



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRA No.194 of 1991

(In the matter of an application under Section 374(2) of the Criminal Procedure Code, 1973)

Sujaya Kumar Mohanty ***Appellant***

-Versus-

Republic of India ***Respondent***

For the Appellant : Mr. Soura Chandra Mohapatra,
Senior Advocate

For the Respondent : Mr. Sathak Nayak ,
Special P.P.-cum-Retainer Counsel, CBI
Assisted by- Mr. Manish Dhir, Advocate

CORAM:

THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 23.04.2026 : Date of Judgment: 30.04.2026

S.S. Mishra, J. The sole appellant has preferred the present Criminal Appeal assailing the judgment of conviction and order of sentence dated 29.06.1991 passed by the learned Special Judge, Bhubaneswar in T.R. Case No. 1 of 1984, whereby the appellant, Sujaya Kumar Mohanty, was convicted for the offences punishable under Section 477-A of the Indian Penal Code and Section 5(2) of the Prevention of Corruption Act. By the said judgment, the learned trial Court



sentenced him to undergo rigorous imprisonment for one year on each count, with a direction that both the sentences shall run concurrently. It is pertinent to note that the co-accused in the instant case, namely Sasanka Sekhar Jena, has been acquitted of the charges framed against him.

2. Heard Mr. Soura Chandra Mohapatra, learned Senior Counsel appearing for the appellant and Mr. Sarthak Nayak, the learned Special P.P.-cum-Retainer Counsel appearing for the Respondent-Republic of India (CBI) assisted by Mr. Manish Dhir, learned Counsel.

Prosecution Story

3. The prosecution case, in brief, is that during the years 1981–82, accused Sujaya Kumar Mohanty was working as a Clerk in Syndicate Bank, Cuttack Branch and was posted in the Loans on Deposit Section. In that capacity, he was entrusted with duties such as preparation of loan applications, maintaining loan ledgers, recording particulars of deposits and advances, authenticating debit slips, marking banker's lien on deposit folios, and calculating the loan amounts along with accrued interest.



The co-accused Sasanka Sekhar Jena, who is the brother-in-law of accused Mohanty, had opened an Adarsh Deposit Account bearing No. 4074 in the said bank. It is alleged that both the accused persons entered into a criminal conspiracy to cheat the bank and, in furtherance of such conspiracy, facilitated the sanction and disbursement of multiple loans against the said deposit account without repayment of earlier loans.

In pursuance of the said conspiracy, on 06.05.1981, accused Jena applied for a loan of Rs. 7,000/- against the aforesaid deposit account. The relevant loan documents, including the application for advance, pledge letter, promissory note, and debit slip, were filled up by accused Mohanty after obtaining the signatures of Jena. The loan was sanctioned by the then Assistant Manager and disbursed on the same day under Loan Deposit Account No. 215/81. Although entries were made in the loan ledger by Mohanty, he failed to obtain the signature of the loanee in the ledger. Subsequently, false entries dated 11.07.1981 were made by him showing repayment of Rs. 7,108/- along with Rs. 3/- as interest. These entries were neither supported by any credit voucher nor reflected in the cashier's or officer's scroll.



The account was falsely shown as closed by making fictitious entries and remarks to that effect.

Thereafter, on 29.05.1981, despite the earlier loan remaining unpaid, accused Jena submitted another loan application for Rs. 7,000/-. The loan was processed and sanctioned under Loan Deposit Account No. 271/81. Accused Mohanty scrutinized and processed the documents and made entries in the ledger. He again fabricated entries indicating repayment of Rs. 7,075/- and falsely marked the account as closed. No supporting credit vouchers or corresponding entries in official records were available, and even the officer's signature appearing in the ledger was found to be forged.

Subsequently, on 17.06.1981, accused Jena applied for a third loan of Rs. 5,000/- despite the outstanding liabilities under the previous loans. In furtherance of the conspiracy, accused Mohanty processed the application, filled in all necessary documents, and facilitated sanction of the loan under Loan Deposit Account No. 289/81. He made entries in the ledger showing fictitious repayment of Rs. 5,024/- and falsely recorded closure of the account on 27.07.1981 without any supporting documents such as credit vouchers or authenticated entries.



It is further alleged that in all the above transactions, accused Mohanty deliberately omitted to follow prescribed banking procedures, fabricated ledger entries, forged authentication, and falsely showed repayment of loans in order to facilitate repeated sanction of loans to accused Jena. As a result, accused Jena was able to avail three loans amounting to Rs. 19,000/- without actual repayment of earlier dues.

Finally, on 08.09.1981, accused Jena withdrew a sum of Rs. 11,375/- from the said Adarsh Deposit Account by way of a debit slip, thereby causing wrongful loss to the bank and corresponding wrongful gain to himself and to accused Mohanty. It is alleged that out of the total amount, accused Mohanty derived pecuniary advantage to the extent of Rs. 12,008.80, while the remaining amount benefited accused Jena.

Thus, the prosecution alleged that both the accused persons, in furtherance of their criminal conspiracy, dishonestly induced the bank authorities to sanction and disburse loans on false representations, falsified bank records, and misappropriated funds, thereby committing offences punishable under the relevant provisions of law.



4. The prosecution has examined in all 10 witnesses and exhibited 51 documents in support of its case, while the defence has not examined any witness. Among the prosecution witnesses, P.W.1, D.A. Rego, is the competent authority who accorded sanction for prosecution and was authorized to remove accused S.K. Mohanty from service. P.W.10 was the Investigating Officer, and P.W.9 was the Government Examiner of Questioned Documents. P.W.3 was a witness in whose presence the specimen signatures of accused S.K. Mohanty were obtained, whereas P.W.7, S.K. Sarangi, was a witness to the specimen signatures of accused Sasanka Sekhar Jena. P.W.5, R.K. Ramchandran, submitted an enquiry report as directed by his employer. P.Ws.2 and 6 have proved the admitted writings of accused S.K. Mohanty. The material witnesses in the case were P.W.4, who was the Branch Manager of Syndicate Bank at the relevant time, and P.W.8, who was serving as the Manager of the said Bank.

Judgment of the learned trial Court

5. The learned trial Court, upon a meticulous analysis of the oral and documentary evidence adduced by the prosecution, came to hold that the charges against the present appellant stood proved beyond all



reasonable doubt. While arriving at such conclusion, the learned Court below observed as follows:-

“8. It is contended for the defence that the voucher bundles are not exhaustive and some vouchers might be missing, but the evidence shows that the bundles are exhaustive and the vouchers of the accused persons are not there. If the accused persons had actually deposited the amounts such vouchers could have been available in the bank, but those are not available and so it cannot be said that the amounts had been deposited. Thus, there is ample documentary evidence supported by the evidence of P.Ws. 4 and 8 to show that accused S.K. Mohanty has committed an offence under Section 5(1)(d) of the P.C. Act punishable under section 5(2) of the said Act, and he has also committed an offence under Section 477-A I.P.C. With regard to the offence under Section 120-B I.P.C., as already stated, there is no evidence of agreement between both the accused persons, So charge under Section 120-B I.P.C. fails. Further there is no inducement to part with any property and so the charge under Section 420 I.P.C. also does not stand. Accordingly, accused S.S. Jena is acquitted of both the charges and accused. S.K. Mohanty is acquitted of the charges under Sections 120-B I.P.C. and 420 I.P.C.”

In view of the aforesaid findings, while the co-accused, Sasanka Sekhar Jena, was acquitted of all the charges, the present appellant was convicted for the offences under Section 5(1)(d) read with Section 5(2) of the Prevention of Corruption Act and Section 477-A of the Indian Penal Code. Being aggrieved by the said judgment of conviction and order of sentence, the present appeal has been preferred by the appellant.



Submissions on Behalf of Appellant

6. Mr. Mohapatra, learned Senior Counsel for the appellant strenuously contended that the appellant has been falsely implicated and that the prosecution has failed to establish his involvement in the alleged offences. It was further submitted that the very foundation of the prosecution case stands weakened inasmuch as the co-accused, to whom the alleged pecuniary benefit was said to have accrued, has already been acquitted of all the charges by the learned trial Court. In such circumstances, it was argued that the allegation of wrongful gain and the consequential liability fastened upon the present appellant cannot be sustained in the eye of law. On that premise, it was urged that the appellant is entitled to be acquitted of all the charges.

Submissions on behalf of the Respondent

7. Mr. Nayak, learned counsel for the respondent-CBI submitted that the judgment of conviction and order of sentence passed by the learned Special Judge, Bhubaneswar does not suffer from any illegality or infirmity and is based on a proper appreciation of both oral and documentary evidence on record. It was contended that the prosecution has examined as many as ten witnesses and proved fifty-



one documents, which, taken cumulatively, establish the guilt of the appellant beyond all reasonable doubt.

8. It was submitted that P.W.4 and P.W.8, being responsible officers of the Syndicate Bank at the relevant time, have categorically deposed regarding the manner in which the appellant, while functioning in the Loans and Deposits Section, made false and fictitious entries in the loan ledgers to show repayment of earlier loans, thereby facilitating sanction of subsequent loans. Their evidence is consistent, cogent and inspires full confidence. The said oral testimony stands amply corroborated by the documentary evidence, particularly the loan ledgers, debit slips and the conspicuous absence of corresponding entries in the cash scrolls and voucher bundles, clearly demonstrating that no actual deposits were made and that the entries were fabricated by the appellant.

Learned counsel further submitted that the prosecution case is reinforced by the scientific evidence of P.W.9, the handwriting expert, who has opined that the questioned writings appearing in the incriminating documents are in the handwriting of the appellant. This evidence conclusively establishes the direct involvement of the appellant in making the false entries.



9. It was also argued that the motive and *mens rea* of the appellant are clearly established from the evidence on record, inasmuch as the beneficiary of the fraudulent transactions was none other than his close relative, namely his brother-in-law. The appellant, being a public servant, abused his official position to confer pecuniary advantage upon said person, thereby causing wrongful loss to the bank.

Learned counsel further submitted that the sanction for prosecution has been validly accorded by the competent authority after due application of mind, and no infirmity whatsoever can be attributed to the same. The defence has failed to rebut the prosecution evidence and has merely taken a plea of denial without offering any plausible explanation regarding the absence of supporting vouchers for the alleged repayments.

10. It was emphatically contended that the acquittal of the co-accused does not, in any manner, dilute the prosecution case against the present appellant, inasmuch as the charges under Section 5(1)(d) read with Section 5(2) of the Prevention of Corruption Act and Section 477-A of the Indian Penal Code are founded on independent and direct evidence against the appellant.



On the aforesaid grounds, it was urged that the appeal, being devoid of merit, is liable to be dismissed and the judgment of conviction and order of sentence be affirmed.

Reasons and conclusion recorded by this Court

11. At the outset, it is evident that the prosecution has been able to establish, through consistent and reliable evidence, that the appellant, while acting in his capacity as a public servant, made false entries in the official records of the bank. The testimonies of P.W.4 and P.W.8, who were responsible bank officials at the relevant time, clearly demonstrate that the entries showing repayment of loan amounts were fictitious and were not supported by any corresponding vouchers or entries in the cash scrolls. Their evidence has remained unshaken in cross-examination and is duly corroborated by the documentary evidence on record.

Further, the expert opinion of the handwriting examiner (P.W.9) lends strong corroboration to the prosecution case by conclusively establishing that the questioned entries were made by the appellant himself. This scientific evidence removes any doubt regarding the authorship of the incriminating entries.



12. The contention of the appellant that the acquittal of the co-accused entitles him to acquittal cannot be accepted. The offences for which the appellant has been convicted are based on his individual acts of falsification of accounts and abuse of official position. The evidence against him is direct and independent, and does not hinge upon proof of conspiracy.

13. This Court also finds that the sanction for prosecution has been validly accorded by the competent authority after due application of mind, and no prejudice has been caused to the appellant on that score too. In view of the foregoing discussion, this Court is satisfied that the prosecution has proved the charges against the appellant beyond reasonable doubt and that the learned trial Court has rightly appreciated the evidence on record. The findings recorded by the learned trial Court are well-reasoned and do not call for any interference.

Accordingly, the judgment of conviction and order of sentence dated 29.06.1991 passed by the learned Special Judge, Bhubaneswar in T.R. Case No. 1/84 is hereby affirmed.



On question of Sentence

14. At this stage, Mr. Mohapatra, learned Senior Counsel, submitted that the incident dates back to the year 1981-1982. At that time, the appellant was aged about 30 years and, as such, he is now more than 74 years old. Placing reliance on the judgment of this Court in *Abdul Hamid v. State of Orissa*¹, he 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 |

¹ CRA No.150 of 1992



(e) XXX

XXX

XXX

(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."

15. Therefore, considering the submission advanced by the learned Senior Counsel and having regard to the fact that the occurrence relates back to the year 1981-1982 and the appellant, who was aged about 30 years at the time of the incident, is now more than 74 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.

16. 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.30,000/-(Rupees thirty thousand) for offence U/s.5(2) of the P.C. Act. In default of payment of fine, the appellant shall undergo further rigorous imprisonment for a period of three days. However, no separate sentence is awarded for offence U/s.477-A of I.P.C.

17. Accordingly, the Criminal Appeal is partly allowed.

(S.S. Mishra)
Judge