IN THE HIGH COURT OF ORISSA AT CUTTACK

CRA No.175 of 1999

(In the matter of an application under Section 374 of the Criminal Procedure Code, 1973)

Pradipta Kishore Sarangi ……. ***Appellant***

-Versus-

State of Orissa ……. ***Respondent***

For the Appellant : Ms. Bini Mishra, Advocate

For the Respondent : Mr. M.S. Rizvi, Additional Standing Counsel for Vigilance Department

CORAM:

THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 24.03.2026 : Date of Judgment: 16.04.2026

S.S. Mishra, J. The sole appellant has filed the present Criminal Appeal assailing the judgment of conviction and order of sentence dated 21.06.1999 passed by the learned Addl. Special Judge (Vigilance), Bhubaneswar in T.R. No. 55/4 of 1992/89, whereby the learned Trial Court convicted the appellant for the offences punishable under Section 5(1)(d) of the Prevention of Corruption Act and Section 161 of the Indian Penal Code, and sentenced him to

undergo rigorous imprisonment for one year and to pay a fine of Rs. 500/-, in default, to undergo further R.I. for 15 days for the offence under Section 5(1)(d) of the Prevention of Corruption Act. The appellant was also sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs. 500/-, in default, to undergo R.I. for 15 days for the offence under Section 161 of the Indian Penal Code, with a direction that both the sentences shall run concurrently.

2. Heard Ms. Bini Mishra, learned Counsel appearing for the appellant and Mr. M.S. Rizvi, the learned Additional Standing Counsel appearing for the Respondent-State (Vigilance Department).

3. The informant (P.W.2) was running a tailoring shop at G.C.I. Market, Bajrakabati Road, Cuttack, and had obtained an electricity connection for the said shop after depositing a security amount of Rs. 500/-, pursuant to which the connection was effected on 11.09.1985. Subsequently, due to certain difficulties in continuing his business, the informant, on 12.10.1985, submitted an application to the Executive Engineer, O.S.E.B., Ranihat, Cuttack (Ext. 10), requesting disconnection of the electric line and refund of the security deposit. Acting upon the said application, the Executive Engineer passed necessary orders, and a final bill amounting to Rs. 71.92 was

prepared, with a direction to refund the balance security amount of Rs. 428.08 to the informant. As the relevant file was in the custody of the accused, the informant approached him on several occasions for the refund. Ultimately, on 06.05.1986, when the informant again approached the accused, the latter demanded a sum of Rs. 50/- as illegal gratification for facilitating the refund of the balance security amount. Upon the informant expressing his inability to pay the said amount, he, on the same day, lodged a written report (Ext. 11) before the Superintendent of Police, Vigilance, Central Division, Cuttack. Pursuant thereto, Vigilance P.S. Case No. 26/1986 was registered under Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act and Section 161 of the Indian Penal Code by the Officer-in-Charge, Vigilance Police Station, Cuttack. After completion of investigation, charge-sheet was submitted against the accused.

4. In order to substantiate its case, the prosecution examined as many as eleven witnesses. Out of them, P.W.1 was the Executive Magistrate who accompanied the raiding party; P.W.2 was the informant; P.W.3 was the Scientific Officer; P.W.4 was the clerk in the Ranihat Branch from whom the tainted amount of Rs. 50/- was

recovered; P.W.5 was the then Head Clerk in the office of the Collectorate, Cuttack, who accompanied the raiding party as an overhearing witness; P.W.6 was the Inspector of Vigilance (Cell), Cuttack, who was also a member of the raiding party; P.W.7 was the Sub-Inspector of Police, Vigilance, who prepared the sodium carbonate solution and treated the tainted currency notes of Rs. 50/- with phenolphthalein powder; and P.W.8 was the Building Inspector in the office of the D.I.G. of Police, Central Range, who prepared the spot map. P.W.9 was the Inspector of Vigilance (Cell), Cuttack; P.W.10 was the Financial Advisor-cum-Chief Accounts Officer of the State Electricity Board, Bhubaneswar, who accorded sanction for prosecution of the accused; and P.W.11 was the Inspector of Vigilance Directorate (Cell), Cuttack, who took over the investigation from P.W.9 and subsequently handed it over to one U.C. Pattnaik, who, upon completion of the investigation, submitted the charge-sheet.

5. The learned trial Court, by meticulous analysis of the evidence brought on record by the prosecution, came to the conclusion that the entire charge brought against the appellant by the prosecution stood proved beyond all reasonable doubt. Accordingly, the appellant was

convicted for those charges and has been sentenced on each count. The appellant is aggrieved by the said judgment of conviction and order of sentence and has filed the present appeal.

6. In the present case, P.W.2 is the informant/decoy. He has complained that he had applied for electricity connection for his tailoring shop and deposited the security amount. However, he made application to the Executive Engineer, O.S.E.B., Ranihat, Cuttack to refund the security deposit by moving an application Ext.10. Although the Executive Engineer passed an order for refund of the money to him, but the accused-appellant, who was an Accountant, made him to run from pillar to post for refunding him the amount. The appellant demanded Rs.50/- to which he expressed his inability to pay the same at the beginning but promised to pay later once the refund is made. Since he was harassed to the hilt he had to give a complaint to the Superintendent of Police, Vigilance, which is marked as Ext.11. In the Office of the Superintendent of Police, he was introduced with the Officers present there to whom he narrated the incident in detail regarding the demand of bribe. The raid team was conducted while preparing for the raid. He produced fifty rupee currency note which was treated with the phenolphthalein powder.

Likewise, the pre-raiding preparation was made in the office of the Superintendent of Police. The raiding party along with the witness reached in the office of the accused-appellant at 10.30 A.M. P.W.5 accompanied with them. He gave fifty rupee to one Sarangi babu of the office. But the witness refused to identify who was Sarangi babu. Therefore, P.W.2 was declared hostile by the prosecution and he was put to cross-examination. In the cross-examination, he identified one Pradeep Kumar Sarangi, who was working as Accountant in the office of the O.S.E.B.

7. P.W.1 was the Executive Magistrate, who in his evidence has deposed that the Collector has requisitioned his services by the Vigilance Department in connection with the trap case. At 8.45 A.M. on 06.05.1986, he proceeded to the Vigilance Office, Cuttack and got introduced with the other officers present there along with P.W.2, the decoy. In his presence, P.W.2 narrated the demand and the harassment meted out to him by the appellant. P.W.2 and has also categorically stated before him regarding the demand of illegal gratification of rupees fifty from him. He further deposed that the decoy, P.W.2 produced fifty rupee note, which was smeared with phenolphthalein powder. The pre-raid preparation report was

prepared, which was exhibited as Ext.1 where he signed and this is marked as Ext.1/1. He further deposed that the decoy and the other overhearing witnesses arrived at the office of the accused-appellant and all of them followed the decoy. The accused was sitting in his office at the first floor. The decoy, P.W.2 went straight to him and gave the tainted currency note to the accused-appellant. The overhearing witness came outside and gave indication as per the discussion by rubbing his head. In the meanwhile the accused-appellant went to another room taking a file with him and handed over that file to one lady assistant and got down to the ground floor. He further deposed that the appellant went to the cashier-P.W.4 and exchanged the tainted currency notes by taking five ten rupees currency notes from him. While accused was getting up in the stair case to go to his office cabin, he was detained by the raiding party. At that time, this witness was also present. He further deposed that the DSP, Vigilance and he himself challenged the accused-appellant after disclosing their identity to which the accused-appellant denied to have received the money. The tainted fifty rupees note recovered from P.W.4. The tainted currency note was marked as M.O.I. The appellant got five numbers of ten rupees currency notes from the cashier in

exchange of M.O.I and those ten rupees notes were also recovered and marked as M.Os.II. The hand wash of the cashier-P.W.4 as well as the appellant was taken in the sodium carbonate solution, which turned pink.

P.W.3 was the Scientific Officer, who has deposed in his evidence that the materials containing five numbers of sealed glass bottles marked as A, B, C, D and E respectively containing pink coloured liquid in each bottles were tested and the result was phenolphthalein could be detected in the liquid in each of the bottles marked as A, B, C, D and E. Accordingly, he submitted his report which is marked as Ext.12.

P.W.4 was the Accountant to whom the tainted fifty rupees currency was given by the appellant as M.O.I and five ten rupees currency was taken to M.O.II. He in his deposition has admitted the prosecution version to a large extent though with minor deviation. This witness was declared hostile by the Prosecution as he didn't support to the fullest.

P.W.5 was the Senior Clerk, who had accompanied the raiding party. He has also deposed in his evidence that in his presence, P.W.2, the decoy has narrated about the harassment meted out to him and has

also stated that the appellant had demanded bribe of Rs.50/-. He has stated in his evidence that the appellant Mr. Sarangi was employed as an assistant in the office of O.S.E.B. There is no variation in the narration made by P.W.5 regarding the raiding as has been narrated by P.W.1. P.W.6 was also a member of the raiding party. He has deposed in his evidence that the appellant-Pradeep Sarangi was working as Accountant in the Electricity Distribution Division of Ranihat, Cuttack. He further deposed that the entire pre-raid preparation was made in his presence and in presence of P.Ws.1, 5 and the I.O. of the present case. He deposed that P.W.2, the decoy has narrated the entire case before them and also disclosed that Mr. Sarangi, the appellant has demanded illegal gratification of Rs.50/- for release of the security amount of Rs.500/- as directed by the Executive Engineer. The said witness has fully supported the prosecution by narrating the trap and acceptance of bribe money by the appellant. P.W.9, the I.O. in his deposition has stated as under:

> *"At 10.25 A.M. on the same day on getting the signal from Kulamani Mohanty, myself and D.S.P. Uma Charan Mohanty, Pitabas Beura, B.B. Mohapatra, I.E. all the members of the raiding proceeded to the spot and we found the accused on the corridor near the stair case where he was detained by us. The informant and the over hearing witness disclosed before us that while the accused was in his seat two minutes back he made demand of Rs.50/- which was paid by the informant and was accepted by the accused and the*

accused kept the currency note in the left side pocket of his full pant. M.O.III is the full pant which the accused was wearing then. Before we caught hold of the accused he on receipt of Rs.50/- immediately handed over the file of the informant to a lady Asst. and went to the Account Section and changed the tainted amount of Rs.50/- from the cash section and came back to the corridor. After catching hold the accused while I disclosed my identity also disclosed the identity of the other persons belonging to the raiding party, to the accused. When I challenged the accused whatever received Rs.50/- as gratification from the informant he became restless. There from he was taken to his own seat and the right hand was washed by the sodium carbonate solution and the solution turned into pink in colour."

(Not clear)

8. Ms. Bini Mishra, learned counsel for the appellant besides pointing out the discrepancies and contradictions in the evidence of the witnesses primarily relied upon the evidence of P.W.2 and submitted that the decoy himself has not supported the prosecution case. The decoy in the beginning of his evidence has stated that he does not know the accused at all. Further, the said witness has deposed that he gave the rupees to the Sarangi babu, however, he further stated that the accused is not the same Sarangi babu. At that stage, he was declared hostile. Therefore, if the evidence of P.W.2 is appreciated in right prospective, the conviction cannot stand the scrutiny of law. She further submitted that the learned trial Court has failed to appreciate the defence version. In the statement recorded under Section 313 of the Cr. P.C., the appellant has taken a specific

defence regarding the false implication. While answering the question no.33, the appellant has stated as under:

> *"**Question** – What have you got to say anything more about this case?*
> ***Answer -*** *There were two witnesses at that time in the Electricity Department at Ranihat and I belong to one union. Due to rivalry with the other union I have been falsely implicated in this case."*

The defence plea taken by the appellant was meticulously dealt with by the learned trial Court in paragraph-7 of the impugned judgment, which reads thus:

> *"7. It is the plea of the defence that out of union rivalry this false case has been foisted against the accused. Admittedly P.W.4 who is the co-worker of the accused in the Ranihat Branch admitted in his cross-examination that there were three unions of the employees of O.S.E.B. Ranihat Division, when he was a member of one of those three unions and accused was also a member of another union. Admittedly P.W.4 have gone hostile to the prosecution, but during course of cross-examination by the defence he has categorically admitted in saying "it is not a fact that for union rivalry such a false case has been started." Similarly coming to the evidence of P.W.2 the informant, he in order to help the accused, have gone hostile to the prosecution. He during course of cross-examination by the defence have categorically admitted in saying that "it is not a fact that I have filed this case falsely at the instance of rival union of the accused." Therefore in view of the admission of two hostile witnesses it can be safely said that the first category of defence plea falls to the ground."*

9. I find no reason to disagree with the findings recorded above, as the findings so recorded by the learned trial Court is culmination of true appreciation of the evidence. The other plea of Ms. Mishra,

learned counsel regarding the evidence of P.W.2 has also been dealt with by the learned trial Court in detail in paragraphs-10 and 11 of the impugned judgment to which I have no hesitation to accept, as the same also is outcome of true appreciation of evidence.

10. Mr. Rizvi, learned Additional Standing Counsel for the Vigilance Department, on the other hand, has submitted that the prosecution could successfully prove its case beyond all reasonable doubt regarding the demand of gratification being made by the appellant. P.W.2 in presence of all the witnesses at the time of pre-raid preparation has narrated the harassment mated out to him and the illegal gratification demanded by the appellant. Therefore, there is no doubt left in the mind of the learned trial Court while appreciating the evidence that, there was a pre-demand made by the appellant to P.W.2 for disbursing the security amount of Rs.500/-. The evidence of demand is further fortified from the evidence of P.Ws.1, 5, 6 and 9. Mr. Rizvi, further submitted that the evidence regarding acceptance of the tainted fifty ruppes note by the appellant is overwhelming on record. Since the appellant has admittedly accepted the tainted amount unless otherwise explained by him, the presumption under section 20 would operate against him. He further submitted that even

if for the sake of argument, it is stated that the evidence on record regarding 'demand' is lacking, even then once an accused accepts the bribe, the burden shifts on him to explain the circumstances to prove his innocence as contemplated under Section 20 of the Prevention of Corruption Act. Mr. Rizvi, has relied upon the judgment of the Hon'ble Supreme Court reported in ***A.I.R. 1992 SC 1201***, in the case of ***B. Hanumanta Rao vs. State of Andhra Pradesh***. In the present case, the learned trial Court, while dealing with the evidence, arrived at a conclusion that the accused-appellant has accepted the tainted amount as an illegal gratification. However, the appellant could not discharge his obligation/burden to explain the circumstances by which he has accepted the tainted amount. Therefore, the presumption under Section 20 directly operates in the present case. In paragraph-16 of the impugned judgment, the learned trial Court has recorded the reasonings for which the evidence found to be satisfactory regarding 'acceptance". Paragraph-16 reads thus:

> *"16. Even conceding for the sake of argument it is accepted that the accused had no control over the file under Ext.16, nor had any intention to deal with the file, the law is well settled that the court is not bound to examine whether the accused had capacity to help the decoy (P.W.2) to get back his security deposit, which finds support from the decisions reported in 1969 Criminal Law Journals page-1 equal to A.I.R. 1968 Supreme Court 1419 (Shiv Raj Singh… vrs. Delhi Administration) where-in it has been held as follows:*

"When a public servant is charged u/s. 161 of penal code and it is alleged that the illegal gratification was taken by him for doing or procuring an official act, it is not necessary for the court to consider whether or not the accused is a public servant was capable of doing or intended to do such an act ……."

Similarly in the decision reported in 1976 Criminal Law Journals 1180 equal to A.I.R. 1976 Supreme Court 1497 (Chaturdas Bhagawandas Patel…. Vrs. The State of Gujarat) where-in their lordship held as follows:-

"The section does not require that the public servant means, in fact, be in a position to do the official act, favour, or service at the time of demand or receipt of gratification. To constitute an offence under this section it is enough if the public servant who accepted the gratification takes it by inducing a belief or by holding to be that he would render assistance to the giver 'with any other public servant' and the giver gives the gratification under that belief."

Therefore, from the materials available in record and in view of the principles as laid down by the apex Court, I came to the conclusion that the tainted amount (M.O.I) was accepted by the accused as an illegal remuneration."

11. For the reasons as stated above, this court is fully in agreement with the impugned judgment of conviction and order of sentence dated 21.06.1999 passed by the learned Additional Special Judge, (Vigilance), Bhubaneswar in T.R. No.55/4 of 1992/89. Hence, the Criminal Appeal vis-à-vis the impugned judgment of conviction recorded by the learned trial Court against the appellant for the offence under Section 5(1)(d) of the P.C. Act stands affirmed.

12. At this stage, Ms. Mishra, learned Counsel, submitted that the incident dates back to the year 1985. At that time, the appellant was aged about 45 years and, as such, he is now more than 70 years old. Placing reliance on the judgment of this Court in ***Abdul Hamid v. State of Orissa***[1], she contended that in a similar case involving an aged offender under the Prevention of Corruption Act, this Court had extended the benefit of the proviso to Section 5(2) of the un-amended Prevention of Corruption Act, 1988. The said proviso empowers the sentencing Court to reduce the sentence below the prescribed minimum of one year upon recording special reasons. In the said decision, it was held thus:

> *"15. Regard being had to the fact that the appellant is more than 80 years of age, I am inclined to accept the submission made by Ms. Dei, learned Amicus Curiae. The proviso to Section 5(2) of the un-amended Prevention of Corruption Act, 1988 empowers the sentencing Court to reduce the sentence below the minimum sentence of one year by recording sufficient reasons. The provision reads as under:-*
> *"5. Criminal misconduct in discharge of official duty- (1) A public servant is said to commit the offence of criminal misconduct:-*
> *(a) XXX XXX XXX*
> *(b) XXX XXX XXX*
> *(c) XXX XXX XXX*
> *(d) XXX XXX XXX*
> *(e) XXX XXX XXX*

[1] CRA No.150 of 1992

(2) Any public servant, who commits criminal misconduct shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to seven years and shall also be liable to fine:
Provided that the court may, for any special reasons recorded in writing impose a sentence of imprisonment of less than one year.*"*
16. Accordingly, while confirming the conviction recorded against appellant, the sentence awarded by the learned trial Court for the reasons stated above is liable to be varied. Sentence order passed by the trial Court is accordingly modified and the appellant is sentenced to undergo R.I. of one week with a fine of Rs.5,000/-, in default of making the payment, the appellant shall undergo further R.I. for two days."

13. Therefore, considering the submission advanced by the learned Counsel and having regard to the fact that the occurrence relates back to the year 1985 and the appellant, who was aged about 45 years at the time of the incident, has now more than 70 years of age, this Court finds force in the plea for reduction of sentence. This Court also takes note of the ratio laid down in ***Abdul Hamid*** (supra) wherein, in similar circumstances involving an aged convict under the Prevention of Corruption Act, the benefit of the proviso to Section 5(2) of the un-amended Act was extended by reducing the sentence below the statutory minimum upon recording special reasons.

Thus, while maintaining the conviction recorded against the appellant, the sentence imposed by the learned trial Court is modified in exercise of the power under the proviso to Section 5(2) of the un-amended Prevention of Corruption Act, 1988. In view of the

advanced age of the appellant and the long lapse of time since the occurrence, this Court deems it just and proper to sentence the appellant to undergo rigorous imprisonment for a period of one week and to pay a fine of Rs.10,000/-(Rupees ten thousand). In default of payment of fine, the appellant shall undergo further rigorous imprisonment for a period of three days.

14. Accordingly, the Criminal Appeal is partly allowed.

(S.S. Mishra)
Judge

The High Court of Orissa, Cuttack.
Dated the 16th Day of April 2026/ Subhasis Mohanty

Signature Not Verified
Digitally Signed
Signed by: SUBHASIS MOHANTY
Designation: Personal Assistant
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 16-Apr-2026 20:53:23