



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1157 OF 2015

STATE OF LOKAYUKTHA POLICE, DAVANAGERE¹ ...APPELLANT

VERSUS

C B NAGARAJ

...RESPONDENT

J U D G M E N T

AHSANUDDIN AMANULLAH, J.

This appeal assails the Final Judgment and Order of a learned Single Judge of the High Court of Karnataka (hereinafter referred to as the 'High Court') dated 09.07.2013 rendered in Criminal Appeal No.12/2012 (hereinafter referred to as the 'Impugned Judgment') [2013 SCC OnLine Kar 5293], whereby the High Court set aside the Judgment and Order of conviction dated 23.12.2011 passed by the learned Special Judge, Davanagere (hereinafter referred to as the

¹ Be read as 'State by Lokayuktha Police'.

‘Trial Court’) in Spl. C. (Lokayuktha) No.8/2007. *Vide* this Order, the Trial Court convicted the sole Respondent under Sections 7, 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as the ‘Act’). The Respondent was sentenced to undergo simple imprisonment for a period of six months and to pay fine of Rs. 2,000/- (Rupees Two Thousand) for the offence punishable under Section 7 of the Act, and simple imprisonment for a period of 2 years and pay a fine of Rs. 3,000/- (Rupees Three Thousand) for the offence punishable under Sections 13(1)(d) read with 13(2) of the Act.

BRIEF FACTS:

2. The Respondent was working as an Extension Officer, in the office of the Taluka Panchayath, Davanagere. The Complainant, one Mr. E R Krishnamurthy (hereinafter referred to as the ‘Complainant’) was appointed to the post of Primary School Teacher in Yadgir Academic District, under Category-II A. A letter was sent to the BCM Office, Davanagere from the DDPI Office, Yadgir for the certified copy of Validity Certificate of the Complainant’s claim under Category-II A. This file was put up to the Respondent to enquire and report. The Complainant alleged that the Respondent on 07.02.2007 at about

12:30 PM demanded illegal gratification of Rs.1,500/- (Rupees One Thousand Five Hundred) from him to submit the spot inspection report prepared by the Respondent.

3. On this allegation, a complaint was registered against the Respondent by the Davanagere Lokayuktha Police Station under Sections 7, 13(1)(d) read with 13(2) of the Act.

4. It is further alleged that on the same day between 5:30 PM and 5:45 PM, the Respondent received said illegal gratification from the Complainant.

5. Pursuant thereto, a trap was conducted by the Lokayuktha Police team on 07.02.2007. Through this trap, phenolphthalein-smeared currency notes amounting to Rs.1,500/- (Rupees One Thousand Five Hundred) received by the Respondent, were seized by the trap team. Thereafter, the Respondent's fingers were dipped in sodium carbonate solution which turned pink due to the presence of phenolphthalein on the fingers of the respondent as they had come in contact with the currency notes smeared with phenolphthalein.

6. In this backdrop, the Trial Court framed two questions: Whether on 07.02.2007, the Respondent demanded illegal gratification of a sum of Rs.1,500/- (Rupees One Thousand Five Hundred) from the Complainant as motive or reward for performing the above-mentioned official act/favour? And, whether the Respondent, on the same date between 5:30 PM and 5:45 PM in his office, obtained the said sum from the Complainant for showing the above-mentioned act/favour, and thereby committed misconduct in the discharge of his duties?

7. Answering both questions in the affirmative, the Trial Court convicted the Respondent under the charged provisions of the Act. The High Court, *vide* the Impugned Judgment, allowed the Respondent's appeal and set aside the order of conviction by the Trial Court.

8. Against the Impugned Judgment of the High Court, the State through the Lokayuktha Police is in appeal before this Court.

APPELLANT'S SUBMISSIONS:

9. The learned counsel for the Appellant contended that the presumption under Section 20 of the Act, comes into play once demand and acceptance of a sum of money is proved. Learned counsel submitted that, this presumption, though being rebuttable at the option of the accused, the Respondent herein did not adduce any material evidence, and also did not cross-examine the prosecution witness on this point. Further, it was submitted that the prosecution on the other hand, had proved beyond all reasonable doubt that the recovery of the tainted currency notes amounting to Rs.1,500/- (Rupees One Thousand Five Hundred) from the possession of the Respondent, was a bribe.

10. To support this contention, learned counsel placed reliance on the decision of this Court in ***State of Karnataka v Chandrasha, 2024 SCC OnLine SC 3469*** wherein it has been held that '*... Section 20 gets attracted when it is proved that the public servant has accepted or agreed to accept any gratification other than legal remuneration and in that case, presumption is that it is the motive or reward for any of the acts covered under Section 7, 11, or 13(1)(b) of the Act. ...*' The Court also held that the presumption under Section 20 of the Act is similar to the presumption under Section 118 of the Negotiable

Instruments Act, 1881, where the onus is on the accused to prove that he is not guilty of the offences charged.

11. Thus, learned counsel for the Appellant submitted that once the recovery of bribe amount from the Respondent is proved, the explanation offered by the Respondent – that the money received by him was repayment of money lent by the Respondent to the Complainant on an earlier occasion, is clearly not worthy of being accepted. Therefore, upon the aspects of ‘*demand*’ and ‘*acceptance*’ of the bribe amount being established beyond doubt, no two views are possible in the matter. It was urged that the appeal should be allowed.

RESPONDENT’S SUBMISSIONS:

12. *Per contra*, learned counsel for the Respondent based his submissions on three points. *Firstly*, learned counsel submitted that the evidence of the Complainant is not credible and shows *mala fide* conduct. Learned counsel submitted that the Complainant with oblique intentions denied the spot inspection report though he had signed it. However, when he was confronted with the said spot

inspection report, he conceded thereto, stating that it was signed by him and his father.

13. *Secondly*, it was urged that the Complainant was aware that the spot inspection report had already been sent to the concerned department, and there was no work pending with the Respondent, at the time of the alleged demand.

14. *Thirdly*, learned counsel contended that the Respondent has been consistently stating, right from the time of seizure, without any afterthought, that the alleged bribe recovered from the Respondent, was only repayment of amount that was given to the Complainant at the time of the spot inspection.

15. Learned counsel summing up his arguments submitted that the Respondent is a 67-year-old, award-receiving serviceman with an impeccable service record, and suffers from permanent visual disability and old age ailments. It was urged that the appeal be dismissed in the interest of justice.

ANALYSIS, REASONING, AND CONCLUSION:

16. We have gone through the pleadings, materials on record and considered the submissions made on behalf of the parties.

17. The admitted facts are that the Respondent, at the relevant point in time, was holding the post of Extension Officer in the Office of Taluka Panchayath, Davanagere. The Complainant had applied for a Validity Certificate with regard to claim under Category-II A and for the grant of the same, the matter had to be placed before Caste Scrutiny Committee along with a spot inspection report, to be prepared by the Respondent.

18. In this connection, the Respondent visited the village of the Complainant on 05.02.2007 and thereafter the Complainant went to his office on 07.02.2007 at about 12:30 PM and again visited him at 5:30 PM on the same day.

19. The entire episode hinges around the aforesaid factual narrow compass. As per the Complainant's/prosecution version, the Respondent, to favour the Complainant demanded Rs.1,500/- (Rupees One Thousand Five Hundred) as illegal gratification from the

Complainant when the Complainant came to his office at 12:30 PM on 07.02.2007. It is further alleged that to satisfy such demand, the Complainant again went to the office of the Respondent on the same day at 5:30 PM alongwith an amount of Rs.1,500/- (Rupees One Thousand Five Hundred), which was allegedly accepted by the Respondent in the presence of the trap witnesses/*panchas*.

20. On behalf of the prosecution, nine witnesses have been examined, whereas on behalf of the defence, one witness was produced.

21. From the evidence recorded of the prosecution witnesses, PW2 stated that the Respondent asked about the alleged bribe, when the Complainant asked about the report. However, in his cross-examination, initially PW2 stated that he had not heard the conversation between the Respondent and the Complainant which occurred inside the chamber of the Respondent, as he was standing near the entrance door. However, PW2 later stated that when the Respondent and the Complainant came down, he followed them, and the Respondent demanded the bribe amount from the Complainant, and thereafter, when they walked down the stairs, he had seen the

Complainant give the bribe amount to the Respondent from a distance of 2 to 3 feet. Yet, PW2 further stated that he did not know whether the Respondent had asked the Complainant for the amount he had given to him. Except for this reference, coming in the deposition of PW2 apart from that of the Complainant himself i.e., PW1, no other witness has testified to being privy of such demand. Even in the initial complaint of the Complainant, he has stated that he had gone to enquire about the certified copy of the Validity Certificate from the Respondent, whom he met on 07.02.2007 in the afternoon at about 12:30 PM, who is alleged to have told him that though the spot inspection report, that had to be sent to the BCM Office, Davanagere was ready, he would only forward it on payment of Rs.1,500/- (Rupees One Thousand Five Hundred). The Complainant, taking the plea that he did not have the money with him, told the Respondent that he would return in the evening with the money. Thereafter, the Complainant moved the Lokayukhta's Office and the trap came to be organized.

22. From the aforesaid, as per the version of the Complainant, the demand was made for the first time on 07.02.2007 at about 12:30 PM by the Respondent and later on as per the deposition of the

witnesses, the Respondent is said to have informed the Complainant that he had already forwarded the file and after that also asked for the money, which was paid and recovered from the Respondent.

23. In such background, it is clear that, basically, it is only the version of the Complainant himself which can be said to have some basis with regard to the demand of the amount of Rs. 1,500/- (Rupees One Thousand Five Hundred) as bribe, allegedly made by the Respondent. The reference in PW2's deposition being not very coherent and slightly self-contradictory, the benefit thereof has to flow to the Respondent, in the absence of PW2's testimony being clear on this point.

24. Coming to the deposition of the Complainant himself read with his complaint – for it to be taken as fully reliable and made the sole basis to convict the Respondent, the same would require greater scrutiny apropos its veracity and reliability. A glaring pointer in this regard is the fact that the Complainant categorically stated in his deposition that he was not aware of any spot inspection report by the accused on 05.02.2007, however the moment he was confronted with the document viz. Exhibit D8, he, without demur, accepted the same.

Not stopping at acceptance, the Complainant also admitted to have signed on the document and identified both his and his father's signature as also of the witness.

25. It is pertinent to note that till 05.02.2007, when the Respondent had conducted the physical/spot inspection, there is not even a whisper of there being any demand of bribe. Moreover, when the Complainant went back to the Respondent's office at 5:30 PM with the money, the prosecution case itself as per the deposition of its witnesses makes it clear that the Respondent had informed the Complainant that he had already forwarded the concerned file. Thus, if the same is accepted, there was no occasion for the Complainant to go ahead with paying the amount, which he claims to be in the nature of bribe demanded by the Respondent, after the work for which the bribe was purportedly sought, had already been done. The observation of the High Court to this extent is correct that just because money changed hands, in cases like the present, it cannot be *ipso facto* presumed that the same was pursuant to a demand, for the law requires that for conviction under the Act, an entire chain – beginning from demand, acceptance, and recovery has to be completed. In the case at hand, when the initial demand itself is

suspicious, even if the two other components – of payment and recovery can be held to have been proved, the chain would not be complete. A penal law has to be strictly construed [***Md. Rahim Ali v State of Assam*, 2024 SCC OnLine SC 1695** @ Paragraph 45 and ***Jay Kishan v State of U.P.*, 2025 SCC OnLine SC 296** @ Paragraph 24]. While we will advert to the presumption under Section 20 of the Act hereinafter, there is no cavil that while a reverse onus under specific statute can be placed on an accused, even then, there cannot be a presumption which casts an uncalled for onus on the accused. ***Chandrasha*** (*supra*) would not apply as demand has not been proven. In ***Paritala Sudhakar v State of Telangana*, 2025 SCC OnLine SC 1072**, it was stated thus:

‘21. As far as the submission of the State is that the presumption under Section 20 of the Act, as it then was, would operate against the Appellant is concerned, our analysis supra would indicate that the factum of demand, in the backdrop of an element of animus between the Appellant and complainant, is not proved. In such circumstances, the presumption under Section 20 of the Act would not militate against the Appellant, in terms of the pronouncement in Om Parkash v. State of Haryana, (2006) 2 SCC 250:

*‘22. In view of the aforementioned discrepancies in the prosecution case, we are of the opinion that the defence story set up by the appellant cannot be said to be wholly improbable. Furthermore, it is not a case where the burden of proof was on the accused in terms of Section 20 of the Act. **Even otherwise, where demand has not been proved, Section 20 will also have no application.*** (Union of

India v. Purnandu Biswas [(2005) 12 SCC 576: (2005) 8 Scale 246] and T. Subramanian v. State of T.N. [(2006) 1 SCC 401: (2006) 1 Scale 116)]'

(emphasis supplied)

(emphasis in bold is original, underlining is ours)

26. Moreover, the testimony of the Complainant, as discussed *supra*, does not inspire confidence, inasmuch as, for reasons best known to him alone, he completely denied the visit of the Respondent for spot inspection, that too, just two days prior to the date of the trap and immediately changed such stance by accepting such visit and admitting the spot report as also identifying his own, his father's and the witness's signatures. In the considered opinion of this Court, such conduct is sufficient to render his testimony unreliable.

27. Though it can be commented that the High Court was required to give detailed factual reasoning, which has not been done, as to why it was overturning an order of conviction by that of acquittal, yet since the factum of demand itself has not been proved beyond reasonable doubt, the acquittal of the Respondent by the Impugned Judgment cannot be termed perverse or unwarranted, in the factual matrix of the present *lis*. In ***Yadwinder Singh v Lakhi*, 2025 SCC OnLine SC 686**, this Court opined that '*The Trial Court could have better worded its*

order through clearer reasoning.’ However, upon examination of all relevant factors, the Court chose to restore the order of the Trial Court therein and set aside the order impugned therein, upon examining all factors of the matter itself. In the instant case, needless to add, we have applied our mind independently to all material aspects and find ourselves *ad idem* with the conclusion of the High Court.

28. Thus, on an overall conspectus of the facts and circumstances of the case and the discussions made hereinabove, we do not find any ground made out by the Appellant requiring interference by this Court. The Impugned Judgment is, hence, upheld.

29. Accordingly, the appeal stands dismissed.

30. No order as to costs.

.....J.
[PANKAJ MITHAL]

.....J.
[AHSANUDDIN AMANULLAH]

NEW DELHI
MAY 19, 2025