



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V.SRISHANANDA

CRIMINAL APPEAL NO. 100276 OF 2019 (A)

BETWEEN:

THE STATE OF KARNATAKA
BY GADAG LOKAYUKTA PS.

...APPELLANT

(BY SRI. SRINIVAS S. NAIK, ADVOCATE)

AND:

MUDAKAPPA S/O ANDAPPA PRABHANNAVAR
AGED: 63 YEARS,
OCC: MEMBER TOWN DEVELOPMENT AUTHORITY,
R/O: GADAG BETAGERI,
TQ: GADAG, DIST: GADAG.

...RESPONDENT

(BY SRI. GANAPATI M. BHAT, ADVOCATE)

THIS CRIMINAL APPEAL IS FILED U/S 378(4) OF CR.P.C.,
SEEKING TO SET ASIDE THE JUDGMENT AND ORDER OF ACQUITTAL
DATED 31/10/2017 MADE IN SVC NO.5/2012 PASSED BY THE PRL.
DISTRICT AND SESSIONS JUDGE, GADAG AND CONVICT THE
ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION 7,
13(1)(D) R/W SECTION 13(2) OF PREVENTION OF CORRUPTION ACT,
1988.

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





ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE V.SRISHANANDA)

1. Heard Sri.Srinivas B.Naik, learned counsel appearing for appellant-Lokayuktha and Sri.Ganpathi M. Bhat, learned counsel appearing for respondent-accused, at the admission stage on the merits of the matter.

2. The Lokayuktha-Gadag is the appellant challenging the Judgment of acquittal dated 31.10.2017 passed in SVC No.5/2012.

3. Facts in the nutshell, which are utmost necessary for disposal of the present appeal are as under:

3.1 The respondent-accused has been charge-sheeted for the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act (hereinafter referred to as "the Act") in SVC No.5/2012.

3.2 The case of the prosecution is that one Neelraj Shigli filed a complaint before the Lokayukta Police, Gadag, alleging that in respect of an old house in his possession, he intended to



demolish the same and construct a new building. Accordingly, he applied for permission before the City Municipal Council, Gadag.

3.3 The application was forwarded to the Gadag Urban Development Authority (for short, "GUDA") for necessary action. On 29.06.2011, the complainant visited the office of GUDA and requested issuance of a No Objection Certificate to avail a loan for the proposed construction. At that juncture, the accused herein is said to have demanded ₹500/- as illegal gratification and ₹100/- towards payment to the clerk.

4. Since the complainant was not willing to part with the illegal gratification, he lodged a complaint before the Lokayukta Police.

5. A case came to be registered in Crime No.6/2011. The Lokayukta Inspector, Gadag, formed a raid team comprising himself and two independent Government servants as panch witnesses.

6. The complaint averments were made known to the independent panchas and the currency notes were taken from the custody of the complainant. Phenolphthalein powder was smeared on those currency notes and the chemical reaction of



phenolphthalein powder with sodium carbonate solution was demonstrated to the panchas and the complainant. An entrustment mahazar was duly drafted. Thereafter, as per the instructions of the Inspector, the complainant, shadow witness proceeded to the office of the accused. Thereafter, the tainted currency was handed over to the accused, and a pre-designated signal was given. The accused was trapped, and the colour test stood positive. A trap mahazar was recorded, and the accused was arrested. Further investigation was conducted, and a charge sheet was filed. On receipt of the charge sheet, the presence of the accused was secured, and charges were framed. The accused pleaded not guilty, and the trial accordingly proceeded.

7. In order to bring home the guilt of the accused, the prosecution examined ten witnesses, marked as PW-1 to PW-10, and placed 31 documents on record, exhibited as Ex.P1 to P31. In addition, 14 material objects were marked as MO-1 to MO-14.

8. Thereafter, the statement of the accused was recorded as contemplated under Section 313 of the Code of



Criminal Procedure(for short 'the Cr.P.C.), in which the accused denied all incriminatory material.

9. Subsequently, arguments were heard, and by the impugned judgment, the accused was acquitted.

10. Being aggrieved by the impugned judgment, the Lokayukta-Gadag, has preferred this appeal before this Court on the following grounds:

- *It is submitted that the impugned judgment and order of acquittal is contrary to law, facts and evidence on*
- *It is submitted that the court below has not assigned valid reasons while passing the impugned order. The court below without properly framing the issue and without considering the pleadings has acquitted the accused. Therefore the impugned Judgment and order of acquittal is not tenable in the eye of law. Hence the same is liable to be set aside.*
- *It is submitted that Section 20 of the Prevention of Corruption Act mandates for raising the presumption that the accused has committed an offence. The prosecution can also base its case upon the circumstantial evidence and evidence of the Shadow witness, co-panch and 1.0 can be taken into consideration. The court below without properly appreciating the evidence so led by the prosecution has*



erred in acquitting the accused which has resulted in miscarriage of justice.

- *It is submitted that P.W. 7 working the office of the Accused No. 1 as SDA is examined and he has admitted the fact of laying trap on account of receiving bribe money. Hence the court below erred in ignoring*
- *It is submitted that in the instant case the demand and acceptance of illegal gratification is corroborated by the testimony of shadow witness coupled with the evidence of Investigating officer and therefore the court below ought not have acquitted the accused. Therefore the impugned Judgement and order of acquittal are not tenable in the eye of law. Hence they are liable to be set aside.*
- *It is submitted that version of the panch witness, statement of complainant, IO are consistent in establishing the basic ingredients of demand and acceptance of the tainted money and tainted currency notes were found with the accused. There is no satisfactory explanation forthcoming from this accused to explain as to how he came in possession of such amount and under what circumstances they were recovered from his custody and therefore drawing presumption under section 20 of P.C. Act the court below ought to have convicted the accused.*



- *It is submitted that in the instant case the motive of taking bribe has been proved and the court below ignoring this fact has proceeded to acquit the accused*
- *It is submitted that viewed from any angle the impugned Judgment and order of acquittal suffers from serious legal infirmities and therefore the impugned order is liable to be set aside.*

11. Sri.Srinivas B. Naik, learned counsel appearing for the appellant–Lokayukta, reiterating the grounds urged in the appeal memo, contended that the material evidence on record was not properly appreciated by the learned Trial Judge in the impugned judgment.

12. He further submitted that acquitting the accused has resulted in a miscarriage of justice and, therefore, sought admission of the appeal for further consideration.

13. He would further contend that the statement of the complainant recorded in Section 164 of the Cr.P.C. was entirely ignored by the learned Trial Judge while appreciating the case of the prosecution and thus sought for allowing the appeal.



14. *Per contra*, Sri. Ganapati M. Bhat, learned counsel appearing for the respondent-accused, supported the impugned judgment.

15. He further contended that the learned Trial Judge has carefully considered all the evidence on record, including the testimony of witnesses and the material placed before the Court, and that no illegality or perversity is apparent in the acquittal of the accused.

16. Having heard the arguments of both sides, this Court perused the material on record meticulously.

17. On such perusal of the material on record, it is observed that the complainant partly supported the case of the prosecution case till the stage of the entrustment mahazar. However, he specifically deposed before the Court that the accused did not demand any illegal gratification.

18. Consequently, there was no direct support for the alleged demand and acceptance.

19. The complainant was thereafter treated as a hostile witness and cross-examined by the learned Special Public Prosecutor, particularly by confronting him with the contents of



the trap mahazar. Certain part of the trap mahazar was admitted by the PW1; however such admission was not sufficient to establish the case of the prosecution. He specifically admitted, when confronted with the fact that he gave the pre-designated signal only after the accused had accepted the alleged illegal ratification from his hands.

20. During cross-examination on behalf of the accused, PW-1 admitted that his senior uncle is a follower of a politician belonging to a particular political party. He further admitted that his senior uncle consulted someone else before directing the complainant to visit the Lokayukta office. He conceded that the plan he had prepared was incorrect and acknowledged that the accused had asked him to correct the plan, but he had not prepared the intended plan.

21. He also admitted that the accused had instructed the Engineer to charge ₹500/- for preparing the correct plan for the intended construction, and that the said sum of ₹500/- was paid for that purpose and not as illegal gratification.

22. PW-2, the shadow witness, supported the prosecution's case. However, in his cross-examination, he stated



that his evidence was based on memory. He further admitted that he did not know the name of the accused or other particulars relating to Crime Nos.5/2012 and 6/2012.

23. From the above, it is evident that the same witness was called by the Lokayukta Police and, in other words, acted as a stock pancha witness.

24. Further he admitted that he was staying in a lodging in Gadag and had claimed TA/DA on the pretext that he had shifted his residence and was staying in a house in Gadag. He further admitted that he could not state the serial number of the ₹100/- currency note allegedly recovered from the accused.

25. He also admits that the Lokayukta office and the Excise office are situated in the same compound and that he is employed in the Excise Department.

26. In other words, from the evidence of the complainant and the shadow witness, the prosecution has been unable to establish the handling of the tainted currency by the accused. But the accused has taken a specific defence, stating that he did not ask for any bribe of ₹500/- or ₹100/-, and that he only informed the complainant that the Engineer may charge ₹500/-



for correcting the plan in accordance with the bye-laws of the City Municipal Council, Gadag.

27. PW-1 admitted in cross-examination that the ₹.500/- was to be paid to the Engineer. Therefore, the recovery of the currency note from the custody of the accused, when there was no demand, is not sufficient enough to prove that accused has demanded the illegal gratification or misused his official position to favour the complainant.

28. In other words, the prosecution has failed to establish all the ingredients of the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Act is not established by the prosecution by placing cogent evidence on record, which has been discussed in detail in the impugned judgment by the learned Trial Judge.

29. Keeping in view the settled legal principles regarding the appeals against acquittal, wherein if two views are permissible, a view which is favourable to the accused must be preferred and the prosecution has to travel a long distance between the suspicion and proof and also keeping in mind that in order of acquittal reinforces the innocence of the accused, this



Court does not find any good grounds to entertain the appeal further by admitting the appeal.

30. Accordingly, the following order is passed:

ORDER

- (i) The admission is declined and consequently, the appeal is dismissed.
- (ii) No order as to costs.
- (iii) Bail bonds, if any, stand discharged.

Sd/-
(V.SRISHANANDA)
JUDGE