

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 07TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO.887 OF 2021

BETWEEN:

THE STATE OF KARNATAKA,
BY ITS POLICE INSPECTOR,
ANTI CORRUPTION BUREAU,
MYSURU-570001

...APPELLANT

(BY SRI. B. B. PATIL, SPECIAL PP.)

AND:

MR. BALARAM V. M.
S/O MARISWAMYGOWDA
AGE: 35 YEARS,
SURVEYOR, TALUK OFFICE,
K R NAGAR TALUK,
DIST: MYSORE-571602

...RESPONDENT

(BY SRI. K. DIWAKARA, SR. COUNSEL FOR
SRI. ADITYA D., ADV.)

THIS CRL.A IS FILED U/S.378(1)(3) CR.P.C PRAYING TO SET ASIDE THE JUDGMENT OF ACQUITTAL DATED 18.08.2020 AND CONVICT THE RESPONDENT FOR THE OFFENCE P/U/S 7,13(1)(D) R/W 13(2) OF PC ACT.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 24.11.2025 AND COMING ON FOR "PRONOUNCEMENT OF ORDERS" THIS DAY, THE COURT, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

CAV JUDGMENT

State by Anti-Corruption Bureau, Lokayukta, Mysuru has preferred this appeal against judgment of acquittal dated 18th August, 2020, passed in Special Case No.401 of 2018 by the III Additional District and Sessions Judge, Mysuru, (for short "the trial Court").

2. For the sake of convenience, parties herein are referred to as per rank and status before the trial court.

3. Brief facts leading to the appeal are that, Anti-Corruption Bureau Police (for short "ACB Police") registered case in Crime No.6 of 2017 against the accused, who is the Taluk Surveyor working in KR Nagar, Mysore district for offence punishable under section 7, 13(1)(d) read with section 13(2) of Prevention of Corruption Act on the basis of complaint filed by one Nagaraju. It is stated in complaint that the first informant is the owner of land in three survey numbers situated in Kaggere Village and in November 2016, he has filed application with the Survey Office for putting boundary stones to his land, and since then though he was repeatedly visiting the office. His work was not being attended to, and on the other hand, the Survey Supervisor was telling him that the files will be taken up on seniority basis and ultimately it is alleged that few days

prior to filing the First Information Report, the survey supervisor told him that his file has been entrusted to Taluk Surveyor viz. Sri V.M. Balaram, the accused herein. When the first informant enquired with the accused regarding his work, it is alleged that accused demanded illegal gratification for conducting survey of the lands of first informant on priority basis, else the work would be delayed. It is alleged that on 3rd May 2017, notice was served upon the first informant fixing the date of survey on 5th May 2017 and on that day, the accused, along with his staff, visited the informants land and conducted survey and after conducting survey, it is alleged that accused demanded by of Rs.6,000/- i.e. Rs.2,000/- for each survey number to finish the survey and to give report. Further, it is alleged that the accused collected Rs.1,000/- as advance amount and the remaining to be given within few days. Since the first informant was not interested in getting his work done by paying the bribe, he approached the ACB Police and gave complaint which has resulted in registration of a Crime and thereafter, after following usual procedures, Police have set up trap and at the time of trap on 8th May, 2017 Which was held in the office of the accused, it is alleged that the accused was caught red handed with the tainted amount. The investigating officer arrested the accused on 8th May, 2017 and produced

before the court. Then investigating officer laid charge-sheet against accused for the aforestated commission of offences. Upon hearing on charges, charges were framed for the commission of alleged offences. Same was explained to the accused. Having understood the same, accused pleaded not guilty and claimed to be tried. To prove its case, prosecution has examined ten witnesses in all as PWs1 to 10 and marked 33 documents as Exhibits P1 to P33 and thirteen material objects as MOs1 to 13. On closure of prosecution side evidence, statement of the accused under section 313 of Code of Criminal Procedure was recorded. Accused had totally denied evidence appearing against him. However, accused did not choose to lead any defence evidence on his behalf. Having heard the arguments on both sides, the trial court has acquitted the accused. Being aggrieved by the judgment of acquittal, State has preferred this appeal.

4. Sri B.B. Patil, learned Special Public Prosecutor appearing for the appellant-State would submit that the trial court has failed in appreciating the entire case of prosecution and the evidence of the prosecution in its proper perspective. He would submit that the trial court has failed appreciate that though PW1 is treated as hostile, he has identified the mahazar

at Exhibit P3 drawn in the office of the respondent and has not denied the fact of lodging complaint before the appellant. The trial Court has committed an error in acquitting the accused merely on the ground that she has been treated as hostile by ignoring the other corroborative evidence proved by the prosecution. The trial Court has failed to take note of the evidence of PW3 who supported the case of the prosecution by stating that on the day of trap, respondent demanded the bribe amount and PW1 handed over the tainted amount to the respondent. Respondent received the same from his right hand and put it in the right pocket of his trousers. The trial court has committed an error in relying upon the minor inconsistencies in the evidence of prosecution witnesses and ignoring the vital electronic evidence. The trial Court has committed grave error in ignoring Exhibit P1 which is provisional mahazar wherein the demand of bribe recorded in cell phone is mentioned, which clearly shows that there was demand for illegal gratification. The trial Court has committed an error in ignoring Exhibit P3 trap mahazar where both the hands of the respondent turned pink during the test. If it is the case of the respondent that the amount was forcefully kept in his pocket by PW1, there was no occasion to count the same by the respondent with both hands. It was a specific case of the prosecution that the respondent

demanded the bribe amount and after receiving it, he counted the same with both the hands and kept in his pocket. The trial court has failed to appreciate that trap was successful and the test conducted with respect to both the hands and the pocket of the trousers were positive. The trial court has committed error in acquiring the accused by ignoring the vital electronic evidence presented by the prosecution which contains the conversation between PW1 and respondent regarding demand of bribe. The trial court has erred in not appreciating that even though the PW1 has turned hostile, the evidence produced by the prosecution proves that the demand of illegal gratification by the respondent. The trial court has erred in concluding that the evidence of all the witnesses is not corroborating to each other in spite of clear and cogent evidence available before the court in the form of electronic evidence and other records. On all these grounds, it was sought to allow the appeal. To substantiate his arguments, he placed reliance on the following judgments:

1. AIRPORTS AUTHORITY OF INDIA v. PRADEEP KUMAR BANERJEE - (2025)4 SCC 111;
2. STATE OF KARNATAKA v. CHANDRAHASA - 2024 SCC ONLINE SC 3469;

3. PRAHLAD v. STATE OF RAJASTHAN - (2019)14 SCC 438;
4. VINOD KUMAR v. STATE OF PUNJAB (2015)3 SCC 220;
5. STATE OF ANDHRA PRADESH v. C UMA MAHESHWARA RAO (2004)4 SCC 399;
6. MUKUT BIHARI v. STATE OF RAJASTHAN (2012)11 SCC 642;
7. M NARASINGA RAO v. STATE OF ANDHRA PRADESH - (2001)1 SCC 691;
8. BHANUPRASAD HARIKRASAD DAVE v. STATE OF GUJARAT - 1968 SCC ONLINE SC 81;
9. HAZARI LAL v. STATE (DELHI ADMN.) - (1980)2 SCC 390;
10. RAM SINGH VERSUS COL RAM SINGH - 1985 Supp. SCC 611;
11. NEERAJ DUTTA v. STATE (NCT OF DELHI)-(2023)4 SCC 731

5. On the other hand, Sri K Diwakara, learned Senior Counsel appearing for Sri Aditya D. Advocate for the respondent, would submit that the trial court has properly appreciated the evidence on record in accordance with law and facts. Absolutely there are no materials to interfere with the

impugned judgment of acquittal passed by the trial Court. The learned Senior Counsel would further submit that the appeal itself is defective for the reason that the State has filed an application under Section 195 read with Section 34 of Indian Penal Code to prosecute the complaint for perjury. The trial Court has given finding that the application filed by the State is not maintainable in law. The Prosecution has not preferred appeal against the order passed by the trial Court on the application filed under Section 195 read with Section 34 of Indian Penal Code. When the prosecution has not challenged the orders passed by the trial Court on the application filed under Section 195 read with Section 34 of Indian Penal Code, the appeal itself is not maintainable is his submission. Accordingly he sought for dismissal of the appeal. To fortify his submissions, he has placed reliance on the following decisions:

1. MADAN LAL v. STATE OF RAJASTHAN - 2025 LIVELAW (SC) 310;
2. B BALKISHAN v. THE STATE ACB, CIU RANGE RENDERED IN CRIMINAL APPEAL NO.1162 OF 2017 DECIDED ON 29.01.2025;
3. HARSH DHINGRA v. STATE OF HARYANA AND OTHERS - (2001)9 SCC 550;
4. KAILASH CHAND SHARMA v. STATE OF RAJASTHAN AND OTHERS - (2002)6 SCC 562;

5. MANAGING DIRECTOR, ECIL, HYDERABAD, AND OTHERS v. B KARUNAKAR AND OTHERS - (1993)4 SCC 727.

6. Having heard the arguments on both sides, the following point would arise for my consideration:

(1) Whether the trial court is justified in passing the judgment of acquittal?

7. I have examined the materials placed before the court. Before appreciation of evidence and record, it is necessary to mention here as to the decision of the Apex Court in the case of CONSTABLE 907 SURENDRA SINGH AND ANOTHER v. STATE OF UTTARAKHAND reported in (2025)5 SCC 433, as also the judgments in the case of BABU SAHEBGOUDA RUDRAGOUDAR AND OTHERS v. STATE OF KARNATAKA reported in (2024)8 SCC 149; in the case of CHANDRAPPA v. STATE OF KARNATAKA reported in (2007)4 SCC 415; and in the case of H.D. SUNDARA v. STATE OF KARNATAKA reported in (2023)9 SCC 581. In the case of H D SUNDARA (supra), the Apex Court has summarized the principles governing exercise of appellate jurisdiction while dealing with an appeal against judgment of acquittal under section 378 of Code of Criminal Procedure, as under:

"8. ...8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to re-appreciate the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after re-appreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible."

In the said judgment, it is further observed that it is beyond the pale of doubt that the scope of interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised within the four corners of the following principles:

"41.1. That the judgment of acquittal suffers from patent perversity;

41.2. That the same is based on a misreading/omission to consider material evidence on record; and

41.3. That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record."

8. In the case on hand, it is alleged by the prosecution that accused being Taluk Surveyor working in K.R. Nagar, Mysuru District, being the public servant at the relevant point of time, i.e. on 8th May 2017, demanded illegal gratification of ₹6,000/- from CW1 for conducting survey work in respect of lands in Survey No. 184/2, 185/2 and 186/2 of Kaggere village, of which the accused received ₹1,000/- as advance on the same day and the remaining amount of ₹5,000/- was told to be paid within three days. In pursuance of the demand of illegal gratification made by the accused on 8th May, 2017, at the time of the trap at Taluk office, he accepted the tainted amount of ₹5,000/- being illegal gratification, other than legal remuneration, and thus he has demanded and accepted bribe from CW1/PW1 as motive or reward for doing official work and thereby committed the aforesaid offences punishable under the provisions of Prevention of Corruption Act. Secondly, by so demanding and accepting the bribe amount from PW1 by corrupt and illegal means and by abusing his position as a

public servant, accused obtained a pecuniary advantage for himself and thereby has committed offence of criminal misconduct by a public servant as defined under sections 13(1)(d) and 13(2) of Prevention of Corruption Act.

9. To prove the guilt of the accused, the prosecution has examined ten witnesses as PWs1 to 10 and marked 33 documents as Exhibits P1 to P33 and thirteen material objects were marked as MOs1 to 13.

10. CW1-Nagaraju, the complainant, has not supported the case of the prosecution. This witness was treated as hostile witness with the permission of the court was cross-examined by the prosecution. Even in his cross-examination, he has denied as the contents of Exhibits P1 to P4. Accordingly, prosecution has failed to elicit any favourable answers from him to substantiate its case.

11. PWs2 is the witness to trap and entrapment mahazar.

12. PW3 is a shadow witness who has accompanied PW1. He has further testified that on that day, he has accompanied PW1 to the office of the accused. Accused demanded for payment of bribe amount. PW1 replied that with

great difficulty, he has brought ₹5,000/-. Accused kept the money in the right side pocket of his trousers. When PW1 questioned about the survey report, he told that he is going to give it on the next day. PW1 came out and gave signal to the police. After 15 minutes, P1 came out and gave signal. He went along with ACB police to the office. PW1, informed the police that accused has collected ₹5000 from him. Police washed the right hand of the accused in sodium carbonate solution, which turned to Pink colour. The sum of ₹5,000/-, which was in the right side pant pocket of the accused was handed over by the accused to the police, which in turn was given to PW2. He has tallied the denomination of currency notes with the notes denomination of Exhibit P5-entrustment mahazar. They have identified the currency notes before the court. After that accused has been provided with alternate trousers and the pant in which the money was kept, was washed with sodium carbonate solution. They have identified the pant before the court. The mobile chip wherein the conversation was held by PW2 was fixed in a laptop and the conversation was transferred to a compact disk. CW4 has identified the voice of the accused. Accused has given explanation with regard to allegation. The documents in respect of application of PW1 was produced by the accused before ACB Police. Photographs were taken at that

time. Police have drawn the trap mahazar as per Exhibit P3. Their statements were recorded on 9th May 2017 in the Police Station.

13. PW4 is the Assistant Director of Land Records. He has reposited in his statement that on 3 May 2018, ACB police have written a letter to Tahsildar seeking certain documents. The said letter was handed over to him. He has issued the documents in respect of the appointment order of the accused. The survey documents in regard to the property of complainant is at Exhibit P14. ACB Police have written another letter on 12th June 2018 to Tashildar, KR Nagar seeking documents with respect to survey details of the land of complainant. The said documents were handed over to ACB Police, which are at Exhibit P16.

14. PW5 is the Surveyor. He has deposed that he know the accused. On 8th May 2017, accused was trapped, Police called him to the spot and inform about the arrest of the accused and also had given arrest notice which is Exhibit P17. He has produced the documents. He has also certified the attendance register which is at Exhibit P19. He has heard the conversation recorded in the compact disc and identified the voice of the accused. The police have drawn mahazar as per

Exhibit P3. At the time of collecting the voice sample of accused and PW1, he was present. He has given statement in that regard.

15. PW6 is the Second Division Assistant in the Taluk office. She has deposed that ACB Police have requested for issuance of RTC with respect to lands in survey No.184/2, 184/5, 186/2, 184/3 and 185/2. She has issued computer RTC to the police.

16. PW8 is the forensic expert who has testified that on 15th June 2017, she has received sealed articles in PF No.6 of 2017 from ACB Police, Mysore. In Sl.No.1- Compact disc, there was the voice recording of complainant and accused. Sl.No.2 is the sample voice of complainant. Sl.No.3 is the sample voice of accused No.1. She has subjected the voice records to scientific examination. After examination, she has opened that the respective speeches said to be of Sri K.R. Nagaraju found in compact disc marked as article No.10 and the sample speeches found recorded in article No.12 are similar and belongs to speaker. The respective speeches said to be of Sri V.M. Balaram and the sample speeches found in compact disc marked as article No.13 are similar and belong to the same speaker. The report of expert is at Exhibit P27.

17. PW9 is the Police Inspector of V.V.Puram Police Station who assisted CW14 in investigating the case.

18. PW10 is the sanctioning Authority and is the Commissioner of Land Records, Bengaluru. He has issued Sanction Order as at Exhibit P33.

19. On careful scrutiny of the entire evidence placed on record and on perusal of the impugned judgment of acquittal passed by the trial Court, at paragraphs 36 to 44 of the judgment, the trial court has given its finding. The same read as under:

"36. Here in the present case, it is alleged in the complaint that the accused made a demand for bribe which has been recorded by him in his mobile. PW 1 gave a complaint as per Ex.P 1 along with the mobile chip containing the audio record of demand. But, he has turned hostile to the case of prosecution. In the detailed cross-examination nothing has been brought out by the prosecution to prove the demand and acceptance of bribe amount by the accused.

37. The witnesses to entrustment mahazar and trap mahazar PW 2 & 3, who are the official witnesses have testified that in their presence entrustment mahazar was drawn and the phenolphthalein powder notes were handed-over to the complainant. According to prosecution, PW 3 was present at the time of handing over the tainted money to the accused. But, PW 3 who is

a shadow witness in his cross-examination has stated that when he has reached the table of accused, complainant was returning from the table of accused. That apart, there were several persons in the office of accused, several officials were also working, public were also moving from one table to another, in that atmosphere the trap was conducted. The aforesaid version of PW 3 creates doubt as to his presence at the time of handing over of tainted money by the accused.

38. Without the proof of demand by the accused mere possession and recovery of currency notes would not establish the offence u/s. 13(1)(d)(1) of Act. The failure of prosecution to prove the demand for illegal gratification will be a fatal and mere recovery of the amount from the person accused of the offence

39. Though PW 2 & 3 were present through out the entrustment mahazar and trap mahazar, PW 3 is the witness who has followed PW 1 to the office of accused, but he has not seen the complainant handing over the tainted money to the accused as per the cross-examination statement several persons were there at the time of trap. The complainant has failed to state anything about filing of complaint for alleged demand of bribe and acceptance of tainted money by the accused. In regard to acceptance of powdered notes by the accused during trap proceedings the complainant has failed to utter anything about the acceptance of powdered notes by the accused. The only witness PW 3 who has followed the complainant to the office of accused has not seen the accused accepting the

powdered notes. The mobile number from which the chip was taken is not noted in the entrustment mahazar.

40. The prosecution has relied upon the evidence of PW 8 forensic expert to prove that the voice of accused recorded in article 10 at Sl.No.1 is tallied with sample speeches recorded in CD at article 12. According to prosecution, the alleged demand made by the accused which has been recorded by the complainant in his mobile has been proved as the said recording tallied with the sample audio record. According to complainant, on 05.05.2017 he has recorded the demand made by the accused after concluding the work of survey. It is astonishing to note that why the mobile number of accused is not noted in the entrustment mahazar. The complainant in his testimony before this court has categorically stated that he has not recorded the audio nor has handed-over the recording nor has handed-over the mobile chip containing the conversation of accused and complainant to the police. In the absence of incriminatory statement of complainant doubt arises as to under what circumstances the said recordings is made. Thus, the report and testimony of PW 8 referred to by prosecution would not in any way assist the case of prosecution in proving that the accused has made a demand for bribe.

41. Here in the present case, the survey is already conducted by the accused. The allegation levelled against him is after conducting survey he has made a demand for bribe. As elicited in the cross-examination of PW 4 the superior officer of accused and PW 5 who is also the staff of survey department the applications what ever

submitted for survey of the land are submitted through online, after verifying the applications the supervisor would handover the applications for surveying the land as per the seniority.

42. In the case on hand prior to the trap, accused has concluded the survey. After uploading the survey details the sketch would be released. As per the statement of superintendent of accused the surveyors were instructed to dispose of the applications on priority basis as survey adalath was conducted. Accordingly, accused has disposed off the application of the informant. The alleged demand of bribe by the accused according to entrustment mahazar is on 08.05.17 after the survey. The demand made by the accused which has been recorded in the mobile phone which alleged to have been handed over by accused to the ACB police is refuted by the complainant in his testimony before this court. He failed to speak about handing over the mobile recording to the ACB police. Except the Complainant no other person has seen handing over of tainted money to the accused, but the complainant turned hostile. Though PW 2 & 3 have narrated in detail about the drawing of entrustment and trap mahazar, but PW 2 have not seen the accused handing over the tainted money, PW 3 though who was with the informant has not seen informant handing over the money. The other witnesses are in relation to issuing the survey records, they have categorically stated in their cross-examination on the alleged date of incident there were several persons in their office and PW 5 was not present when the sample voice of complainant and the accused was recorded in the office. He has rarely spoken to accused over mobile

phone, he has also stated as per the seniority the survey would be conducted and the procedures are through online.

43. The investigation officer has narrated in detail about the drawing of entrustment mahazar and trap mahazar and about the entire investigation. It is to be noted that as per the explanation noted in Ex.P 23 accused has not made a demand for bribe, on the other hand the amount was forcibly kept in his hand and he has been planted in the case. In view of the contradictory version of complainant before this court about the demand and acceptance of bribe, the explanation offered by the accused seems to be probable. The informant has failed to state about the demand and acceptance of bribe by the accused. The alleged witness PW 3 has not seen the accused receiving a sum of Rs.4,000/- from the complainant. The material on record do not probabalize the contention of prosecution that the accused has received tainted money from the complainant. In the absence of incriminatory statement of informant, in the absence of corroboration of PW 3 who is alleged to be the shadow witness, the allegation of demand and acceptance of bribe by the accused is not proved beyond all reasonable doubt.

44. As already stated, the demand and the acceptance of gratification is sine qua non of offence under Section 7 and 13 of the PC Act and that unless and until these ingredients are proved, the presumption under Section 20 of the PC Act cannot be invoked. Further, the burden is on the prosecution to establish the guilt of the accused with conclusive proof and beyond

reasonable doubt. On careful analysis of the evidence placed on record by the prosecution and the defense put forth by the accused, this Court holds that the prosecution has failed to prove the accusation made against the accused persons beyond all reasonable doubt. In the result, points for consideration are answered in the 'Negative'."

20. On careful re-appreciation, reconsideration and re-examination of the entire material on record, I do not find any legal or factual error in the impugned judgment of acquittal. Considering the facts and circumstances of the case, and also keeping in mind the decisions relied upon by the parties, as also the aforestated decisions, I do not find any material to interfere with the judgment of acquittal passed by the trial Court. Accordingly, I answer point that arose for consideration in the negative.

21. For the foregoing reasons and discussion, I proceed to pass the following:

O R D E R

Appeal is dismissed.

**Sd/-
(G BASAVARAJA)
JUDGE**

Inn