

(2022) 10 CHH CK 0024
In the Chhattisgarh High Court
Case No : ACQA No. 211 Of 2009

State Of Chhattisgarh

APPELLANT

Vs

Ravindra Madhav Rao Jagdale

RESPONDENT

Date of Decision : 18-10-2022

Acts Referred:

Prevention of Corruption Act, 1988 — Section 13(1)(e), 13(2)
Code Of Criminal Procedure, 1973 — Section 313, 417

Citation : (2022) 10 CHH CK 0024

Hon'ble Judges : Rajani Dubey, J

Bench : Single Bench

Advocate : Raghvendra Verma

Final Decision : Dismissed

Judgement

1. This appeal has been preferred by the appellant/State against the judgment of acquittal dated 20.04.2006 passed by learned Special Judge & First Additional Sessions Judge, Raipur (C.G.) in Special Criminal Case No.11/1997 whereby the learned trial Court has acquitted the respondent of the charges under Section 13(1)(e) r/w Section 13(2) of Prevention of Corruption Act.

2. Brief facts of the case are that on 31.03.1973, respondent was posted as Junior Engineer in Irrigation Department and subsequently on 10.10.1979, he was promoted as Assistant Engineer. A complaint of disproportionate assets was filed against the respondent before Special Police Establishment, Lokayukta, Bhopal, by the complainant upon which, offence was registered against the respondent as Ex.P-136 and investigation was started. Check period was counted between 29.03.1992 to 11.02.1993 and it was found that in the aforesaid period, his earning was Rs. 7,96,138/- and his expenditure was Rs. 20,33,908/-. Hence, total sum of Rs. 12,37,770/- was counted as disproportionate assets. After completion of investigation, charge-sheet was filed against the respondent and charges were framed as mentioned above.

3. So as to hold the accused/respondent guilty, the prosecution has examined as many as 42 witnesses and exhibited 194 documents. Statement of the accused/respondent was also recorded under Section 313 of the Cr.P.C. in which he denied the charges levelled against him and pleaded his innocence and false implication in the case. Respondent/ accused has also examined 2 witnesses and exhibited 8 documents in his defence.

4. After appreciating oral and documentary evidence, trial court has acquitted the respondent of the charges under Section 13(1)(e) r/w Section 13(2) of Prevention of Corruption Act. Hence, this appeal filed by the appellant/State.

5. Learned State counsel would submit that the impugned judgment and order of acquittal passed by the learned trial Judge is illegal, improper and incorrect and therefore is liable to be set aside. Learned trial Court has committed grave error in disbelieving the prosecution witnesses. Learned trial Court has misapprehended and mis-appropriated the evidence on record and has arrived at an erroneous finding. He further submits that the prosecution has proved its case beyond reasonable doubt but the learned trial Court did not give weightage to the documents and has passed the judgment and order of acquittal which is liable to be set aside.

6. No one appears on behalf of the respondent on the date of argument.

7. Heard counsel for the appellant and perused the material available on record.

8. Before the learned trial Court, it is not disputed that at the relevant time, respondent was posted in Irrigation Department and was working as public servant. It is clear from the statement of prosecution witness H.D. Mourya (P.W.-42) that they calculated the agricultural assets in the expenditure of respondent. He admitted in his evidence that he calculated the income of wife of respondent- Smt. Ratna Jagdale with income of the respondent. He did not enquire about the income of Smt. Ratna Jagdale from the Income Tax Department. He stated that he wrote a letter to Income Tax Department but copy of that letter is not filed with the charge-sheet. Learned trial Court found that they did not enquire about the income of Ratna Jagdale from Income Tax Department. Suresh H. Lal (P.W.-3) has stated that a loan of Rs. 60,000/- was sanctioned in the name of Smt. Ratna Jagdale in September 1984 and she has deposited a sum of Rs. 40,422/- from 30.01.1982 to 08.04.1987 and from 09.10.1985 to 18.03.1988, she deposited a sum of Rs.7,274.10/-. Ex.P/96 to Ex.P/99, revenue record is in the name of Smt. Ratna Jagdale. Defence witness No. 1 Aditya Ghole stated that as per Ex.D-2 agricultural income of Smt. Ratna Jagdale from 1982-83 and 1992-93 is Rs. 7,91,750/-. Defence witness M.M. Minz (DW-3) has produced a file of Departmental Enquiry of respondent and Exs.D/6 to D/7 and stated that in Departmental Enquiry, no charge was proved against the respondent. Learned trial Court also found that calculation done by the prosecution is not according to facts and law as well.

9. In the matter of D.S.P., Chennai v. K. Inbasakaran passed in AIR (2006) SC

552, Hon'ble Supreme Court has held that the wife admitting ownership of money recovered and explanation given by the accused is plausible and justifiable and therefore, accused cannot be held guilty of corruption charge.

10. In this case, prosecution has failed to prove the income of the respondent and his wife. I.O. and other witnesses admitted this fact that they did not enquire about the income of the wife of the respondent. They also admitted that before check period they did not enquire about the income of respondent's wife.

11. Hon'ble Supreme Court in the matter of Murlidhar alias Gidda & Another v. State of Karnataka passed in (2014) 5 SCC 730 has held in paras 11 & 12 as under:-

11. As early as in 1952, this Court in Surajpal Singh V. State [AIR 1952 SC 52: 1952 Cri LJ 331] while dealing with the powers of the High Court in an appeal against acquittal under Section 417 of the Criminal Procedure Code observed: (AIR p.54, para 7)

"7..... the High Court has full power to review the evidence upon which the order of acquittal was founded, but it is equally well settled that the presumption of innocence of the accused is further reinforced by his acquittal by the trial court, and the findings of the trial court which had the advantage of seeing the witnesses and hearing their evidence can be reversed only for very substantial and compelling reasons."

12. Suffice it to say that this Court has consistently held that in dealing with appeals against acquittal, the appellate court must bear in mind the following:-

(I) There is presumption of innocence in favour of an accused person and such presumption is strengthened by the order of acquittal passed in his favour by the trial court;

(ii) The accused person is entitled to the benefit of reasonable doubt when it deals with the merit of the appeal against acquittal;

(iii) Thought, the powers of the appellate court in considering the appeals against acquittal are as extensive as its powers in appeals against convictions but the appellate court is generally loath in disturbing the finding of fact recorded by the trial court. It is so because the trial court had an advantage of seeing the demeanour of the witnesses. If the trial court takes a reasonable view of the facts of the case, interference by the appellate court with the judgment of acquittal is not justified. Unless, the conclusions reached by the trial court are palpably wrong or based on erroneous view of the law or if such conclusions are allowed to stand, they are likely to result in grave injustice, the reluctance on the part of the appellate court in interfering with such conclusions is fully justified; and

(iv) Merely because the appellate court on reappreciation and re-evaluation of the evidence is inclined to take a different view, interference with the judgment

of acquittal is not justified if the view taken by the trial court is a possible view. The evenly balanced views of the evidence must not result in the interference by the appellate court in the judgment of the trial court.

12. Applying the aforesaid legal proposition in the present case as well, it is clear that the finding recorded by the learned Special Judge acquitting the respondent from the offence punishable under Section 13(1)(e) r/w Section 13(2) of Prevention of Corruption Act is based on material available on record. As such, this Court finds no illegality in the order impugned acquitting the respondent, particularly when there is a settled legal position that if two views are possible, the appellate court should not interfere with the judgment of acquittal, even otherwise, the prosecution has utterly failed in proving its case beyond all reasonable doubt and the trial Court is fully justified in recording the finding of acquittal, which is based on proper appreciation of evidence available on record.

13. Accordingly, the acquittal appeal is hereby dismissed.