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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on : 22.12.2025  
Judgment pronounced on : 05.01.2026

+ **CRL.L.P. 592/2018 & CRL.M.A. 31657/2018**

**CENTRAL BUREAU OF INVESTIGATION** .....Petitioner

versus

**D P SINGH & ORS** ..... Respondents

**Advocates who appeared in this case:**

For the Petitioner : Mr. Ripudaman Bhardwaj, SPP, CBI with  
Mr. Kushagra Kumar and Mr. Amit Kumar  
Rana, Advs.

For the Respondents : Mr. Madan Lal Kalkal, Adv. for R-2.  
Mr. Manish Tiwari, Adv. for R-3.

**CORAM**  
**HON'BLE MR JUSTICE AMIT MAHAJAN**

**JUDGMENT**

1. The present petition is filed under Section 378 of the Code of Criminal Procedure, 1973 seeking leave to appeal against judgment dated 23.12.2017 (hereafter '**impugned judgment**') passed by the learned Special Judge, Dwarka Courts, New Delhi in CC No. 46/2011.



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2. Succinctly stated, it is alleged that the respondents entered into a criminal conspiracy from July 2000 onwards, in the matter of purchase of red sand stone benches by Municipal Corporation of Delhi (hereafter '**MCD**') at an exorbitant rate of about ₹3,550/- per bench for installation in various parks in Delhi and obtained wrongful pecuniary gain in doing so. Respondent No.1 was the Director Horticulture, Department of Horticulture, MCD at the relevant time, Respondent No.2 was JE (Civil)/SO (T) Technical cell (Headquarter), Department Horticulture, MCD, Respondent No.3 was the Section Officer (Horticulture), Respondent No.4 was Assistant Director (Horticulture) Technical, MCD and Respondent Nos. 5 & 6 were independent contractors with the MCD.

3. It is alleged that the activity of purchasing red sand stone benches was initiated by Respondent No.1 in July, 2000 pursuant to letters written by Members of Parliament and Legislative Assembly to Respondent No.1 for installation of the said benches in the parks in their respective areas. It is alleged that Respondent No.1 had knowledge of such a bulk requirement of red sand stone benches, however instead to calling for open tenders, he chose to give approval for limited tenders to be called by the office of Deputy Directors of various zones.

4. It is alleged that Respondent No.1 orally directed Y.R Gokhale, then Architecture Assistant, Drawing Cell (Headquarters), Directorate



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of Horticulture, to prepare a drawing of red sand stone bench to be put in parks. Accordingly, Y.R Gokhale got Mukesh Kumar, Draftsman to make a rough sketch and drawing of the said bench. The aforesaid drawing of a red sandstone bench, without backrest, had one groove on the top for beautification, was numbered as Drawing No.9 and was signed by Y.R Gokhale and approved by Respondent No.1 on 09.06.2000. Mukesh Kumar also made a slightly different drawing, with two grooves on top, was numbered as Drawing No.10 and was also signed by Y.R Gokhale and approved by Respondent No.1 on 28.07.2000.

5. It is alleged that Respondent No.1 orally directed Respondent No.4 to get the rate analysis for Drawing No.10 prepared through Respondent No.2. It is alleged that Respondent No.2 prepared the analysis and justified an exorbitant rate of ₹3,637.19/- per bench, taking into consideration the material and labour cost rates as given in Delhi Schedule of Rates ('DSR'), 1997. It is alleged that Respondent No.2 did not prepare the rate analysis for red sand stone bench but for "*Stone Jali*" which involves a higher labour cost as compared to red sand stone benches.

6. It is alleged that the aforesaid rate analysis of ₹3,637.19/- included a labour cost of ₹2,177.48/- whereas the labour cost for such benches at Bayana, Rajasthan was only around ₹100/-



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7. It is alleged that Respondent No.2 deviated from the established procedure of preparing the rate analysis which was to be made on the basis of market survey with the help of DSR by solely relying on DSR and choosing the wrong item, that is “*Stone Jali*” instead of red sand stone bench. It is alleged that Respondent No.2 further increased the rate analysis by calculated enhancement @18% on DSR rates of 1997, however the same was only @14% for the year 2000.

8. It is alleged that the aforesaid erroneous calculations of Respondent No.2 were not corrected by Respondent Nos. 1 and 4. It is alleged that based of the said rate analysis, Respondent No.1 verbally approved the rate of ₹3,500/- per bench, which was taken as the benchmark for purchase of such benches by the MCD.

9. It is alleged that Respondent No.1 verbally informed Zonal Officers about the approved drawing of red sand stone benches, in order to enable them to prepare estimates for procuring and fixing the said benches in parks. It is alleged that the first such estimate was put up by Respondent No.3 on 03.06.2000, for procurement of 30 red sand stone benches @3,100/- per bench. It is alleged that the above proposal was made quoting Drawing No.9, on 03.06.2000, that is six days prior to approval of Drawing No.9 by Respondent No.1, on 09.06.2000. It is alleged that upon scrutiny of the relevant file, it is revealed that the drawing number and date were inserted subsequently in the proposal, after the technical estimate had already been



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submitted. It is alleged that the aforesaid estimate was forwarded to Respondent No.1, who marked it to Respondent No.4 for technical scrutiny. It is alleged that Respondent No.4 obtained a note from Respondent No.2 stating that the estimate of ₹95,800 was technically checked on the basis of attached quotations, though no such quotations were obtained or placed on record. It is alleged that the estimate and note sheet were thereafter placed before Respondent No.1, who signed and forwarded the same to the Deputy Commissioner (West), who accorded administrative approval.

10. It is alleged that an NIT dated 05.10.2000 was issued for four works, including the work of providing and fixing red sandstone benches at NHP-V3 and NHP-A1, Paschim Vihar, based on the estimate prepared by Respondent No.3. The tender amount of ₹93,000 was specified in the NIT as well as in the tender documents, which clearly mentioned the requirement of benches at the rate of ₹3,100 per bench. In response, three quotations were received quoting rates of ₹3,200, ₹3,400, and ₹3,100 per bench, respectively. The lowest rate of ₹3,100 per bench was quoted by M/s Caretaker Group, owned by Respondent No.5, which exactly matched the rate fixed in the technical estimate approved by Respondent No.1.

11. It is alleged that approval of the rate and agency was obtained by Respondent No.1 from the Deputy Commissioner (West Zone),



following which an agreement was executed between the Dy. Director (Horticulture), West Zone and M/s Caretaker Group.

12. Initially, estimates at the rate of ₹3,100 per bench as per Drawing No. 9 were prepared only in two cases, both of which were awarded to M/s Caretaker Group. Thereafter, procurement was carried out as per Drawing No. 10 dated 28.07.2000, with estimates prepared initially at ₹3,300 per bench and later enhanced to ₹3,550 per bench. It is alleged that these enhanced rates were sanctioned and approved by Respondent No.1 without any proper justification or supporting market survey. Consequently, most subsequent work orders across various zones were awarded at or around ₹3,550 per bench.

13. Further investigation allegedly disclosed close proximity between Respondent No.5 and Respondent No.1, facilitated through Sanjay Bhatnagar, and with Respondent No.3, who introduced Respondent No.5 to suppliers and assisted in procurement arrangements. Respondent No.5 alone was awarded 143 work orders for 7,583 benches across nine zones. Similarly, Respondent No.6 was awarded 29 work orders for 1,382 benches following the same pattern of approvals.

14. It is alleged that market verification revealed that manufacturers at Bayana and Sikandra, Rajasthan supplied identical red sandstone benches at rates ranging from ₹500 to ₹1,300 per bench, inclusive of transportation. An independent assessment by a CPWD expert fixed



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the reasonable cost, including transportation, fixing, and contractor profit, at approximately ₹1,500 per bench. Taking this benchmark, the procurement of 8,965 benches during the period 2000–2004 resulted in allegedly an estimated wrongful loss of about ₹1.82 crore to the Corporation.

15. By order dated 21.10.2008, charges were framed against all the respondents for the offences under Sections 120B read with 418 of the IPC and under Section 418 of the IPC. Separate charges for the offence under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act were framed against Respondent Nos. 1 to 4.

16. The learned Special Judge acquitted the respondents of the charged offences *vide* the impugned judgment. The learned Special Judge noted that the prosecution had failed to establish that Respondent No.1 was aware of the fact that there was a bulk requirement of red sand stone benches for which an open tender would be required. It was noted that Respondent No.3 prepared an estimate of rates @3,100/- for Drawing No.9 after considering market rates and the prosecution failed to establish that the same is not reasonable. It was noted that the rate of red sand stone benches as per Drawing No.10 @3,300/- was reasonable and its subsequent increase was on account of adding contingency charges and WCT. It was further noted that the prosecution had failed to produce any evidence to show that



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any public servant had helped in getting the work order allotted to Respondent Nos. 5 & 6 or if they had received any pecuniary gain.

17. It is stated that Respondent Nos. 1 & 6 have passed away during the pendency of this matter. The factum of their death has been verified by the CBI.

18. The learned SPP for the CBI submitted that the impugned judgment is bad in law and contrary to the facts and evidence of the present case.

19. He submitted that the learned Special Judge failed to appreciate that despite the knowledge of the bulk requirement of red sand stone benches, Respondent No.1 only allowed limited tenders and avoided open tenders. He submitted that no justification has been tendered by Respondent No.1 with respect to the same.

20. He submitted that PW-67, Jitendra Betala, categorically deposed that he was a tenant of accused Respondent No.3 for about ten years and that in the year 2000, Respondent No.5 approached him with drawings of red sand stone benches and negotiated the price for supply of benches. He submitted that PW-67 deposed that he supplied 250–300 benches to Respondent No.5 at ₹2,200 per bench. He submitted that PW-67 further deposed that the stone was procured from Rajasthan at ₹1,300 per piece with transportation costing approximately ₹100 per bench. He submitted that the aforesaid



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testimony clearly establishes that red sand stone benches were not available in Delhi during the relevant period and were procured from Rajasthan at much lower rates. He submitted that the same also proves the proximity between Respondent Nos. 3 & 5 as Respondent No.5 had access to official drawings of the MCD.

21. He submitted that the learned Special Judge also failed to appreciate the testimonies of PW-1 to PW-10, independent suppliers from Bayana, Rajasthan, who categorically deposed that red sand stone benches of identical specifications were supplied at rates ranging between ₹340 to ₹1,300 per bench, including transportation.

22. He submitted that the prosecution had specifically demonstrated arbitrary enhancement of rates from ₹3,100 to ₹3,300 and thereafter to ₹3,550 without any justification or calculation, however the same was not appreciated by the learned Special Judge.

23. He submitted that document D-4, being the rate analysis prepared by Respondent No.2, was circulated to all zones and relied upon by Section Officers for preparation of estimates. He submitted that several prosecution witnesses deposed that rates were supplied by the Head Office and no market survey was conducted

24. The learned counsel for Respondents vehemently opposed the arguments as raised by the learned SPP for the CBI and consequently prayed that the present petition be dismissed.



25. It has been submitted on behalf of the respondents that approximately 49000 red sand stone benches were purchased by MCD during the relevant time from many contractors who offered similar rates, however MCD has released payments to the other contractors and claim no disputes from them.

26. It has been submitted that Respondent No.5 and the MCD had entered into arbitration proceedings regarding disputes related to the present matter in which the learned Arbitrator has passed an award in favour of Respondent No.5 holding that the rate of red sand stone benches given by Respondent No.5 was reasonable and the rates were in sync with similar benches fixed in other places in Delhi. The aforesaid judgment was then challenged before the Division Bench of this Court in FAO (OS) 328 of 2009 which was dismissed on 13.07.2010 and finally by way of an SLP (C) CC 1375 of 2011 before the Hon'ble Supreme Court which was also dismissed on 08.02.2011.

27. It has been submitted that the prosecution has led no evidence that the accused public servants received any pecuniary advantage in the present matter. It was further submitted that the CBI has failed to establish that the rates at which red sand stone benches were purchased in the present case were exorbitant.

28. It is trite law that the Appellate Court must exercise caution and should only interfere in an appeal against acquittal where there are substantial and compelling reasons to do so. At the stage of grant of



leave to appeal, the High Court has to see whether a prima facie case is made out in favour of the appellant or if such arguable points have been raised which would merit interference. The Hon'ble Apex Court in the case of ***Maharashtra v. Sujay Mangesh Poyarekar: (2008) 9 SCC 475*** held as under:

*“19. Now, Section 378 of the Code provides for filing of appeal by the State in case of acquittal. Sub-section (3) declares that no appeal “shall be entertained except with the leave of the High Court”. It is, therefore, necessary for the State where it is aggrieved by an order of acquittal recorded by a Court of Session to file an application for leave to appeal as required by sub-section (3) of Section 378 of the Code. It is also true that an appeal can be registered and heard on merits by the High Court only after the High Court grants leave by allowing the application filed under sub-section (3) of Section 378 of the Code.*

*20. In our opinion, however, in deciding the question whether requisite leave should or should not be granted, the High Court must apply its mind, consider whether a prima facie case has been made out or arguable points have been raised and not whether the order of acquittal would or would not be set aside.*

*21. It cannot be laid down as an abstract proposition of law of universal application that each and every petition seeking leave to prefer an appeal against an order of acquittal recorded by a trial court must be allowed by the appellate court and every appeal must be admitted and decided on merits. But it also cannot be overlooked that at that stage, the court would not enter into minute details of the prosecution evidence and refuse leave observing that the judgment of acquittal recorded by the trial court could not be said to be “perverse” and, hence, no leave should be granted.”*

(emphasis supplied)

29. It is the case of the prosecution that the respondents entered into a criminal conspiracy from July, 2000 onwards in the matter of purchase of red sand stone benches by MCD at an exorbitant rate of about Rs.3,550/- per bench for installation in the various parks in



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Delhi and obtained wrongful pecuniary gain for themselves and for others.

30. The entire case of the CBI mainly hinges around the allegation that the red sand stone benches were purchased in the present matter at exorbitant rates without doing any market survey/analysis, whereas the same were available at considerably lesser rates in Rajasthan.

31. In order to establish that the rates at which red sand stone benches have been purchased in the present matter, the prosecution examined some independent suppliers from Bayana, Rajasthan, that is PW1 to PW10, and got a rate analysis prepared from CPWD officials, PW29 and PW30.

32. It is pertinent to note that none of the independent suppliers from Rajasthan except PW7 identified the accused persons nor stated that they sold any red sand stone benches to the accused persons. Additionally, although PW7 deposed that he had sold 5000 benches to Respondent No.5 at the rates of ₹1300/-, ₹1200/- and ₹1100/-, however, the bills issued by PW-7 to Respondent No.5 show that the same have been issued for “red sand stone cut size” and not red sand stone benches. The learned Special Judge rightly noted that considering that Respondent No.5 purchased red stone from PW7 at the aforesaid rates, thereafter prepared the benches, transported them to Delhi and installed the same in MCD parks, considering the miscellaneous expenses, the rate of ₹3100/- per bench cannot be stated



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to be exorbitant. Further, PW-67 had testified that he had sold red sand stone benches to Respondent No.5 @₹2,200/-, however had also admitted that a huge amount of labour is required to fix such benches in parks, amounting to ₹500/- per bench.

33. PW29 and PW30, who were CPWD officials prepared a rate analysis of red sand stone benches on the basis of Drawing No.10 and determined the cost of stone for making such a bench to be ₹914/-. The cost of one bench after fixing and installation including grooving, fixing material, labour and mason charges was determined to be ₹1,497/-.

34. The learned Special Judge rightly noted multiple flaws and discrepancies in the aforesaid rate analysis. It was noted that the rate analysis was prepared on the basis of contract awarded by CPWD for fixing similar type of stones on the compound wall in Nirman Bhawan, however admittedly the scope of work of a compound wall and red sand stone benches is entirely different. PW29 in his testimony admitted that he had taken into consideration the cost of only one leg while preparing the rate analysis for the red sand stone bench. It was further noted that the rate analysis had been prepared without taking into consideration the cost of digging and concrete or that of occasional breakage. It was concluded by the learned Special Judge that the red sand stone benches could be determined to be costing ₹2,100/- to ₹2,300/- per bench without miscellaneous charges.



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35. Considering the fact that the cost of installation of red sand stone benches in MCD parks, not only includes the cost of procurement of such benches but also the cost of transportation, loading, unloading, labour cost, breakages, storeages, digging, fixing with materials etc., the finding of the learned Special Judge that the rate of ₹3,100/- per bench is not exorbitant cannot be faulted.

36. The learned Special Judge rightly noted that the subsequent increase in price of the benches from ₹3,100/- to ₹3,300/- was justified considering the fact that the first rate was prepared considering Drawing No.9 and the second rate was prepared for Drawing No.10. The bench in accordance with Drawing No.10 was thicker than Drawing No.9 and had two grooves, an increase in the price of ₹200/- for such changes cannot be stated to be unreasonable.

37. The subsequent increase in the price to ₹3,450/- and thereafter to 3,550/- has been justified by Respondent Nos.1 & 4 stating that the same were enhanced by the Section Officer by adding contingency charges and WCT. The prosecution failed to establish that the accused persons influenced the Section Officers to enhance the rates.

38. The learned Special Judge rightly noted that since other officers of the MCD has also prepared the rate analysis for such benches @₹3,550/- on their own which were approved by P.C Tomar, Director Horticulture-II, the accused persons cannot be held liable for any



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criminal conspiracy of procurement of red sand stone benches at exorbitant rates.

39. The prosecution has also failed to lead any evidence that the accused public servants received any pecuniary advantages from Respondent Nos. 5 & 6.

40. Moreover, as pointed out by the learned counsel for the respondents, the learned Arbitrator adjudicating the dispute regarding payment of the benches in question has passed an award in favour of Respondent No.5. The SLP against the said award has been dismissed by the Hon'ble Supreme Court.

41. The Court, while considering a challenge to a judgement of acquittal, in exercise of jurisdiction under Section 378 of the CrPC, is empowered to reconsider the evidence on record and reach its own conclusions, however, it is to be kept in mind that there is a double presumption of innocence in favour of the accused. High Court ought to only interfere with the finding of acquittal if it finds that the appreciation of evidence is perverse. The Hon'ble Apex Court in the case of ***Chandrappa v. State of Karnataka : (2007) 4 SCC 415*** has expounded upon the powers of the Appellate Court while dealing with an order of acquittal:

*“42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:*



*(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.*

*(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.*

*(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.*

*(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.*

*(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”*

42. From the material/ evidence as brought on record, it can safely be said that the prosecution has been unable to prove its case against the respondents beyond reasonable doubt. The facts of the case, as discussed above, does not merit grant of leave to challenge the impugned judgment.

43. Moreover, the present petition is filed with a delay of 126 days. Apart from the usual excuses which are taken by the Government



Departments, no worthy reason has been mentioned which would entitle the application for condonation of delay, that is, CRL. M.A. No. 31657/2018, to be allowed. The application merely states that the impugned judgement was pronounced on 23.12.2017 and the certified copy of the judgment was delivered to the CBI on 17.01.2018. It is stated the judgment was considered in the CBI at various levels and the opinion of the Assistant Legal Advisor was received on 28.02.2018. It is stated that Deputy Inspector General recorded his opinion on 06.03.2018, thereafter the matter was referred to the Joint Director who provided his opinion on 07.03.2018. Thereafter, the matter was referred to the Director of Prosecution, whose opinion was received on 26.03.2018, and thereafter final approval for challenging the impugned judgment was accorded by the Director, CBI on 27.03.2018. It is stated that pursuant to the approval granted by the Director, CBI, a proposal seeking statutory approval for filing the present Criminal Appeal was forwarded to the Joint Secretary (V), Department of Personnel & Training, North Block, New Delhi on 17.04.2018, in compliance with procedural requirements. The approval of the Central Government for filing the Criminal Appeal was thereafter received on 29.05.2018.

44. No cogent reasons have been given to justify the delay for this Court to accept that the petitioner was prevented from filing the petition within the period of limitation. Lackadaisical attitude of officials and inefficiency of the State mechanism alone cannot be



deemed to be sufficient reason to warrant condonation of delay. As held by the Hon'ble Apex Court, the Government departments are under such obligation to ensure that they perform their duties with diligence and commitment.

45. The Hon'ble Apex Court has frowned upon following of such practices by the Government departments. The Hon'ble Apex Court, in the case of ***Postmaster General v. Living Media India Ltd. : (2012) 3 SCC 563***, had held that the Government cannot claim to have a separate period of limitation when the Department is possessed with competent persons familiar with court proceedings. The delay cannot be condoned mechanically merely because the Government or a wing of the Government is a party before the Court. The Hon'ble Apex Court had rejected the claim on account of impersonal machinery and bureaucratic methodology of making several notes in view of the modern technologies being used and available.

46. The Hon'ble Supreme Court in the case of ***State of M.P. v. Bherulal : (2020) 10 SCC 654***, while observing the irony that no action is taken against the officers who sit on files and do nothing under a presumption that the court would condone the delay in routine, held as under:

*“6. We are also of the view that the aforesaid approach is being adopted in what we have categorised earlier as “certificate cases”. The object appears to be to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue and thus, say that nothing could be done because the highest Court has dismissed the*



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*appeal. It is to complete this formality and save the skin of officers who may be at default that such a process is followed. We have on earlier occasions also strongly deprecated such a practice and process. There seems to be no improvement. The purpose of coming to this Court is not to obtain such certificates and if the Government suffers losses, it is time when the officer concerned responsible for the same bears the consequences. The irony is that in none of the cases any action is taken against the officers, who sit on the files and do nothing. It is presumed that this Court will condone the delay and even in making submissions, straightaway the counsel appear to address on merits without referring even to the aspect of limitation as happened in this case till we pointed out to the counsel that he must first address us on the question of limitation.”*

47. It is apparent that no explanation has been given for condoning the delay in filing the appeal.

48. The petition is, therefore, dismissed on the ground of delay as well as on merits.

49. Pending application also stands disposed of.

**AMIT MAHAJAN, J**

**JANUARY 5, 2026**

*‘KD’*