NC: 2025:KHC-K:644
CRL.A No. 200351 of 2023

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 29TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

CRIMINAL APPEAL NO. 200351 OF 2023

BETWEEN:

THE KARNATAKA LOKAYUKTA
THROUGH DEPUTY SUPERINTENDENT,
LOKAYUKTA POLICE STATION,
YADGIRI,
REPRESENTED BY THE,
SPECIAL PUBLIC PROSECUTOR (LOKAYUKTA),
HIGH COURT OF KARNATAKA,
AT KALABURAGI BENCH-585102.

...APPELLANT

(BY SRI GOURISH S. KHASHAMPUR, SPL. PP. FOR APPELLANT LOKAYUKTA)

AND:

Digitally signed by LUCYGRACE
Location: HIGH COURT OF KARNATAKA

PALAKSHMURTHY D.R S/O RAJANNA,
AGED ABOUT 33 YEARS,
OCC: ASST. DIVISIONAL OFFICER,
NEKSRTC, YADGIR,
R/O. DODDAMETIKURIKE,
TQ. ARSIKERE, DIST. HASSAN.

...RESPONDENT

(BY SRI AVINASH A. UPLAONKAR AND
SRI RAVI K. ANOOR ADVOCATES)

THIS CRL.A. IS FILED U/S.378 OF CR.P.C PRAYING TO ALLOWED BY SETTING ASIDE THE IMPUGNED JUDGMENT AND ORDER DATED 15.11.2022 IN SPECIAL CASE LOKAYUKTA NO. 62/2012 PASSED BY THE SESSION JUDGE, SPECIAL COURT,

LOKAYUKTA YADGIRI, AND FURTHER TO CONVICT THE ACCUSED/RESPONDENT. AND TO GRANT ANY OTHER REMEDY TO WHICH THIS APPELLANTIS FOUND ENTITLED IN THE FACTS AND CIRCUMSTANCES OF THE CASE.

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

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY)

1. This appeal under Section 378(1) of Cr.P.C. is filed assailing the judgment and order of acquittal dated 15.11.2022 passed by the Court of Sessions Judge, Special Court (Lokayukta), Yadgiri, in Spl. Case (Lokayukta) No.62/2012.

2. Heard the learned counsel for the appellant and the learned counsel for the respondent.

3. Respondent herein was charge sheeted for the offence punishable under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 and in the said case, after appearing before the Trial Court, respondent/accused had claimed to be tried. The prosecution in order to substantiate its charges against respondent had examined 15 charge sheet witnesses as PW1 to PW15 and got marked 46 documents as

Ex.P1 to P46. Thereafter, the statement of the accused under Section 313 of Cr.P.C. was recorded. In support of his defence, respondent/accused examined two witnesses as DW1 and DW2. However, no documents were marked in support of the defence. The material objects which were produced on behalf of the prosecution were marked as MO1 to MO11. The Trial Court after hearing the arguments addressed on both sides vide the impugned judgment and order acquitted the respondent/accused of the charge sheeted offences. Being aggrieved by the same, this appeal is filed.

4. Learned counsel for the appellant having reiterated the grounds urged in the appeal memorandum submits that the Trial Court has erred in acquitting the respondent/accused since the prosecution had proved the demand and acceptance of bribe amount by the respondent/accused. He submits that respondent was caught red-handed in a trap that was successfully laid and the defacto complainant/PW1 as well as shadow witness/PW3 have supported the case of the prosecution.

5. Per contra, learned counsel for the respondent/accused has argued in support of the impugned judgment and order of acquittal and submits that no work was pending before the respondent/accused and he was not the competent authority to clear the arrears of salary of the defacto complainant. He submits that material on record would go to show that as on the date of FIR, arrears of salary was already received by the defacto complainant. Demand made by the respondent for payment of bribe is not proved in accordance with law. The voice recorder in which the conversation of the respondent/accused with the defacto complainant was recorded was not forwarded to FSL for examination. Accordingly, he prays to dismiss the appeal.

6. The allegation against the respondent/accused is that he had demanded a bribe of Rs.8,000/- from the defacto complainant/PW1 for sanctioning his arrears of salary of Rs.88,000/- and in the trap that was laid after registration of FIR against him, based on the first information received from the defacto complainant, he was caught red handed while receiving bribe amount of Rs.7,000/- from PW1 on 24.01.2011 in a Hotel belonging to PW5 and thereby, he has committed

charge sheeted offences. The prosecution in support of its case has examined 15 witnesses as PW1 to PW15. PW1 is the defacto complainant and PW3 is the shadow witness in the present case. PW1, during the course of his cross examination has admitted that his arrears of salary amount was credited to his bank account through a cheque on 05.01.2011, which is much prior to the registration of FIR in the present case.

7. The material on record would go to show that his salary was sanctioned on 21.12.2010 and the same was deposited to his account by a cheque on 05.01.2011. First information as per Ex.P1 has been submitted in the present case by PW1 on 22.01.2011. Therefore, it is very clear that as on the date of first information, no work was pending before the respondent/accused. It has come on record that respondent/accused was transferred from the depot in which defacto complainant was working and as on the date of FIR, respondent/accused was not working in the said depot.

8. PW3/Gurulingappa, who is the shadow witness in the present case has stated that he had accompanied PW1 on the date of trap but he has stated that PW1 was away from him

and he could not hear the conversation between the accused and PW1. PW3 also has admitted that Ex.P25 mahazar with regard to contents of audio CD did not have any date, time or signature of PW1. Undisputedly, said audio CD has not been forwarded to the FSL for the purpose of identification of voice of the appellant. PW10/Shivasharanappa, is the retired manager of the State Bank of Hyderabad and this witness has stated that the salary amount which was deposited in the account of PW1 on 05.01.2011 was withdrawn by PW1 on 08.01.2011 itself.

9. It is the specific defence of the respondent/accused that defacto complainant/PW1 had availed loan from him and inspite of repeated demands for repayment of the said amount, he had not paid the borrowed amount. In support of his defence, he has examined two witnesses as DW1 and DW2, who have deposed to the effect that there were loan transactions between accused and defaco complainant which has not been seriously disputed by defaco complainant while cross examining this witness. The over all appreciation of material on record would go to show that as on the date of the registration of FIR, no work was pending before the respondent/accused and on

the other hand, arrears of salary was already received in the Bank of the defaco complainant/PW1 much prior to he approaching the Police. The material on record would also go to show that respondent/accused was transferred and he was not working in the depot in which defacto complainant was working as on the date of registration of FIR. By examining DW1 and DW2, the defence put forward by the respondent/accused has been probabalised by him and therefore, presumption that arose against him under Section 20 of the Prevention of Corruption Act, 1988 was also successfully rebutted. Appreciating these aspects of the matter, the Trial Court has rightly acquitted the respondent of the charge sheeted offences by a well reasoned judgment and order. Therefore, I do not find any good ground to entertain this appeal. Accordingly, appeal is dismissed. Consequently, all pending interlocutory application, if any, also stands disposed off.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

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List No.: 1 Sl No.: 16/CT:PK