The learned Special Public Prosecutor appearing for the appellant would vehemently contend that even though PW.1 and PW.4 have not supported the case of prosecution, the evidence of PW.2-shadow witness, PW.3-pancha and the Investigation Officer-PW.10 as well as the evidence of PW.6 and PW.7 are sufficient to establish the charges levelled against the accused. He contended that from their evidence,



the prosecution has proved the entrustment mahazar-Ex.P.4, Trap mahazar-Ex.P.7 and identification of the voice sample. He would further contend that the accused has given the explanation as per Ex.P.5 and the learned Sessions Judge without properly appreciating the said evidence, has erroneously acquitted the accused.

16. PW.2 is a shadow witness who accompanied the complainant to the office of the accused. He has deposed about accompanying the complainant to the Tahasildar's office. He has stated that the complainant contacted a person sitting in the corner and thereafter both of them came outside the chavadi and discussed and once again went inside the chavadi. The complainant gave money to him i.e. the accused present before the court, who counted the money and kept in his left side pocket of his shirt. Thereafter, the complainant came outside and gave signal and immediately the Lokayukta staff came and caught hold of the hands of the accused. He has further stated about the preparation of the sodium carbonate solution and preparation of trap mahazar. He has



stated that the Sheristedar Vernekar has identified the voice of accused in the duplicate CD.

17. A careful perusal of the entire evidence of PW.2 goes to show that after he visited the Tahsildar's office, he did not go inside the Chavadi. On the other hand, only the complainant and accused went inside the Chavadi. He has not stated that he too went inside the Chavadi. He has not stated about what transpired or what was the discussion between the accused and the complainant. He has stated that it was the Lokayukta Police who removed the amount from the pocket of the accused whereas the case of the prosecution is that it is PW.2 who removed the tainted amount from the shirt pocket of the accused. His evidence does not inspire the confidence of the Court to hold that the accused demanded and accepted the bribe from PW.1.

18. The case of the defence is that accused collected an amount of ₹2,000/- to deposit the same in the bank towards the charges for effecting 4 shares. PW.1 has stated in his evidence regarding the payment towards effecting the



partition in the land. The evidence of PW.2 is not helpful to the prosecution to prove the charges of demand and acceptance of bribe by accused. The learned Sessions Judge having carefully examined the evidence of PW.2 has come to the conclusion that his evidence would indicate the fact of he going with the complainant to Chavadi and his evidence is not helpful to prove the demand and acceptance of bribe by the accused. At the cost of repetition, his evidence would clearly indicate that he stood outside the Chavadi and at that time the complainant alone entered the office of the accused and then came out. Hence, findings recorded by the trial Court to discard the evidence of PW.2 is based on reasoning and does not suffer from any infirmities or illegality.

19. The prosecution has examined PW.3-panch witness to the entrustment and trap mahazar. His evidence is not helpful to the prosecution in proving the demand and acceptance of the bribe by the accused, which is *sine qua non* to establish the charges. He has stated that he came to know that the complainant met the accused and in turn the accused



demanded the amount from him and said fact was recorded in the voice recorder produced by the complainant. He stated that he got converted the voice recorder into CD. He has further stated that IO gave a digital camera to the complainant. He stated that on enquiry with the complainant, he told the IO that he paid the amount to the Village Accountant i.e. the accused and then the Lokayukta Police caught hold the hands of the accused.

20. PW.3 has admitted in the cross-examination conducted by the defence about accused giving statement as per Ex.P.5 stating that a sum of ₹2,000/- was received as fees and accordingly the accused issuing challan. A perusal of the evidence of PW.7, would also show that challan was filled at Ex.P.15(c) and (d), though he stated that there was no necessity for depositing another ₹2,000/-. In the cross-examination conducted by the defence, he admitted that if in case an amount of ₹2,000/- is deposited through challan, the procedure will be correct and admitted the suggestion that as challan is only for ₹1,000/-, an additional amount of ₹1,000/-



was yet to be paid and in case of depositing of excess amount, it may not amount to an irregularity.

21. PW8 has stated that the accused was working as Village Accountant, Kamalapur-Malapur village and they used to conduct their work in the Chavadi situated in front of Tahasildar office and he was present in the Chavadi on 14.05.2013. He has only stated that he came to know about the trap. His evidence is also not helpful to the prosecution to establish the charges levelled against the accused.

22. It is relevant to mention that the prosecution has also placed reliance on Ex.P3, the Voice recorder. Ex.P6, the Button camera script, MOs.4, 5, 11 and 12, the CDs of voice recording collected during entrustment mahazar as well as trap mahazar. Admittedly, none of the documents were duly certified by the competent authority as contemplated under Section 65(B) of the Evidence Act. The learned Sessions Judge has observed that the prosecution has not made clear as to who converted these scripts and whether the said person was specially skilled person in that regard. As rightly observed, in



order to prove such evidence in the form of electronic evidence, the prosecution has to establish the genuineness of the CD and in that regard, a certificate under Section 65(B) has to be obtained, as these electronic evidence are much prone to tampering, imitating etc.

23. As regards the point raised by the learned Sessions Judge to initiate proceedings against P.W.1 to P.W.4 and P.W.8 under Section 340 of Cr.P.C., as per the request of prosecution, the following reasons are assigned in the judgment:

"38. Point No.3: Now, the question comes regarding taking of action against the complainant, P.Ws.2 to 4 and 8 as requested by the Spl., Public Prosecutor through his application u/s.340 of Cr.P.C. Under this application the learned Spl., Public Prosecutor contends that, though these witnesses have stated before the I.O. regarding the incident but they have turned hostile to the prosecution. Hence, he prayed for taking legal action against those witnesses. In this connection, I have carefully perused the alleged statements given by these witnesses before the I.O. and evidence given by them before the court. So also I have perused the pre-trap mahazar Ex.P.4 and trap-mahazar Ex.P.7. As already noticed by me above, the complainant is not the author of the complaint and it has been typed and computerized by some other person. It is not the case of the prosecution that, the complainant knows the computer typing and it is the print out taken



out by him. It is true that, these witnesses have been treated as hostile and the learned Spl., Public Prosecutor was permitted to cross-examine these witnesses. Just merely because of the reason that, the witnesses have not given evidence as per the wish and will of the prosecution, no action against them can be taken unless and until it is shown that, those witnesses have deliberately stated falsehood before the court. The prosecution got marked the relevant portions of the statement of P.Ws.1, 2 and 4 these markings themselves are not sufficient to come to the conclusion that, the said witnesses are giving a false evidence before the court. Admittedly the above referred statements of witnesses are before the Lokayukta Police and they do not bear the signatures of above referred witnesses. Those statements have been recorded by I.O. himself. If in case, the documents were containing the signatures of these witnesses the things could be different. No oath is administered to those witnesses at the time of giving their statements before the police. Admittedly the I.O. is an interested person in prosecution and his evidence alone neither is wholly reliable nor it is wholly unreliable. Besides this, nowhere in his evidence the I.O. has stated that, he has read over the statements of the witnesses to them and after confirmation of the said witnesses he has recorded such statements. Mechanically the I.O. has stated in his evidence that, those witnesses have stated before him as per statements. But, the said witnesses have denied on oath before the court that they have not at all stated as per the said exhibits before I.O. It is pertinent to note that, all these witnesses have not turned hostile to the full extent. It is interesting to note that, all the above referred witnesses have supported the case of the prosecution to the major extent. Filing of complaint by the complainant, preparation of pre-trap mahazar in the presence of panchas, the proceedings taken place like seizure of samples at MOs. taking of positive photos by I.O. etc., have been stated by all the witnesses. These witnesses have turned hostile only in respect of the fact of



giving and taking of bribe by the complainant to the accused. Under these circumstances, it cannot be said that, these witnesses are deliberately giving false evidence before the court. If really the witnesses were intended to give false evidence definitely they could have given go-bye to the entire statements given before the I.O. and they could have turned hostile to the full extent. That has not been done by the witnesses in this case. Therefore, the evidence of above referred witnesses appears to be natural without tainted with any malafideness. Therefore, the evidence given by these witnesses cannot be termed as a false evidence that too giving of false evidence deliberately by these witnesses Though the prosecution has cross-examined these witnesses at length nothing material worth is elicited from their mouths so as to connect the accused with the crime or regarding giving of false evidence by them.

39. In a similar situation in an unreported decision in Bhupal Pundalikappa Totagi Vs. State of Karnataka by Lokayukta Police, Belgaum in Crl., Petn.No.8495/2010 Dated: 16.9.2013 Hon'ble High Court of Karnataka, Dharwad bench has held as under.

5. In the above circumstances the question would be whether the inconsistent statements made in the court of the evidence of the complainant vis-a-vis the statements made in the complaint in the first instance can be construed as tendering false evidence and the answer is in the negative. For the allegation in the complaint would necessarily have to be tested by tendering evidence in support of the complainant. It is only then the complaint takes the evidenciary value. If the complainant in the course of his evidence in support of the complaint seeks to make inconsistent statements, it cannot be construed as false evidence for it is always possible that, there can be inconsistencies in



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the allegations made in the 1st instance and the evidence tendered in the course of the trial. If all such inconsistencies are taken as false evidence, it would result in every witness making inconsistent statements being tried for furnishing false evidence. Therefore, the degree of any such inconsistency will not make any difference in applying the principle that if a witness tenders inconsistent evidence with the statement made elsewhere, it cannot be construed as false evidence. On the other hand, if the complainant had tendered evidence in another case, which had been found established and was left undisturbed and if the same witness speak in relation to the same facts and makes any contradictory statement, it would then be straightaway construed as tendering false evidence as there is a statement recorded on oath which is available and it can easily be saved that, false evidence was tendered. This is not the case in present case on hand. As the very complaint was subject matter of trial and if there were inconsistent statements, it could only defeat the case of the prosecution and it cannot be construed as false evidence being tendered.

Consequently, the petition is allowed and the direction to lodge a complaint against the petitioner stands quashed.

Therefore, following the principles laid down by the Hon'ble High Court of Karnataka, in the decisions referred above, I hold that, prosecution has failed to make out a case of perjury against these witnesses as contemplated u/s.340 of Cr.P.C. and under chapter XI Indian Penal Code. Hence with this observation, I answer Point No.3 in the Negative."



24. Having re-appreciated the evidence and material on record and the impugned judgment passed by the trial Court, this Court is of the considered view that the reasons assigned are in accordance with law. This being an appeal preferred against the judgment of acquittal, no compelling reasons are made out to reverse the said judgment. Hence, the following:

ORDER

The appeal is ***dismissed***.

SD/-
(MOHAMMAD NAWAZ)
JUDGE

Kmv upto para 17
RKM
CT:PA