



CGHC010236692024



2026:CGHC:44933

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 479 of 2024

Reserved for judgment on 07/10/2026

Judgment delivered on 16/10/2026

Union Of India Through Central Bureau Of Investigation, ACB, Chhattisgarh,
Raipur (C.G.)

... Appellant

versus

**1 - S.S. Sandhu S/o Late Shri B.S. Sandhu Aged About 64 Years The Then
Director M/s Atlantic Engineering Services, Private Limited New Delhi.**

**2 - D.J.S. Sandhu S/o Late Shri B.S. Sandhu Aged About 60 Years The Then
Director M/s Atlantic Engineering Services, Private Limited, New Delhi.**

... Respondents

(Cause title taken from Case Information System)

For Appellant	:	Mr. Vaibhav A. Goverdhan, Advocate
For Respondents	:	Mr. Anupam Lal Das, Senior Advocate along with Mr. Kunal Verma and Mr. Kashif Shakeel, Advocates

Hon'ble Shri Justice Ravindra Kumar Agrawal

C.A.V. Judgment

1. The present acquittal appeal under Section 378(2) of the Code of Criminal Procedure, 1973 has been filed by the appellant Union of India against impugned judgment of acquittal dated 13.09.2019,

passed by learned Special Judge, Special Court for trial of CBI cases, Raipur (C.G.) in Criminal Appeal No. 37 of 2018, whereby the respondents/accused persons have been acquitted from the offence of Section 120-B, 420 read with Section 120-B of IPC by setting aside the judgment of conviction and sentence dated 10.01.2018, passed by learned Special Judicial Magistrate (CBI), Raipur in CBI Criminal Case No. 4/1994, which was arising out of CBI Crime No. RC 23(A)/86-08, dated 02.06.1986.

2. The case of prosecution, in brief, is that, the respondents/accused persons along with other accused persons (since deceased) were the Directors of M/s. Atlantic Engineering Service Private Limited. The said firm M/s. Atlantic Engineering Service Private Limited awarded a contract in the year 1981 by the NTPC Super Thermal Power Project, Korba for construction and installation of ventilation system and air-conditioning plant in Stage 3x200 project. Under the contract, the said M/s. Atlantic Engineering Service Private Limited started supply of equipments from 24.04.1981 and it was the condition that the payment of supplied goods were to be made through letter of credit and it was being paid through State of Bank of India, Parliament Street Branch, New Delhi. Being their contract period, the Central Bureau of Investigation (in short 'CBI') received a secret information that in between January, 1982 and November, 1982, certain officers of NTPC Korba conspired with the M/s. Atlantic Engineering Service Private Limited and in furtherance thereof paid an amount of about Rs. 20 lakhs without receiving the goods from them and issuing forged bills and vouchers, thereby caused huge monetary loss to the NTPC and the

M/s. Atlantic Engineering Service Private Limited obtained unlawful gain. The CBI registered an FIR against M/s. Atlantic Engineering Service Private Limited for the offence under Section 120-B read with Section 420, 468, 471 of IPC and Section 5(2) read with Section 5(1) (d) of Prevention of Corruption Act, 1947. During the investigation, it was found that letter of credit was issued in favour of M/s. Atlantic Engineering Service Private Limited on 17.11.1981 (exhibit P-39) and according to which the payment of goods was to be paid through the bank. Certain bills were produced by M/s. Atlantic Engineering Service Private Limited before the concerned bank, but the goods were not supplied as per the bills submitted by them and the firm shown in the bills were not in existence and they obtained its payment. After investigation, charge sheet was filed against 5 accused persons including the present respondents before the learned Special Magistrate, CBI, Raipur.

3. The learned trial Court framed charge against the accused persons for the offence under Section 420 read with Section 120-B of IPC. The accused persons abjured their guilt and claimed to be tried.
4. In order to prove the charge against the accused persons, the prosecution has examined as many as 32 witnesses. Statement of the accused persons under Section 313 of CrPC have also been recorded, in which they denied the circumstances that appears against them, pleaded innocence and submitted that they have been falsely implicated in the offence. The accused S.S. Sandhu, Virender Singh Garewal, Brigadier H.L. Siddhu and D.K.S. Sandu submitted that they had various meetings with the officers of NTPC, in which it was

disclosed that certain goods have not been supplied, but payments have been made, thereafter they refunded the amount with respect to those goods and subsequently, those goods were supplied to NTPC. In the month of February-March 1982-83, the parties have settled their dispute and no any grievance remained. They were never intended to cheat the NTPC and have no *mens rea*. They have never issued any forged or false bills. Before dispatch of the consignment of the goods, it was physically verified by the officers of NTPC and only thereafter, they issued a certificate and then the goods were transported and when it was reached to its destination another certificate was being issued by the NTPC. It is further submitted that, they have also completed the contract awarded by the NTPC, Singrouli without any complaint, which was worth Rs. 1.40 crores. After about 4 years, the CBI, on a false and unfounded complaint registered the offence, however neither the officers of NTPC nor the bank authorities have made any complaint against them and there was no any outstanding dues. The witnesses have been deposited under the pressure of CBI and he suffered long litigation for about 23 years.

5. During the pendency of the trial, 3 accused persons namely V.S. Garewal, P.N. Handa and H.S. Siddhu have died.
6. The accused persons have examined defense witness No. 1 Vikas Agrawal in their defense and the accused S.S. Sandhu has also been examined himself as defense witness No.2 (marked as defense witness No.1).

7. After appreciation of the oral as well as documentary evidence led by the parties, learned trial Court convicted and sentenced the accused persons for the offence under Section 120-B and Section 420 of IPC and sentenced them for R.I. for one year with fine of Rs. 1000/- and R.I. for 3 years with fine of Rs. 10,000/- respectively to the each accused persons with default stipulations by the judgment dated 10.01.2018.
8. The judgment of conviction and sentence dated 10.01.2018, passed by the learned trial Court was challenged by the accused persons before the learned Special Judge of Special Court for trial of CBI cases, Raipur by filing the Criminal Appeal No. 37 of 2018. The said criminal appeal was allowed on 13.09.2019 and the respondents/ accused persons have been acquitted from all the offences. Hence the present appeal against acquittal.
9. Learned counsel appearing for the appellant/CBI would submit that, the prosecution has proved its case beyond reasonable doubt. But for minor omissions or contradictions, the evidence of prosecution witnesses are cogent and reliable, which are sufficient to hold the respondents/accused persons guilty for the alleged offences. After appreciating the evidence available on record, the learned trial Court had rightly convicted and sentenced the accused persons, but without considering the evidence in entirety, the learned appellate court allowed the appeal and acquitted the respondents/accused persons. He would submit that PW-5 Rohtan Singh, who was the then Security Officer, NTPC, Korba has clearly deposed that, no any goods were received between July, 1981 and September, 1981 at NTPC Korba

through the truck No. 7312. Likewise, PW-7, Sardar Singh has also deposed that no goods were transported to NTPC Korba through the Bilti No. B-7986 and B-6552. He would also submit that PW-8 Jaintleshwar Shendre has also deposed that the truck through the goods were said to have been supplied, had never come to the NTPC Korba in between the relevant period and no goods were received by the NTPC Korba. Likewise, PW-9 Makhan Singh and PW-10 Jaspal Singh have also consistently deposed that no goods were supplied to the NTPC Korba, which are the disputed transactions in the case. M/s. Atlantic Engineering Services Private Limited misused the facility of letter of credit and received payment for the goods which was not supplied. He would also submit that the learned appellate court has erred in not appreciating the evidence of PW-17 R.C. Dhruw, PW-18, R.K. Kaul and PW-19 Jaiveer Singh, who deposed the process of supply of goods and the physical verification of the goods at the time of its loading in the truck was not mandatory and therefore, the accused persons cannot take benefit that at the time of loading of goods it was physically verified and then only a certificate was issued for its transportation. The accused persons cannot disputed that they have not received such amount. He would also submit that subsequent meeting with the NTPC officers and settled their grievances, refund of the amount itself evidencing that the accused persons are guilty of the conspiracy and cheating and they had *mens rea* from the very beginning of the subject transactions. The learned trial Court after having elaborate consideration of the evidence available on record and detailed discussions, convicted the accused persons, but the learned appellate court without properly appreciating the evidence led by the

prosecution, set aside the well founded judgment of conviction and sentence. Therefore, the impugned judgment of acquittal suffers from perversity and illegality, and the same is liable to be set aside by this Court.

10. Per contra, learned Senior Advocate appearing for the respondents opposes the submissions made by learned counsel for the appellant CBI and has submitted that the prosecution has failed to prove its case beyond reasonable doubt. There are material omissions and contradictions in the evidence of prosecution witnesses, which cannot be made basis to convict the accused persons for the alleged offence. He would further submit that the FIR was registered against the officers of NTPC and M/s. Atlantic Engineering Services Private Limited, however the officers of NTPC have been left over and charge sheet have not been filed against them for the reason best known to the CBI. The work contract was awarded to M/s. Atlantic Engineering Services Private Limited, however the said firm has not been arrayed as an accused in the case and only the Directors of the said firm have been arrayed as an accused persons. Leaving the officers of the NTPC itself creates suspicion over the prosecution's case. There is no evidence of any conspiracy with any officers of the NTPC as the officers of NTPC are not the accused for any conspiracy in the case. Therefore, the prosecution of the accused persons for conspiracy under Section 120-B itself vitiates. He would further submit that, there is no monetary loss to the NTPC. There was only a procedural deficiency in supply of goods and the goods were supplied later on as and when the deficiency came into knowledge of the accused persons.

The officers of NTPC admitted the receiving of goods. There is no *mens rea* or deception to cheat the NTPC as there is no complaint by the NTPC. The work contract was awarded in the year 1981 and the accused persons have completed the work in the year 1982-83, but the FIR was registered on 02.06.1986 i.e. after about 4 years of completion of the work. He would further submit that there was regular meeting between the accused persons and the officers of NTPC for settlement of the account, but they have never raised any objection and accounts were settled time to time. Had there been any cheating, there should be no extension of the validity period of letter of credit and their security amount would be forfeited and no meeting for reconciliation would be conducted. He would also submit that the work progress was also monitored by the officers of NTPC, hence no any deficiency were also found. Furthermore, the outstanding amount were paid along with the interest as per the conditions of their agreement and settled in their reconciliation meetings. He would refer to the documents (exhibit D-3, D-5 and D-9). He would further submit that the scope of interference in the appeal against acquittal is very limited and unless it is found that the view taken by the court acquitting the accused persons is perverse or illegal, the interference in the judgment of acquittal is not permissible. The judgment of acquittal is not liable to be interfered merely because a contrary view is permissible, particularly where the view taken by the appellate court is a plausible view based on proper appreciation of evidence, therefore, the judgment of acquittal is not liable to be interfered with and the acquittal appeal is liable to be dismissed.

11. I have heard learned counsel for the parties and perused the record of the trial court as well as appellate court.
12. The issue involved in the present case is that, whether the accused persons, in between January, 1982 to November, 1982 conspired to cheat the NTPC and in furtherance thereof, they fraudulently and dishonestly induced and produced forged bills and obtained Rs. 19,94,593.67/- from the State Bank of India, Parliament Street Branch, New Delhi and thereby committed the offence of conspiracy and cheating. The learned trial Court has convicted the accused persons, whereas the learned appellate court has acquitted them from all the offences, therefore, this court deem it appropriate to re-appreciate the evidence available on record.
13. PW-5, Rohtan Singh was the Assistant Security Officer at NTPC, Korba. He was assigned the duty to maintain the record of entering and exiting of the vehicles in the NTPC gate. He stated that the truck No. 7312 has not entered into the premises between July, 1981 and September, 1981 and no goods were supplied from the said truck. He also gave relevant information to CBI through the document (exhibit P-17). In cross-examination he stated that, the entries in the register at the gate was being made by security guard. He did not know as to who was the guard, who made entries in the register. He also did not identify the handwriting of the guard. He could not tell about exact number of truck visited in the premises within 24 hours. After 02.12.1981, the CISF have prepared their own register.

14. PW-7, Sardar Singh is the owner of truck No. CPH 7312. He stated in his evidence that, his truck has never gone to Korba and it was running between Narsinghpur, Jabalpur and Katni. Through the Bilti No. B 7986 and B 6552 (exhibit P-22 and P-23), his truck has never transported any goods from Faridabad to Korba or Kolkata to Korba. In cross-examination he stated that, he purchased the said vehicle in May, 1982, before that it was registered in the name of Makkhan Singh. He did not know, as to whether Makkhan Singh sent the vehicle to Korba or not. He also could not remember the date of its purchase by him. He also did not have any document with respect to the purchase of the said vehicle. When he was confronted the documents (exhibit P-22 and P-23), he shown his ignorance about the same. He did not maintain the record of transporting of goods from his vehicle No. 7312.
15. PW-8, Jayant Ishwar Shendre, who was the Inspector posted at NTPC Korba. On 13.06.1987, he received a letter (exhibit P-24) from CBI seeking certain information about movement of the truck. They maintained a register in the plant with respect to supply of goods through the vehicles, which was called as material incoming register. The information sought about the truck number was not found in the said register and it was not come in the plant and they he supplied the necessary information to the CBI, which is exhibit P-25. The said information was signed by G.S. Ballagan and he identified his signature. In cross-examination, he stated that, he was posted as Inspector from May 1986 to September, 1988. He made inquiry on the letter (exhibit P-24), but there is no written instruction given to him for

inquiry into the matter. He could not tell as to what date he made inquiry. He obtained the relevant record from the date of the plant.

16. PW-9, Makkhan Singh is the earlier owner of truck No. CPH 7312. He sold the said truck to Sardar Singh in the month of March-April, 1982. When he owned the said truck, it was never gone to Korba. He proved various seizures of the documents with respect to transportation of goods from the said truck and stated that the goods shown in exhibit P-29 to P-34 have never been transported to Korba. In cross-examination, he stated that he himself had driven the said truck and sometimes he engaged his driver. He has no any account of running of the said truck. He did not know as to where his driver has taken the truck for transportation of goods. The CBI has not inquired anything from his driver. After 1982, when he sold the truck he did not know about its running.
17. PW-10, Jaspal Singh is the owner of another truck bearing No. CPH 7335. He also stated that, his father Ajit Singh had purchased the truck and the said truck had never gone to Korba. The CBI has seized two toll tax receipts through the seizure memo (exhibit P-35) and the toll tax receipts are (exhibit P-36 and P-37). On the said date, his truck was transporting goods from Gwalior to Hyderabad. It was at Hoshangabad on 28.01.1982 and at Nizamabad on 31.01.1982. In cross-examination, he stated that the CBI has not seized any document of his truck. His signature is not there in the documents (exhibit P-36 and P-37). His father had the knowledge of the truck, who died in the year 1992. He also did not know about the running of the truck and its account, at that time, he was minor.

18. PW-11, K.R. Soni is the Branch Manager, State Bank of India, Korba branch. Through the documents (exhibit P-39 and P-40) a letter of credit was issued in favour of M/s. Atlantic Engineering Services Private Limited. As per the letter of credit, the Bilti was to be produced at their Parliament Street Branch, New Delhi and on the basis of the document, payment was to be made to them. Thereafter the said document was transferred to Korba branch and thereafter the relevant amount was to be debited from the account of NTPC. Through the seizure memo (exhibit P-59), the CBI has seized the relevant file on 07.05.1987. He also gave the details of payments debited from the account of NTPC through the letter (exhibit P-60). The bills which they received are exhibit P-61 and P-62 and the receipt is exhibit P-63. The relevant receipt with respect to the bill (exhibit P-62) are exhibit P-64 and P-65. With respect to the bill (exhibit P-66), the receipt is exhibit P-67. Likewise, he stated about other bills and receipts up to exhibit P-85. In cross-examination, he stated that they have no authority to inquire about the genuineness of the payments made through letter of credit from Parliament Street Branch, New Delhi and the documents which were sent to them from Delhi branch, they forwarded it to the NTPC and debited the amount from the account of NTPC. He admitted that the letter of credit (exhibit P-39) was dated 17.11.1981, which was of Rs. 24 lakhs and its payment was entered in the register. He further admitted that on the request of NTPC, his branch had issued a letter of credit for Rs. 24 lakhs in favour of M/s. Atlantic Engineering Services Private Limited. The goods which were to be supplied by M/s. Atlantic Engineering Services Private Limited were to be verified by the officers of NTPC at New Delhi and after its verification they issued material

dispatch clearance certificate, which was annexed along with invoice and Bilti, and then they produced it at their New Delhi branch and then only the payments were to be made. They have not physically verified the supply of goods. They have not received any complaint about letter of credit issued by them, nor any complaint was received at their New Delhi branch.

19. PW-12, I.C. Mittal was the officer of State Bank of India, Parliament Street Branch, who proved the document (exhibit P-41) and bank account opening form (exhibit P-42). He also proved the specimen signature card (exhibit P-43) and authorization letter (exhibit P-44). The minutes of meeting of M/s. Atlantic Engineering Services Private Limited is exhibit P-45 and P-46. He also stated about the entries in the ledger (exhibit P-41). In cross-examination, he admitted that, he himself had not deal with the documents (exhibit P-41 to P-46) and he could not tell as to who had deal with the same. He also could not identify the person, whose handwriting are there in the said document.
20. PW-13, Kamlesh Kumar Sharma is the Accountant at NTPC Korba, who joined there in September, 1981. He stated that the award letter (exhibit P-1) was issued by the NTPC in favour of M/s. Atlantic Engineering Services Private Limited for construction work of air-conditioning and ventilation system at Korba unit. The said award letter contents with the payment condition clause. He also stated about the manner and mode of payment. Exhibit P-39 is the letter of credit, issued in favour of M/s. Atlantic Engineering Services Private Limited, which was valued Rs. 24 lakhs. He also proved the documents (exhibit P-46 and P-47) issued by the NTPC. In further examination, he stated

that along with the document (exhibit P-47), the breakup of prices are also annexed, which was with respect to the value of the articles supplied by M/s. Atlantic Engineering Services Private Limited. On 13.05.1982, they wrote a letter (exhibit P-39) to bank for extension of time of letter of credit and then it was extended up to 30.07.1982 and they forwarded it to the bank at New Delhi branch. He also admitted numerous payments from time to time to M/s. Atlantic Engineering Services Private Limited against various bills and vouchers raised by them with respect to supply and dispatch of goods. In Para 46 of his examination, he stated that an amount of Rs. 10,02,703.37/- was excess paid to M/s. Atlantic Engineering Services Private Limited, but the same was recovered from their other bills. The recovery of the said amount was mentioned in the document (exhibit P-96), which is the general voucher of the NTPC. The amount so recovered, was against the amount which was to be paid on the site after supply of goods. In the document (exhibit P-97) he mentioned the goods, which were not supplied, but payments were made. However, the same were recovered from M/s. Atlantic Engineering Services Private Limited.

In cross-examination, he admitted that the document which he proved in the case, some of them are in his own handwriting and rest of the documents are in the handwriting of other employees. The ordered goods have reached to its destination and they received the same. The documents prepared by the officers of NTPC disclosed that the goods were received and on the basis of the same, the payments have been made to M/s. Atlantic Engineering Services Private Limited. He further admitted that on 20.07.1982, there was a meeting between

M/s. Atlantic Engineering Services Private Limited and the officers of the NTPC and it was settled that as and when the goods were received on site, they will get its payment. It was also settled in the meeting that, certain excess payments were made to M/s. Atlantic Engineering Services Private Limited and it would be adjusted towards supply of goods and if it would not be paid within 60 days, it would carry penal interest @ 25%. The meeting was convened for the purposes of adjustment of supply of goods and excess payment. There is no dispute with respect to recovery of any payment. He further stated that, the information about payments to M/s. Atlantic Engineering Services Private Limited was received by them within 15 to 30 days from Korba bank. He could not tell, as to whether any information was sent regarding non-supply of goods, but the payments were made from Erection Department to Finance Department. He could not tell, as to on how many occasion the goods were supplied and 60% of its payment were made.

From the evidence of this witness, it transpires that though there were some discrepancies of sending the goods and making payments for the same, but in the meeting held between M/s. Atlantic Engineering Services Private Limited and the officers of NTPC, they settled their dispute and the excess payments were adjusted against supply of goods and there is no dispute remains about non-supply of any goods.

21. PW-14, S.K. Sur is the Senior Manager (Erection) at NTPC Korba, who stated in his evidence that a contract was awarded in favour of M/s. Atlantic Engineering Services Private Limited for air-conditioning and

ventilation work. He was to supervise the progress of work along with Mr. P.R. Daga, Mr. R.S. Sharma and Mr. L.R. Shrivastava. He also stated about the manner in which the goods were to be supplied and the payments were to be made. In his examination-in-chief, he also proved, which is various transactions of supply of goods and its payment and would submit in his examination-in-chief that M/s. Atlantic Engineering Services Private Limited had received payments through letter of credit for the goods, which were not supplied to them.

In cross-examination, he stated that as and when the goods were loaded from Delhi, the officers of NTPC, at Delhi were physically verified the goods and issued a clearing certificate, then they gave the said clearance certificate to Delhi bank, which were forwarded to them. He could not remember, as to whether the supply of goods and its payment information have been sent to them from the NTPC Delhi or not. They had a meeting every month and the requirement of goods were informed to M/s. Atlantic Engineering Services Private Limited. The construction work was reviewed by them and if they found any delay in the work, they would inform it to M/s. Atlantic Engineering Services Private Limited and thereafter in the meeting, the issue was resolved. He could not tell, as to when they have informed the concerned engineer of the company. There was an agreement between the officers of NTPC and M/s. Atlantic Engineering Services Private Limited with respect to adjustment of the payment against short supply of goods, which is exhibit P-9. The payments were made to M/s. Atlantic Engineering Services Private Limited under the letter of credit, issued in their favour. In further cross-examination, he stated that he

did not know as to whether any report was given by the NTPC to the CBI. He admitted that before 02.06.1986, there was no outstanding amount between the NTPC and M/s. Atlantic Engineering Services Private Limited. In Para 32 of his examination, he also has admitted that there is no double payments made by the NTPC to M/s. Atlantic Engineering Services Private Limited for the goods, which were supplied.

22. PW-15, B.K. Mandal is the Accountant at Erection Section, NTPC, Korba. During his tenure, he prepared certain general vouchers (adjustment slip) against dispatched documents. He also proved various general vouchers, which he prepared. In cross-examination, he stated that the amount, which the NTPC has adjusted was equal to 55% of the value of the goods supplied under the letter of credit. He did not know about any transaction at Delhi branch of the bank. The document (exhibit P-52) is the letter of credit sent by Delhi branch of the bank to the Korba branch. He admitted that the officers of NTPC, Delhi inspected the goods, which were to be supplied and issued dispatch clearance certificate and vehicle number and send it to SBI, Delhi branch, from where it was sent to SBI, Korba branch and in turn, they received the same. He did not know about any action taken against the officers of NTPC or not.
23. PW-16 is the Deputy Manager (Contract) at NTPC, New Delhi. He also stated in his evidence that a contract was awarded in favour of M/s. Atlantic Engineering Services Private Limited and payments were to be made for the work done through the letter of credit. There was a reconciliation meeting and a statement (exhibit P-6) was prepared,

which was dated 25.02.1983 and after adjustment there was an outstanding amount of Rs. 83,546.78/- in favour of M/s. Atlantic Engineering Services Private Limited, but they overdue Rs. 9,91,891.30/- from SBI, Delhi branch through letter of credit. Another meeting was held on 24.03.1983 between the officers of NTPC and M/s. Atlantic Engineering Services Private Limited and the document (exhibit P-3) was prepared. About Rs. 20 lakhs were paid to M/s. Atlantic Engineering Services Private Limited by NTPC, out of which about Rs. 10,02,000/- was paid by the NTPC to the bank and Rs. 9,98,000/- was outstanding against NTPC.

In cross-examination, he stated that he was not the part of the contract, which was executed in the year 1980. The payment under the award of work was in various installments after the supply of goods in various stages. He admitted that after verification of the goods at Delhi, payments were to be made for the said goods. He could not tell as to whether any payment was made to M/s. Atlantic Engineering Services Private Limited for supply/non-supply of goods. He further stated that the reconciliation meeting was convened for the purposes to know about outstanding amount, if any. He also did not see any letter or complaint with respect to non-supply of goods. He also shown his ignorance about any action taken against such act of M/s. Atlantic Engineering Services Private Limited. The amount which was overdue by M/s. Atlantic Engineering Services Private Limited was to be repaid along with penal interest @ 25% and it was settled in the meeting held on 24.03.1983. He did not know about other reconciliation meeting. He

also did not know about any further dispute between them after March 1983.

24. PW-17, R.C. Dhoop is the Senior Engineering, NTPC, New Delhi. He stated in his evidence that after inspection of the material, the material dispute certificate was to be issued. The reports were to be supplied to the contractor and concerned inspection office and after issuance of MBCC, the liability of inspection department is over. The payments were to be made on the basis of MBCC. The certificate (exhibit P-86) was issued by his subordinate Mr. Balakrishnan after physical verification of the goods. He also proved various MBCC issued with respect to supply of goods. In cross-examination, the inspection was done under the conditions of letter of award executed between the NTPC and M/s. Atlantic Engineering Services Private Limited. They have no responsibility to inspect the value of the goods and they can only check the quality and specifications of the goods. He admitted that during the entire proceeding, various different persons have done the physical verification of the goods. He further admitted that in the document (exhibit P-86) it is mentioned that it is verified on the spot. Sometimes it has been written for the reason that the materials were lying in the store. He further admitted that the payments were made on the basis of MBCC issued by their department. He also shown his ignorance about payments made through various MBCC and stated that he did not personally know about the supply of goods. He did not know, what wrong has been occurred in the case.
25. PW-18, R.K. Kaul was the Supervisor in the Inspection department. He was assigned duty of quality check of the goods and the certificate

issued by the contractor and thereafter, they issued MBCC. The MBCC (exhibit P-62A) was issued by him, in which the report issued by the manufacturer (exhibit P-139) and report of the contractor (exhibit P-140) were annexed. Likewise, he also issued other MBCC (exhibit P-61, P-68, P-80) and other documents of the subject transactions. In cross-examination, he stated that, he submitted the inspection report on the instruction of his senior officer. He did not know, as to whether payments were made with respect to goods mentioned in exhibit P-94 and P-144. He did not know about the meeting convened between the officers of NTPC and M/s. Atlantic Engineering Services Private Limited in the year 1982 and what negotiation were there in the said meeting. He also admitted that he did not know as to supply of goods mentioned in the MBCC. He physically verified the goods mentioned in the document (exhibit P-68) and found the goods there.

26. PW-18, Jaiveer Singh was the Supervisor Grade-I at NTPC Delhi. He issued MBCC exhibit P-66 on 12.02.1982, exhibit P-109 on 07.04.1983 and material certificate exhibit P-108 on 18.05.1983. In cross-examination he admitted that, he found the relevant goods on the spot at the time of its inspection, he did not know about its payment.
27. PW-21, Prakashchand Wahi is the Contractor and Manager at Jeet Interstate Carrier, Delhi. To the documents (exhibit P-69 and P-56), his truck had transported goods to NTPC Korba from Delhi. The vehicle movement was endorsed in challan book (exhibit P-156). His truck has transported goods on 28.01.1982 and 09.02.1982 From Delhi to Korba. The truck number has wrongly been mentioned in the documents (exhibit P-59, P-56 and P-155). In cross-examination, he

did not know about the change of the name of the transport company. He admitted that whenever a truck was being hired from the transport company, the transport receipt was being issued by transporter. He admitted that, he did not know about loading of goods on 15.02.1982 from Orient speed through the document (exhibit P-69). He admitted that his truck has often gone to Korba from Delhi. He further admitted that he also given their trucks to other transport companies. He further admitted that the challan book was issued from January, 1982. He also did not contact with the truck owner Jasveer Singh. He never contacted with Orient mail speed transport company with respect to the transport receipt of transportation of goods from Delhi to Korba. He also did not tell it to the CBI. He further admitted that in the challan receipt No. 4656, the vehicle number has not been mentioned for the reason that it was booked from other transport company.

28. PW-22, A.D. Shrivastava, was the Senior Engineer at Inspector Services NTPC. He issued MBCC (exhibit P-52) on 23.01.1982. The document (exhibit P-157) was issued by M/s. Atlantic Engineering Services Private Limited, which was given to the Quality Assurance Manager, NTPC, New Delhi and an inspection report was also annexed thereto. He also issued other MBCCs with respect to supply of goods and he stated that he did not know as to whether the goods were reached to its destination or not. He was assigned work to prepare MBCC and not related to verifying as to whether goods actually supplied or not. In cross-examination, after physical verification he issued the document (exhibit P-52, P-157 and P-157A).

The MBCC was prepared in 6 copies for different sections. He was never inquired from the department about issuance of MBCC.

29. PW-23, Ramsharan Sharma is the Deputy Manager, NTPC, Korba. He stated in his evidence that, a contract was awarded in favour of M/s. Atlantic Engineering Services Private Limited for air-conditioning and ventilation system at NTPC Korba, which was being supervised by S.K. Sur. He received a letter (exhibit P-159) with respect to non-performing of the terms of the conditions of the work order. The letter issued by M/s. Atlantic Engineering Services Private Limited (exhibit P-161) for issuance of letter of credit was forwarded by him to Mr. S.K. Sur and also forwarded the letter (exhibit P-162) for its confirmation. By the letter (exhibit P-163) a request was made for extension of time of letter of credit up to 30.04.1982. He also issued the letter (exhibit P-164) for status of material supplied and exhibit P-165 to SBI Parliament Street Branch, New Delhi for negotiation of scheduled of items. During his tenure, he also wrote various letters to the concerned department with respect to status of material supplied by M/s. Atlantic Engineering Services Private Limited under the award of work. He also raised objection about non-supply of goods by M/s. Atlantic Engineering Services Private Limited and there was meeting on 01.05.1982 between officers of NTPC and M/s. Atlantic Engineering Services Private Limited at Delhi. In the said meeting, they requested for revalidate the letter of credit and negotiations were done between them and the document (exhibit P-4) was executed. In his examination-in-chief, he disclosed the negotiation meeting between the parties and review of letter of credit. In cross-examination, he

stated that the inspection of the goods was under the terms of the work order, which was carried out by the employees of the NTPC. He admitted that the certificate was to be issued after inspection as per the terms of the work order. At the time when the work was executed. He was not posted in the Erection department. He also admitted the recovery of excess payment along with the panel interest, he could not tell as to whether the goods are supplied or not, for which the payments were made. He did not know about the meeting convened between NTPC and M/s. Atlantic Engineering Services Private Limited. He has the knowledge that under the reconciliation, the amount has been adjusted against supply of goods. He also did not know about any action taken against the officers of NTPC.

30. PW-24, C.P. Chawla was an officer of SBI Parliament Street Branch, New Delhi. He stated in his evidence that a revolving LC for Rs. 24 lakhs was opened in favour of M/s. Atlantic Engineering Services Private Limited on 17.11.1981, which is exhibit P-184. A current account was also opened in favour of M/s. Atlantic Engineering Services Private Limited at Parliament Street Branch, which is exhibit P-42. He was well aware about the document of M/s. Atlantic Engineering Services Private Limited. He certified certain transactions in the bank account of M/s. Atlantic Engineering Services Private Limited from NTPC Korba. The bills have also been attached with the letter of credit and the current account payslip voucher is exhibit P-185. He is the witness with respect to the banking transactions in between NTPC Korba and M/s. Atlantic Engineering Services Private Limited through the letter of credit and proved various vouchers and

proceeding of the bank, which he approved during his tenure. He stated in his evidence about payments made to M/s. Atlantic Engineering Services Private Limited at various occasions on the basis of bills and letter of credit. In cross-examination, he stated that the material dispatch clearance was being issued by NTPC. M/s. Atlantic Engineering Services Private Limited was also issuing undertaking owing his responsibility. Though in the document (exhibit P-184), there was no mention of any undertaking, but at the time of submission of document by the concerned party, he was required to mention it in the document. The payments were made after verification of relevant documents. Along with the document (exhibit P-52), the material dispatch clearance certificate was annexed and on the basis of that payments were made. They were not required to verify about supply of goods. After making payment, the necessary information were being sent to NTPC Korba. Exhibit D-6 is the material clearance certificate annexed with the bill (exhibit P-54) and payments were made on that basis. Likewise, the relevant documents were also annexed along with the bills (exhibit P-55 to P-58, P-76, P-79, P-85 and P-82) and payments were made. NTPC Korba has never made any complaint about any excess payment.

31. PW-25, M.B. Dubey was the Branch Manager, SBI Korba. He stated that on 17.11.1981, an application was submitted by NTPC Korba for opening of letter of credit of Rs. 24 lakhs in favour of M/s. Atlantic Engineering Services Private Limited, which is exhibit P-46 and after verification of the document, they opened LC, which is exhibit P-39. The relevant forwarding letter is exhibit P-197. They also forwarded a

letter (exhibit P-48) for extension of time of validity of LC from 30.04.1982 onward and it was extended up to 30.07.1982 through the letter (exhibit P-50). He also proved various bills under the LC and the payments made towards those bills. In cross-examination, he shown his ignorance about terms of the agreement between NTPC Korba and M/s. Atlantic Engineering Services Private Limited. The LC was opened on the instance of NTPC Korba. The SBI Korba branch has not made any payment to M/s. Atlantic Engineering Services Private Limited.

32. PW-27, S.P. Mukharjee was the Deputy Manager, NTPC Korba and was assigned duty of mechanical axillary packages and supervision of air-conditioning and ventilation package. He witnessed the tender process and after completion of tender process, work order was issued in favour of M/s. Atlantic Engineering Services Private Limited. He is the witness of awarding contract and tender process.
33. PW-28, D.D. Goyal is the State Examiner of Questioned Documents. He stated in his evidence that in the month of March 1988, he received a letter from Superintendent of Police, CBI, Jabalpur (exhibit P-199) for examination of questioned writing Q-1 to Q-51 and admitted handwriting A-1 to A-14 and specimen handwriting S-1 to S-40. After its examination, he gave his report, which is exhibit P-204. He also explained in detail of the comparison between the questioned, admitted and specimen handwriting over the documents. In cross-examination, he stated that he has no any educational qualification for examination of handwriting, but he obtained 4 years training and cleared departmental examination. He does not have any document of

the experience of 40 years. At the relevant time, he was posted as State Examiner of Questioned Documents. In the document (exhibit P-199), the name of the concerned persons have not been disclosed. He came to know about their names from the documents in which their names have been mentioned above their signatures. He along with one Santokh Singh examined the documents. He admitted that in the documents (exhibit P-11 to P-13, P-52, P-54A and P-85), only the seal of their department is affected, but no signature of any officer is there. He admitted that the specimen signature has not been taken in his presence. The photographs of specimen signatures have not been taken by him. He also has not inspected the documents available in the court record.

34. PW-30, Bihari Lal Sidana was a transporter. He stated in his evidence that, the office of M/s. Atlantic Engineering Services Private Limited was situated in front of his transport office and in routine course of their business, they contacted M/s. Atlantic Engineering Services Private Limited and then they started transportation of their goods. The police has seized certain documents through seizure memo (exhibit P-206) and goods challan receipts (exhibit P-207 to P-219). The letter (exhibit P-220) was written by Devendra Sandhu, which relates to handover of 03 advanced GR to Mandeep Singh. He also proved the GR (exhibit P-221 to P-223). In cross-examination, he stated that after May-June 1982 he was the proprietor of the firm. He was having two trucks through which he engaged in business with M/s. Atlantic Engineering Services Private Limited. He transported the goods of M/s. Atlantic Engineering Services Private Limited from Delhi to Korba NTPC and

he transported the goods for 80-85 times. The payments were made through the cheque by M/s. Atlantic Engineering Services Private Limited and certain payments are still outstanding. CBI has recorded his statement. The transaction between M/s. Atlantic Engineering Services Private Limited and NTPC Korba was started in the year 1981-82 and there was no any complaint about the goods transported by him. He was being detailed cross-examined by the defence with respect to the GR and transportation of goods, various vouchers, receipts and delivery challan. He admitted that between 1980 to 1983, he was having business relation with M/s. Atlantic Engineering Services Private Limited, but no complaint has been made between that.

35. PW-31 was the Manager Contract Services, NTPC and was posted at Korba project. He proved the award letter dated 15.10.1980 (exhibit P-1), the supply of goods and payment conditions under the clauses of the award (exhibit P-1). He stated in his evidence that since M/s. Atlantic Engineering Services Private Limited has not furnished any bank guarantee, he requested NTPC that payment of 55% against dispatch of goods may be made in place of 60% and 15% payment may be made after delivery of goods. He also proved the document (exhibit P-52 to P-61). The Deputy Manager, S.K. Sur has prepared a list of goods, which were not supplied by M/s. Atlantic Engineering Services Private Limited. Exhibit P-9 is a document, which was prepared after conciliation meeting between them. The document (exhibit P-225) is the report prepared after meeting between NTPC Korba and M/s. Atlantic Engineering Services Private Limited. In cross-

examination, he admitted that the award letter (exhibit P-1) has not been prepared by him. He was not a member in conciliation meeting between the parties. He deposed on the basis of the documents available to him. He was not a party to the documents (exhibit P-9 and P-225) and he does not have any personal knowledge about the proceedings of the meeting. He also did not know about transportation of goods.

36. PW-32, Mukesh Chandra Sahni is the Superintendent of Police, CBI New Delhi and Investigating Officer of the case. He being the procedural witness has proved the process of investigation, which he conducted and the documents prepared during the investigation. In his evidence, he admitted that during investigation he does not find any criminal misconduct against the officers of NTPC. He also admitted that the documents (exhibit P-52 to P-89) were issued by the officers of Inspection section after physical verification. He also admitted that during investigation Mr. S.K. Sandhu had verified that the GR certificates have been issued on the basis of documents submitted by the concerned party. He has also admitted that there was a meeting in the year 1982-83 between the officers of NTPC and M/s. Atlantic Engineering Services Private Limited and the documents (exhibit P-3, P-4 and P-6) were prepared with respect to adjustment of the goods supplied and payments made and in pursuance thereof, the NTPC had received Rs. 10 lakhs. Thereafter, Rs. 2 lakhs was to be received by M/s. Atlantic Engineering Services Private Limited and thereafter he did not know about any other payments. He further admitted that the

goods which could not supplied earlier through GR, have been subsequently supplied.

37. The accused S.S. Sandhu has examined himself as DW-2 and he proved the details of transaction and explained the transactions between M/s. Atlantic Engineering Services Private Limited and NTPC. He deposed in his evidence the each and every steps about their transactions and the manner in which they deal with the terms of the work order with the NTPC. This witness has not been cross-examined by the prosecution/CBI.
38. Upon re-appreciation of the oral and documentary evidence available on record, this Court finds that the main question for consideration is whether the prosecution has established beyond reasonable doubt that the respondents/accused persons, in furtherance of a criminal conspiracy, dishonestly induced the NTPC to make payments of approximately Rs. 20 lakhs against goods allegedly not supplied and thereby committed the offences punishable under Sections 120-B and 420 of the Indian Penal Code. It is well settled that, in an appeal against acquittal, the appellate court is empowered to re-appreciate the evidence; however, interference with an order of acquittal is warranted only when the findings recorded by the court below are perverse, manifestly illegal or otherwise unsustainable in law. Where the view taken by the court acquitting the accused is a reasonable and plausible view based upon the evidence on record, the mere possibility of another view does not justify reversal of the acquittal.

39. Applying the law governing the scope of interference in an appeal against acquittal, the Hon'ble Supreme Court in the case of **State of Rajasthan v. Kistoora Ram**, reported in 2022 SCC OnLine SC 984, has held as follows:

“8. The scope of interference in an appeal against acquittal is very limited. Unless it is found that the view taken by the Court is impossible or perverse, it is not permissible to interfere with the finding of acquittal. Equally if two views are possible, it is not permissible to set aside an order of acquittal, merely because the Appellate Court finds the way of conviction to be more probable. The interference would be warranted only if the view taken is not possible at all.”

40. Further, in the case of **Jafarudheen and Others v. State of Kerala**, reported in (2022) 8 SCC 440, the Hon'ble Supreme Court, while considering the scope of interference in an appeal against acquittal, has held in paragraph 25 as under:

“25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.P.C., the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that

ensures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

41. Similarly, in the case of **Central Bureau of Investigation v. Shyam Bihari and Others**, reported in (2023) 8 SCC 197, the Hon'ble Supreme Court has held in paragraph 27 as follows:

“27. It is trite law that in an appeal against acquittal, the power of appellate court to re appreciate evidence and come to its own conclusion is not circumscribed by any limitation. But it is equally settled that the appellate court must not interfere with an order of acquittal merely because a contrary view is permissible, particularly, where the view taken by the trial court is a plausible view based on proper appreciation of evidence and is not vitiated by ignorance/misreading of relevant evidence on record.”

42. The Hon'ble Supreme Court in **Tulasareddi @ Mudakappa & Another v. The State of Karnataka** reported in 2026 SCC Online SC 89, held that:

“27. In the case of **Babu Sahebagouda Rudragoudar v. State of Karnataka**¹ this Court held in paragraphs 39 to 42 as under:

39. This Court in **Rajesh Prasad v. State of Bihar**² encapsulated the legal position covering the field after considering various

1. 2024 (8) SCC 149

2. (2022) 3 SCC 471 : (2022) 2 SCC (Cri) 31

earlier judgments and held as below : (SCC pp.482-83, para 29)

29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words: (Chandrappa v. State of Karnataka³, para 42)

‘42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of

3. (2007) 4 SCC 415 : (2007) 2 SCC (Cri)325], SCC p. 432

“flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.’

40. Further, in *H.D. Sundara v. State of Karnataka*⁴, this Court summarised the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 CrPC as follows : (SCC p. 584, para 8)

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

4. (2023) 9 SCC 581 : (2023) 3 SCC (Cri) 748]

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

8.3. The appellate court, while deciding an appeal against acquittal, after reappreciating 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.”

41. Thus, 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.

42. The appellate court, in order to interfere with the judgment of acquittal would have to record pertinent findings on the above factors if it is inclined to reverse the judgment of acquittal rendered by the trial court.

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“29. From the aforesaid decisions rendered by this Court, it can be said that if two reasonable conclusions are possible on the basis of the evidence on record, the Appellate Court should not disturb the findings of acquittal recorded by the Trial Court. Further, 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. The following principles have to be kept in mind by the Appellate Court while dealing with the appeals against an order of acquittal:

(a) whether the judgment of acquittal suffers from patent perversity;

(b) whether the judgment is based on misreading/omission to consider the material evidence on record;

(c) an order of acquittal is to be interfered with only when there are “compelling and substantial reasons” for doing so. If the

order is “clearly unreasonable”, it is a compelling reason for interference.’

(d) the appellate court, while deciding an appeal against acquittal, after reappreciating 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;

(e) 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

(f) 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.”

43. In the present case, the prosecution has relied upon the testimony of certain witnesses to establish that the vehicles mentioned in the disputed transport receipts had not transported the goods to NTPC, Korba. However, upon examination of their depositions, it is apparent that their testimony suffers from material limitations concerning their personal knowledge of the movement of the vehicles and the relevant transportation transactions. PW-5 Rohtan Singh admitted that the entries in the gate register were made by security guards, whose identity and handwriting he could not establish. PW-7 Sardar Singh and PW-9 Makhan Singh also could not produce reliable records of the movement of the vehicle in question during the relevant period.

Similarly, PW-10 Jaspal Singh could not establish the relevant vehicle movements from his personal knowledge. On the other hand, the evidence of the NTPC officials, including PW-13 Kamlesh Kumar Sharma, PW-14 S.K. Sur and PW-16, the Deputy Manager (Contract), establishes that disputes concerning the supply of goods and excess payments were considered in meetings between the representatives of NTPC and M/s. Atlantic Engineering Services Private Limited. The evidence further indicates that certain excess payments were recovered or adjusted against subsequent supplies, and the accounts between the parties were reconciled. Thus, the evidence relating to the alleged non-supply of goods cannot be considered in isolation from the subsequent supplies, adjustments and reconciliation of accounts established by the prosecution evidence itself.

44. Another significant circumstance is that the payments under the letter of credit were made on the basis of the prescribed documents, including the material dispatch clearance certificates issued by the concerned NTPC officials after inspection of the goods. The evidence of the bank officials establishes that the bank processed the documents in accordance with the procedure governing the letter of credit and did not independently verify the physical supply of the goods. Further, the prosecution witnesses acknowledged that the validity of the letter of credit was extended from time to time and that meetings were held between the parties to reconcile the accounts. The statement of reconciliation, Exhibit P-6, prepared on 25.02.1983, reflected an amount of Rs. 83,546.78 as payable by NTPC to M/s. Atlantic Engineering Services Private Limited. The evidence of PW-13

and PW-14 also supports the conclusion that excess payments were adjusted against subsequent supplies and that there was no outstanding amount between the parties at the relevant stage. Although the extension of the letter of credit, continuation of the contract and reconciliation of accounts cannot, by themselves, conclusively exclude the possibility of a criminal offence, these circumstances assume significance when considered cumulatively with the documentary evidence and the admissions made by the prosecution witnesses. They lend support to the defence that the discrepancies arose in the course of contractual performance and subsequent reconciliation, rather than necessarily from a dishonest intention existing at the inception of the transactions.

45. The defence has further examined S.S. Sandhu as a defence witness, who explained the transactions between the company and NTPC, including the meetings held for reconciliation of accounts and the subsequent adjustment of payments against supplies. His testimony remained unchallenged in cross-examination by the prosecution. Significantly, his evidence finds corroboration in the documents and circumstances emerging from the prosecution evidence itself, particularly the minutes of the meetings, the reconciliation statement and the evidence concerning recovery of excess payments and subsequent supply of goods. The investigating officer, PW-32 Mukesh Chandra Sahni, also admitted that meetings had taken place between the representatives of NTPC and the company during 1982-83, that documents concerning adjustment of goods supplied and payments made had been prepared, and that goods which could not be supplied

earlier under certain goods receipts had subsequently been supplied. In these circumstances, the evidence does not satisfactorily establish that the respondents had entered into an agreement to commit an illegal act or had acted with a dishonest intention from the inception of the transactions. Mere discrepancies in the supply of goods or receipt of payments under a commercial contract, without cogent evidence establishing the requisite criminal intention and the agreement constituting conspiracy, are insufficient to sustain convictions under Sections 420 and 120-B of the Indian Penal Code. The prosecution has, therefore, failed to establish the essential ingredients of the alleged offences beyond reasonable doubt.

46. While considering the present appeal against acquittal, this Court is conscious of the settled principle of law that, although the appellate Court has full power to reappreciate the evidence on record, interference with a judgment of acquittal is warranted only when the findings recorded by the Court below are perverse, unreasonable, or based on misappreciation or omission of material evidence. The acquittal of the respondent further reinforces the presumption of innocence, and where the view taken by the Court below is a plausible view based on the evidence available on record, the same cannot be displaced merely because another view is also possible. Therefore, the evidence and the findings recorded by the Court below must be examined in the light of these settled principles to determine whether the judgment of acquittal suffers from any legal infirmity warranting interference by this Court.

47. The same evidence also falls short of establishing the offence of cheating under Section 420 of the IPC. The essential ingredients of cheating include deception and fraudulent or dishonest inducement, accompanied by the requisite dishonest intention. The Hon'ble Supreme Court has repeatedly held that the dishonest or fraudulent intention must exist at the inception of the transaction and cannot be presumed merely from a subsequent breach, omission or irregularity. In **V.Y. Jose v. State of Gujarat**, (2009) 3 SCC 78, and in subsequent decisions, the Hon'ble Supreme Court has reiterated that:-

“14. An offence of cheating cannot be said to have been made out unless the following ingredients are satisfied:

- (i) deception of a person either by making a false or misleading representation or by other action or omission;
- (ii) fraudulently or dishonestly inducing any person to deliver any property; or to consent that any person shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit.

For the purpose of constituting an offence of cheating, the complainant is required to show that the accused had fraudulent or dishonest intention at the time of making promise or representation. Even in a case where allegations are made in regard to failure on the part of the accused to keep his promise, in the absence of a culpable intention at the time of making initial promise being absent,

no offence under Section 420 of the Penal Code can be said to have been made out.”

48. So far as the allegation of criminal conspiracy is concerned, the prosecution was required to establish, by cogent and reliable evidence, an agreement or meeting of minds between the accused persons to commit an illegal act or to accomplish a lawful act by illegal means. In the present case, the officers of NTPC, whose alleged acts or omissions were material to the transaction in question, have not been arrayed as accused. Mere irregularities in the transaction or the alleged involvement of the accused persons, in the absence of evidence establishing a prior agreement or concerted action to commit the alleged offence, would not be sufficient to prove the charge of criminal conspiracy. The prosecution has not brought on record any direct or circumstantial evidence establishing such an agreement or meeting of minds. Accordingly, the essential ingredients of criminal conspiracy cannot be said to have been established merely on the basis of suspicion or inference drawn from the circumstances of the case.
49. It is also pertinent to note that no complaint was lodged by NTPC in respect of the alleged transaction, and the alleged offences pertain to the period 1981–1982, whereas the FIR came to be registered by the CBI only in the year 1986. Although the absence of a complaint by NTPC and the delay in registration of the FIR are not, by themselves, sufficient grounds to quash the criminal proceedings, these circumstances assume significance when considered alongside the other material available on record. In the absence of a complaint from

the concerned organisation, any cogent material demonstrating the commission of the alleged offences, or a satisfactory explanation for the delay, the allegations require careful scrutiny to determine whether the essential ingredients of the offences are made out. If the material collected during the investigation fails to disclose a prima facie case against the accused, continuation of the criminal proceedings would not be justified merely on the basis of suspicion or inference.

50. In view of the foregoing discussion, this Court finds that the learned appellate court has assessed the evidence in its entirety and arrived at a view that is reasonably supported by the oral and documentary evidence on record. The material circumstances concerning the extension of the letter of credit, the meetings between the parties, the reconciliation of accounts, the recovery or adjustment of excess payments and the subsequent supply of goods provide a reasonable basis for extending the benefit of doubt to the respondents. The prosecution has failed to establish that the respondents acted pursuant to a criminal conspiracy or that they dishonestly induced NTPC to make payments with the requisite intention to cheat. Consequently, the findings recorded by the learned appellate court do not suffer from any perversity or illegality warranting interference by this Court in the present appeal against acquittal.

51. Accordingly, the appeal against acquittal is **dismissed**, and the judgment of acquittal dated 13.09.2019 passed by the learned Special Judge, Special Court for trial of CBI cases, Raipur, acquitting the respondents of the offences punishable under Sections 120-B and 420 read with Section 120-B of the Indian Penal Code, is hereby **affirmed**.

52. Let a copy of this judgment and the original records be transmitted to the trial Court concerned forthwith for necessary information and compliance.

Sd/-
(Ravindra Kumar Agrawal)
Judge

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