

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1534 OF 2024

R N KARAIYA **Appellant(s)**

VERSUS

THE STATE OF MADHYA PRADESH **Respondent(s)**

WITH

CRIMINAL APPEAL NO. OF 2026
(Arising out of SLP (Crl) No. 2799 of 2022)

HARI SINGH KHAIRWAR **Appellant(s)**

VERSUS

THE STATE OF MADHYA PRADESH AND ANR. **Respondent(s)**

CRIMINAL APPEAL NO. 1535 OF 2024

K. K. SHRIVASTAVA **Appellant(s)**

VERSUS

THE STATE OF MADHYA PRADESH **Respondent(s)**

CRIMINAL APPEAL NO.1536 OF 2024

R B SHRIVASTAVA **Appellant(s)**

VERSUS

THE STATE OF MADHYA PRADESH **Respondent(s)**

CRIMINAL APPEAL NO. 1537 OF 2024

AJAY PANDVIA

Appellant(s)

VERSUS

THE STATE OF MADHYA PRADESH

Respondent(s)

CRIMINAL APPEAL NO. 1538 OF 2024

NARENDRA SINGH BHADORIYA

Appellant(s)

VERSUS

THE STATE OF MADHYA PRADESH

Respondent(s)

CRIMINAL APPEAL NO. 1539 OF 2024

KAMAL KISHORE PUNIYANI

Appellant(s)

VERSUS

THE STATE OF MADHYA PRADESH

Respondent(s)

O R D E R

- 1) Leave granted in SLP (Criminal) No. 2799 of 2022.
- 2) It is informed that the Appellant - Hari Singh Khairwar has passed away and application for substitution has been filed for bringing on record the legal heirs.

Since the family members may get the service benefits, therefore, we proceed to allow the application for substitution and to bring the legal heirs on record. Accordingly, I.A. No. 5681 of 2025 filed to this effect stands disposed of.

3) The present appeals have been preferred by the Appellants assailing the order of the High Court¹ convicting them for the respective charges. Brief chart containing details is given below:

Criminal Appeal No.	Accused	Charges framed	Trial Court	High Court
Criminal Appeal No.1537/2024	A-1 - Ajay Pandvia (Assistant Engineer)	Section 13(1) PC Act ² and Section 15 PC Act 1988 r/w Section 120B IPC ³	Convicted in Special Sessions Case No. 01/10 vide order dated 29.05.2013	Conviction upheld
Criminal Appeal No.1538/2024	A-2 - Narender Singh Bhadoria (Assistant Engineer)	Section 13(1) PC Act and 15 PC Act 1988 r/w Section 120B IPC Section 420, 467, 468 and 471 IPC	Convicted in Special Session Case No. 01/10 vide order dated 29.05.2013	Conviction upheld
Criminal Appeal No. 1536/2024	A-3 - R.B. Srivastav (Senior Accounts Clerk)	Section 13(1) PC Act and Section 15 PC Act 1988 r/w Section 120B	Convicted in Special Session Case No. 01/10 vide order dated	Conviction upheld

1 High Court of Madhya Pradesh, Gwalior Bench

2 The Prevention of Corruption Act, 1988

3 Indian Penal Code, 1860

		IPC	29.05.2013	
Criminal Appeal No.1535/024	A-4 - K.K. Srivastav (Executive Engineer)	Section 13(1) PC Act and Section 15 PC Act 1988 r/w Section 120B IPC	Convicted in Special Session Case No. 01/10 vide order dated 29.05.2013	Conviction upheld
Criminal Appeal No. 1534/2024	A-5 - R.N. Karaiya (Executive Engineer)	Section 15 PC Act 1988 r/w Section 120B IPC	Acquitted vide order dated 29.05.2013	Reversed the acquittal and convicted under Section 13(1) PC Act and Section 15 PC Act r/w Section 120B IPC
Criminal Appeal No. 1539/2024	Kamal Kishore Puniyani (Contractor)	Section 420, 467, 468, 471 r/w 120B IPC	Acquitted vide order dated 29.07.2011	Reversed the acquittal and convicted under Sections 420, 467, 468, 471 r/w 120B IPC

4) A perusal of the above makes it clear that two of the Appellants, namely Kamal Kishore Puniyani and R. N. Karaiya were acquitted by the Trial Court, however convicted by the High court. The Appellants Ajay Pandvia, Narender Singh Bhadoria, R. B. Srivastav and K. K. Srivastav were convicted by the Trial Court⁴ and their

4 Special Judge (Prevention of Corruption Act), Gwalior

conviction was upheld by the High Court in appeal.

5) The case of the prosecution in brief was that on the basis of an undated letter of one Govind Verma, former Councillor, Gwalior, it was alleged that in Rangiyana Mohalla one tubewell was installed wherein a submersible pump was lying. Due to scarcity of water in the said colony, one of the accused Narendra Singh Bhadoria, Sub-Engineer, put up a note-sheet for removal of the said borewell and to install the handpump, the estimated cost of which was valued at Rs.9,914/-. Quotations were called and forwarded to the Assistant Engineer, namely, Ajay Pandvia. It is alleged that neither in the letter of the Councillor nor in the note-sheet of Narendra Singh Bhadoria, was any date specified; however, Ajay Pandvia, Assistant Engineer prepared the note-sheet on 24.07.2003 for calling the quotations which was approved by R.N. Karaiya, Executive Engineer on 27.07.2003. Thereafter, on 13.08.2003, notice was issued to three contractors who submitted their quotations on 19.08.2003. The quotations sent did not indicate any date of issuance; however, all the quotations were received on 19.08.2003 which were opened by the Assistant Engineer i.e., Ajay Pandvia for

which he was, as alleged, not authorised. It was also said that these quotations also did not bear any date. Upon receiving the same, Narendra Singh Bhadoria wrote a note-sheet specifying the details of all quotations, indicating that the lowest of all was the quotation by Kamal Kishore Puniyani, which was approved by the Executive Engineer on 03.09.2003. After such approval, the seal of Mayor in Council (hereinafter "MIC") was affixed on 24.12.2003 and the work order was issued on 30.12.2003, in reference to the technical sanction dated 09.10.2003.

6) The bill was submitted on 02.01.2004, i.e., two days after the work order, and the performance of the work was reported as being satisfactory. The said note-sheet was signed by Narendra Singh Bhadoria, Sub-Engineer and Ajay Pandvia, Assistant Engineer and further sent to the Commissioner, Municipal Corporation. In the meantime, a complaint was made and the payment was stopped. It is alleged that all the Appellants-accused committed an attempt of misconduct which is punishable under Section 15 of the PC Act, 1988. It is further said that the allegations as alleged indicate that the act done falls within the purview of Section 13(1)(c) and (d) of the PC

Act, 1988.

7) The Appellants were tried and the Lokayukt filed the challan, attaching the Panchnama (Exhibit P-21) prepared on spot. As per the said Panchnama, the hand pump was not installed on the spot, however, the said act of preparation of the note-sheet, asking quotations, submission of bills, would fall within the purview of the offences under the PC Act, 1988. The charges were framed against all the Appellants and they were tried. The Trial Court acquitted the accused R.N. Karaiya, Hari Singh and Kamal Kishore Puniyani however, convicted Ajay Pandvia, Narender Singh Bhadoria, R. B. Srivastav and K. K. Srivastav, referred in the chart above.

8) Against the judgment of acquittal, an appeal was preferred by the State of Madhya Pradesh; while challenging the judgment of conviction, the accused persons preferred their respective appeals. While deciding the appeals *vide* the impugned judgment, the High Court referring to the note-sheet, asking for quotations and preparation of the bills, opined that the charge of Section 15 of the PC Act, 1988 has been proved beyond reasonable doubt. It was further found that such an act of

preparation of the bills for the work which has not been completed would also fall within the purview of Sections 467, 468, 471, 420 of the IPC as alleged against the other co-accused persons. Accordingly, the Appellants were convicted for the respective charges.

9) We have heard Mr. Gagan Gupta, Mr. Siddharth Dave, Mr. Ardhendumauli Kumar Prasad and Mr. Purvish Jitendra Malkan, learned senior counsel and also Mr. Rajiv Kumar, learned counsel appearing for the Appellants-accused. They have strenuously urged that for proving the charge of the unamended Section 15 of the PC Act, 1988 i.e., 'punishment for attempt', it is necessary to consider the offence referred to in clause (c) and clause (d) of subsection (1) of Section 13 thereof. The unamended Section 13(1)(c) and (d) indicate that if a public servant dishonestly or fraudulently misappropriates or otherwise converts any property entrusted to him for his own use or under his control as a public servant or allows any other person so to do. Clause (d) would apply in a situation where a public servant, by corrupt or illegal means, obtains for himself or any other person any valuable thing or pecuniary advantage. Thus, it is urged that as per the

allegations of the prosecution, the charge within Section 13(1)(d) of the PC Act, 1988 may not be made out. However, from the material collected by the prosecution, it is required to be looked into whether while writing the note-sheet and doing all subsequent activities, whether any dishonesty or fraudulent intention to misappropriate the money was there on the part of Appellants.

10) Simultaneously for the charges under Sections 420, 467, 468 and 471 of the IPC, it is necessary to look into if the offence of cheating prescribed under Section 415 of the IPC has been proved. A perusal of the said section also makes it clear that the intention of deceiving any person with a fraudulent or dishonest intention and to induce them ought to be proved, otherwise, the charges alone on the basis of the material collected or the evidence cannot be said to be proved.

11) Learned senior counsel have drawn our attention to the evidence as considered by the High Court and brought on record that even in the evidence of the Investigation Officer (PW 16), namely, Virender Singh Tomar, nothing has been brought to indicate that there is any dishonest and fraudulent intention, which is *sine qua non* for the

purpose of punishment for attempt to commit the offence under the unamended Section 15 of the PC Act, 1988 or under Section 420 of the IPC to be brought at home.

12) After perusal of the testimony of the Investigation Officer, except for the Panchnama (Exhibit P-21) and further alleging that the bills have been prepared for such purpose, nothing has come on record. It is also a fact that the complainant who lodged the complaint in this case has died, therefore, his testimony could not be recorded to indicate the fraudulent intention to proceed in the matter. An attempt was made to say if the accused had succeeded, possibly they may have installed 2000 such handpumps and encashed money. Therefore, an attempt of dishonesty is clear and the bills of more than Rs. 2 crores could be pocketed by the accused. In this regard, reference of the Enquiry Committee has been made. It is not brought on record that under what circumstances, the said enquiry was conducted and what was the purpose behind not going to the places of incidence or to identify where the pumps were going to be installed, in whose respect the quotations were called. The said Enquiry Report, as urged by the learned senior counsels, is of no relevance and has

duly not been given weight by the High Court in the impugned judgment.

13) *Per contra*, Mr. Nishant R. Katneshwarkar, learned counsel representing the State of Madhya Pradesh, has strenuously urged to submit that this is a case wherein the complaint was received indicating that on the basis of an undated note-sheet, approval was given by the Assistant Engineer asking quotations for installment of one handpump to replace the tubewell and submersible pump. On receiving the quotation, the bill was prepared for Rs.9,940/-. At the indicated spot, the said pump was not found, which is sufficient to infer that there was a dishonest intention. Reliance has been placed on Section 20 of the PC Act, 1988 to contend that the presumption ought to be drawn for such an act. In such terms, the High Court has rightly considered the material as available on record and held all the accused persons were guilty of the charges as levelled against them and rightly convicted, with direction to undergo the sentence as prescribed in the impugned judgment.

14) After having heard learned counsel for the parties at length, the question that falls for consideration is

whether the material brought on record by the prosecution is sufficient to establish the charges levelled against the Appellants. The allegations against the Appellants principally relate to preparation of the note sheet, calling of quotations, submission of quotations, approval of the lowest quotation, issuance of work order and preparation of bills for installation of a handpump. According to the prosecution, since the handpump was not found installed at the spot, all such acts constitute an attempt to commit criminal misconduct punishable under the unamended Section 15 of the PC Act, 1988 and, in the case of some of the accused, also constitute offences punishable under the provisions of the IPC.

15) To appreciate the said contention, it is necessary to examine the scope of the unamended Section 15 of the PC Act, 1988. The said provision contemplates punishment for an attempt to commit an offence referred to in clause (c) or clause (d) of sub-section (1) of the unamended Section 13 of the PC Act, 1988. Clause (c) of Section 13(1), as it then stood, dealt with a situation where a public servant dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or

under his control as a public servant, or allows any other person so to do. Clause (d) contemplated obtaining for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abuse of official position. Thus, even for the purpose of proving an attempt under Section 15, the prosecution is required to establish foundational facts indicating a dishonest or fraudulent intention either to misappropriate property or to obtain a pecuniary advantage. In the absence of such material, mere preparation of official records or processing of a proposal would not by itself satisfy the requirements of the provision.

16) In the present case, the principal circumstance relied upon by the prosecution is the Panchnama (Exhibit P-21). The said Panchnama indicates that the handpump in question was not found installed at the spot when inspection was carried out. In our considered view, the said circumstance by itself is not sufficient to establish the existence of a dishonest or fraudulent intention on the part of the Appellants. At the highest, it may indicate that the work had not been executed in the manner contemplated or that certain irregularities had occurred

in processing the proposal. However, the Panchnama does not indicate that any amount had been dishonestly misappropriated by any of the Appellants or that any pecuniary advantage had been obtained by them for their own use or by any other person.

17) The prosecution has also placed reliance upon the Enquiry Report. However, except for making a general reference thereto, no material has been brought on record to indicate the basis on which such enquiry was conducted. It is not shown under what circumstances the enquiry was held, what evidence was collected during the enquiry or whether any effort was made to ascertain the factual position regarding the proposed installation of the handpump. The said enquiry report has not been proved by the prosecution. The report, therefore, does not furnish any substantive material from which a dishonest or fraudulent intention can be inferred against the appellants.

18) At this stage, learned counsel appearing for the State has sought to place reliance on Section 20 of the PC Act, 1988. In our view, the said submission is devoid of any merit. Section 20 applies to offences punishable under

Section 7, Section 11 and clauses (a) and (b) of sub-section (1) of Section 13 of the PC Act, 1988. The allegations in the present case are relatable to clauses (c) and (d) of sub-section (1) of the unamended Section 13, therefore, the statutory presumption contemplated under Section 20 is not available to the prosecution in the facts of this case.

19) Once the presumption is held to be inapplicable, the prosecution is required to establish the necessary ingredients of the offences by independent evidence. We have carefully examined the testimony of the Investigating Officer (PW 16), Virender Singh Tomar. Except referring to the Panchnama and the records relating to the proposal for installation of the handpump, nothing has been brought on record to indicate the existence of any dishonest or fraudulent intention on the part of the Appellants. In this regard, reference may also be made to Section 25 of the IPC defining the expression "fraudulently". The said provision makes it clear that an act can be said to be done fraudulently only when it is done with an intent to defraud. Therefore, the intention to defraud is a necessary ingredient for proving the allegations in the

facts of the present case. The complainant, on whose behest the proceedings were initiated, passed away and his testimony could not be recorded. No other witness has spoken about any arrangement, design or conduct on the part of the Appellants from which such intention may be inferred. The material brought on record only establishes that a note sheet was prepared, quotations were invited, quotations were submitted, bills were prepared and certain official processes were undertaken. However, from these circumstances alone, it is not possible to conclude that the Appellants had acted with the intention of dishonestly misappropriating public funds or obtaining any pecuniary advantage. It is also not brought on record that the Appellants were trying to pocket the amount for their own use. The prosecution attempted to contend that in view of the large number of handpumps proposed to be installed, there existed a possibility of wrongful loss to the public exchequer running into a substantial amount. Such an argument is founded entirely on conjecture. Criminal liability cannot rest upon possibilities or suspicion. It is a settled principle that suspicion, however strong, cannot take the place of proof.

20) In view of the foregoing discussion, we are of the considered opinion that the prosecution has failed to establish the essential ingredients necessary to constitute an offence punishable under the unamended Section 15 read with clauses (c) and (d) of sub-section (1) of Section 13 of the PC Act, 1988. Once the foundational allegation of dishonest or fraudulent intention remains unproved, the charges under Sections 420, 467, 468 and 471 of the IPC also cannot be said to have been established on the basis of the material brought on record. Consequently, the conviction of the Appellants-accused cannot be sustained.

21) Accordingly, the appeals stand allowed. The impugned judgment passed by the High Court as well as the judgment of conviction recorded by the Trial Court, to the extent it concerns the present Appellants as well as the deceased Appellant, stand set aside. The Appellants are, thus, acquitted.

22) Pending application(s), if any, shall stand disposed of.

....., J.
[J.K. MAHESHWARI]

....., J.
[ATUL S. CHANDURKAR]

New Delhi;
May 13, 2026.

ITEM NO.117

COURT NO.3

SECTION II-E

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No. 1534/2024

R N KARAIYA

Appellant(s)

VERSUS

THE STATE OF MADHYA PRADESH

Respondent(s)

(IA No. 37175/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 37174/2022 - EXEMPTION FROM FILING O.T. and IA No. 201116/2024 - EXEMPTION FROM FILING O.T.)

WITH

SLP(Crl) No. 2799/2022 (II-E)

(IA No. 5681/2025 - APPLICATION FOR SUBSTITUTION and IA No. 5682/2025 - CONDONATION OF DELAY IN FILING SUBSTITUTION APPLN. and IA No. 43994/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 199847/2024 - EXEMPTION FROM FILING O.T. and IA No. 43996/2022 - EXEMPTION FROM FILING O.T.)

Crl.A. No. 1535/2024 (II-E)

(IA No. 57318/2022 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 41860/2022 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 41856/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 201127/2024 - EXEMPTION FROM FILING O.T. and IA No. 57317/2022 - EXEMPTION FROM FILING O.T. and IA No. 41857/2022 - EXEMPTION FROM FILING O.T. and IA No. 57316/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Crl.A. No. 1536/2024 (II-E)

(IA No. 42752/2022 - APPLICATION FOR EXEMPTION FROM FILING ORIGINAL VAKALATNAMA/OTHER DOCUMENT and IA No. 57461/2022 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 42749/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 42747/2022 - EXEMPTION FROM FILING O.T. and IA No. 201123/2024 - EXEMPTION FROM FILING O.T. and IA No. 57459/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Crl.A. No. 1537/2024 (II-E)

(IA No. 41811/2022 - EXEMPTION FROM FILING O.T. and IA No. 201132/2024 - EXEMPTION FROM FILING O.T. and IA No. 43290/2022 - EXEMPTION FROM FILING O.T. and IA No. 56573/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No. 43289/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

CrI.A. No. 1538/2024 (II-E)

IA No. 42124/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 201125/2024 - EXEMPTION FROM FILING O.T. and IA No. 43298/2022 - EXEMPTION FROM FILING O.T. and IA No. 42128/2022 - EXEMPTION FROM FILING O.T. and IA No. 49304/2022 - MODIFICATION OF COURT ORDER and IA No. 56533/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No. 43297/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

CrI.A. No. 1539/2024 (II-E)

(IA No. 52776/2022 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 49256/2022 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 42504/2022 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 42502/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 52777/2022 - EXEMPTION FROM FILING O.T. and IA No. 42503/2022 - EXEMPTION FROM FILING O.T. and IA No. 49254/2022 - MODIFICATION OF COURT ORDER and IA No. 52774/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 13-05-2026 These matters were called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE ATUL S. CHANDURKAR**

For Appellant(s) :

**Dr. Purvish Malkan, Sr. Adv.
M/S. Prashant Shukla Law Chambers, AOR
Mr. Prashant Shukla, Adv.
Mrs. Anushree Shukla, Adv.
Mr. Kartik Kumar, Adv.
Ms. Ojasvi, Adv.**

**Mr. Siddharth Dave, Sr. Adv.
Mr. Pulkit Agarwal, AOR
Ms. Tanisha Kaushal, Adv.
Mr. Sudhanshu,
Mr. Anubhav Lamba, Adv.
Mr. Sudhanshu Kumar, Adv.
Mr. Rajat Kumar, Adv.**

**Mr. Ardhendumauli Kumar Prasad, Sr. Adv.
Mr. Gagan Gupta, Sr. Adv.
Mr. Aakash Nandolia, AOR**

Mr. Santosh Kumar Pandey, AOR

**Mr. Rajiv Kumar, Adv.
Mr. Vikrant Yadav, Adv.
Mr. Shambhu Nath Singh, Adv.**

For Respondent(s) : Mr. Abhinav Shrivastava, AOR

Mr. Nishant Ramakantrao Katneshwarkar, AOR

Mr. Gaurav Dhingra, AOR

**UPON hearing the counsel the Court made the following
O R D E R**

1. Leave granted in SLP (Criminal) No. 2799 of 2022.
2. It is informed that the Appellant - Hari Singh Khairwar has passed away and application for substitution has been filed for bringing on record the legal heirs. Since the family members may get the service benefits, therefore, we proceed to allow the application for substitution and to bring the legal heirs on record. Accordingly, I.A. No. 5681 of 2025 filed to this effect stands disposed of.
3. The appeals stand allowed in terms of the signed order. The impugned judgment passed by the High Court as well as the judgment of conviction recorded by the Trial Court, to the extent it concerns the present Appellants as well as the deceased Appellant, stand set aside. The appellants are, thus acquitted.
4. Pending application(s), if any shall stand disposed of.

**(NIDHI AHUJA)
DY. REGISTRAR**

**(NAND KISHOR)
ASSISTANT REGISTRAR**

(Signed order is placed on the file)