2026 INSC 31

***Reportable***

**IN THE SUPREME COURT OF INDIA**
**CRIMINAL APPELLATE JURISDICTION**

**Criminal Appeal No. of 2026**
**(@Special Leave Petition (Crl.) No. 13057 of 2025)**

**The Karnataka Lokayuktha**
**Bagalkote District, Bagalkot**

**...Appellant**

**Versus**

**Chandrashekar & Anr.**

**...Respondents**

**J U D G M E N T**

**K. VINOD CHANDRAN, J.**

Leave granted.

**2.** Despite this Court having consistently held that disciplinary proceedings and criminal prosecution, even on an identical allegation, are parallel proceedings, the relevance of the conclusion in one is often contended to be binding on the other. Trite is the principle that in a disciplinary proceeding, the proof is of preponderance of probabilities while in a criminal proceeding, it has the higher standard of proof beyond reasonable doubt. Often it is argued that the acquittal in the criminal proceedings should inure to the benefit of the accused/delinquent

employee in a disciplinary proceeding too. In the present case, we have a contrary contention of the disciplinary proceedings having exonerated the delinquent employee, who seeks absolution from the criminal prosecution. The contention is that when the allegations could not be proved in a disciplinary proceeding where the requirement is only of preponderance of probabilities, surely it cannot be proved beyond reasonable doubt.

**3.** The appellant is the Lokayukta of the State of Karnataka, an independent body tasked also to conduct enquiries on complaints of corruption and initiate and continue prosecution; such powers having been statutorily conferred under the Karnataka Lokayukta Act, 1984. On facts, suffice it to notice that the respondent, an Executive Engineer (Electrical) with the Works and Maintenance Division, HESCOM, Bagalkot regulated by the Karnataka Electricity Transmission Corporation Limited Regulations, was alleged to have demanded a bribe from an electrical contractor to clear five bills, at the rate of Rupees two thousand each. The contractor complained to the Anti-

Corruption Bureau[1] who prepared a trap, with identifiable, powdered notes kept in a packet entrusted with the complainant, to be handed over to the Executive Engineer. The trap was successful, and the notes were recovered from the pocket of the Executive Engineer whose hands turned pink on dipping in the prepared solution, which proved the taint of corruption.

**4.** Disciplinary proceedings were initiated and so was criminal prosecution launched, the former by the department itself and the latter by the Lokayukta who is the appellant herein. On the claim that the departmental proceedings ended in exoneration, the delinquent employee approached the High Court, for quashing the criminal proceedings. The High Court by the impugned judgment relied on ***Radheshyam Kejriwal v. State of W.B.***[2], a three-Judge Bench decision to hold that if there is an exoneration on merits where the allegation is found to be not sustainable at all and the person held innocent, then criminal proceedings on the same set of facts and circumstances cannot be allowed to continue especially

[1] for short, the ACB
[2] (2011) 3 SCC 581

based on the principle of higher standard of proof in criminal cases. The learned Single Judge also refused to follow a later judgment of this Court in ***State (NCT of Delhi) v. Ajay Kumar Tyagi***[3]; finding the later judgment to be *per incuriam,* having been passed in ignorance of the earlier one.

**5.** There can be no doubt regarding the principle that if the later Bench holds contrary to the earlier Bench decision of coequal strength, on the same point, the contrary dictum expressed by the later Bench would be *per incuriam* as held by a Constitution Bench in ***National Insurance Company Limited v. Pranay Sethi***[4]. But the question arising herein is as to whether there was a conflict with the earlier and later judgments.

**6.** In ***Radheshyam Kejriwal***[2]***,*** the raid on the premises of the appellant therein, by the Enforcement Directorate gave rise to proceedings under the Foreign Exchange Regulation Act, 1973[5]. Initially, a show-cause notice was issued by the Director of the Enforcement Directorate proposing

[3] (2012) 9 SCC 685
[4] (2017) 16 SCC 680
[5] for short, the FERA

adjudication proceedings under Section 51 of the FERA, which, after explanation received was concluded with a decision taken by the Adjudicating Officer that the contravention of the provisions alleged cannot be sustained since the transaction itself is not proved. The said order became final for reason of the Enforcement Directorate having not challenged it. Later, on the same set of facts, as enabled under Section 56 of the FERA criminal proceedings were initiated, which even as per the enactment could be continued without any prejudice to any award of penalty by the Adjudicating Officer under Section 51 of the FERA. It is in this context that the three-Judge Bench, by a majority, held *inter alia* that though the adjudication and criminal proceedings are independent of each other, if in the former the offender is exonerated on merits then the criminal prosecution also comes to an inevitable end. It was also categorically found that if the exoneration in the adjudication proceeding is on a technical ground and not on merits, the prosecution could continue.

**7.** In ***Radheshyam Kejriwal***[2] the adjudication proceedings and the criminal proceedings were under the

FERA, one for penalty; to recoup the economic loss caused by the transaction contravening the provisions of the statute and the other, prosecution; to provide penal consequences as a deterrent measure. The subject matter of the offence alleged in both proceedings was the contravention of the provisions of the statute through the transaction detected. When the adjudication proceedings found the transaction alleged to have not taken place, then it cuts at the root of the prosecution too. Other decisions under the FERA, where the two proceedings of adjudication and prosecution were found to be independent; the decision in one having no bearing on the other, were noticed. So were the decisions under the Income Tax Act, 1961[6] noticed, wherein, when the penalty imposed on a presumed violation of the provisions of the I.T. Act was set aside by the Tribunal; the last fact-finding authority under the scheme of the I.T. Act, for that reason alone the prosecution was found redundant and quashed. ***Radheshyam Kejriwal***[2] culled out the principles in the following manner:

[6] For brevity 'the I.T. Act'

***38.*** *The ratio which can be culled out from these decisions can broadly be stated as follows:*

*(i) Adjudication proceedings and criminal prosecution can be launched simultaneously;*

*(ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;*

*(iii) Adjudication proceedings and criminal proceedings are independent in nature to each other;*

*(iv) The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;*

*(v) Adjudication proceedings by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure;*

*(vi) The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and*

*(vii) In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases.*

> ***39.*** *In our opinion, therefore, the yardstick would be to judge as to whether the allegation in the adjudication proceedings as well as the proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings, the trial of the person concerned shall be an abuse of the process of the court.*
>
> [*underlining by us for emphasis*]

**8.** In ***Radheshyam Kejriwal***[2] the very substratum of the allegation of violation of the provisions of FERA was found to be non-existent, an adjudication on merits that the transaction alleged had not occurred. In the instant case the Enquiry Report found that for reason of the Officer in charge of the trap having not been examined, the department was unable to establish the charge, not at all an exoneration on merits, but more a discharge for lack of diligence. The *ratio decidendi* of that case cannot be extended to every situation where a statute provides for a civil liability and a criminal liability, in which event Courts would be presuming what logically follows from the finding, without any application on the facts.

**9.** In a disciplinary enquiry the employer satisfies itself as to whether the misconduct alleged is proved and if proved, decides on the proportionate punishment that should be imposed; both of which are in the exclusive domain of the employer, to be determined on the standard of preponderance of probabilities. In a criminal prosecution launched what assumes significance is the criminality of the act complained of or detected which has to be proved beyond reasonable doubt. Both are independent of each other not only for reason of the nature of the proceedings and the standard of proof, but also for reason of the adjudication being carried on by two different entities, regulated by a different set of rules and more importantly decided on the basis of the evidence led in the independent proceedings. If evidence is not led properly in one case, it cannot govern the decision in the other case where evidence is led separately and independently.

**10.** No doubt, the principles in ***Radheshyam Kejriwal***[2] are applicable in a disciplinary inquiry, which was the specific question considered in ***Ajay Kumar Tyagi***[3]***;*** interestingly by the very same Hon'ble Judge who authored

the majority judgment in ***Radheshyam Kejriwal***[2]. True, the earlier decision was not noticed in the latter decision; according to us with just cause since there were distinctions on facts.

**11.** ***Ajay Kumar Tyagi***[3] was a case in which a successful trap was laid and there was exoneration in the enquiry conducted without a final order by the Disciplinary Authority. Therein the Disciplinary Authority had not passed an order, in deference to the pending criminal prosecution, which action of deferment was unsuccessfully challenged in a writ petition by the delinquent. Then a further writ petition was filed challenging the continuance of the criminal prosecution on the ground of exoneration in the Enquiry Report, which stood allowed. The Disciplinary Authority then passed an order exonerating the delinquent, subject to a challenge to the quashing of the criminal proceedings. In the SLP filed against the order of quashing there was a reference to a larger Bench noting the divergence of opinion with regard to the quashing of a prosecution based on exoneration in a disciplinary proceeding. Even before answering the reference the larger Bench found the

quashing to be wrong insofar as the Disciplinary Authority having power to differ from the findings in the report of enquiry and the High Court, in that case having upheld the action of the Disciplinary Authority, keeping in abeyance the final order. We pause here to notice that herein the Disciplinary Authority passed an order concurring with the findings in the Enquiry Report on 08.07.2024, produced as Annexure R-1, with a rider that the order is subject to the proceedings in the criminal case, the consequences of which would necessarily follow.

**12.** The reference too was answered in ***Ajay Kumar Tyagi***[3]. A two-Judge Bench decision of this Court in ***P.S. Rajya v. State of Bihar***[7] was referred to wherein the criminal prosecution was quashed when the departmental proceedings concluded in exoneration. In ***P.S. Rajya***[7], the allegation was of possession of assets disproportionate to the source of income. The Central Vigilance Commission dealt with the charge and in its elaborate report concluded that the valuation report on which CBI placed reliance is of doubtful nature. The Court on facts found that the value

[7] (1996) 9 SCC 1

given as a base for the chargesheet was not the value given in the reports subsequently given by the valuers. The decision in ***P.S. Rajya***[7] relying on ***State of Haryana v. Bhajan Lal***[8]; the water shed decision in invocation of the inherent powers under Section 482 of the Code of Criminal Procedure, 1973 for quashing criminal prosecution, held that the prosecution in that case should be quashed for more than one reason as laid down in ***Bhajan Lal***[8]. ***Ajay Kumar Tyagi***[3] categorically held that the quashing of criminal proceedings in ***P.S. Rajya***[7] was not merely on account of the exoneration in the disciplinary proceedings. Referring to a number of decisions, it was held so in paragraphs 24 & 25 which are extracted hereunder:

> ***"24.*** *Therefore, in our opinion, the High Court quashed the prosecution on total misreading of the judgment in P.S. Rajya case (1996) 9 SCC 1. In fact, there are precedents, to which we have referred to above, that speak eloquently a contrary view i.e. exoneration in departmental proceeding ipso facto would not lead to exoneration or acquittal in a criminal case. On principle also, this view commends us. It is well settled that the standard of proof in a*

[8] 1992 Supp (1) SCC 335

*department proceeding is lower than that of criminal prosecution. It is equally well settled that the departmental proceeding or for that matter criminal cases have to be decided only on the basis of evidence adduced therein. Truthfulness of the evidence in the criminal case can be judged only after the evidence is adduced therein and the criminal case cannot be rejected on the basis of the evidence in the departmental proceeding or the report of the inquiry officer based on those evidence.*

*25. We are, therefore, of the opinion that the exoneration in the departmental proceeding ipso facto would not result in the quashing of the criminal prosecution. We hasten to add, however, that if the prosecution against an accused is solely based on a finding in a proceeding and that finding is set aside by the superior authority in the hierarchy, the very foundation goes and the prosecution may be quashed. But that principle will not apply in the case of the departmental proceeding as the criminal trial and the departmental proceeding are held by two different entities. Further, they are not in the same hierarchy."*

**13.** We are of the opinion that in the present case the distinction as brought out in ***Ajay Kumar Tyagi***[3] squarely applies and the *ratio decidendi* therein is not regulated by

the ratio of the earlier judgment in ***Radheshyam Kejriwal***[2]. In ***Radheshyam Kejriwal***[2], the adjudication proceedings and the prosecution were both by the very same entity, the Enforcement Directorate under the FERA. In ***Ajay Kumar Tyagi***[3], the allegation was of a demand and acceptance of bribe in which a trap was laid, and the prosecution was commenced and continued by the ACB while the departmental proceedings were by the Delhi Jal Board under which the delinquent employee worked. Identical is the fact in this case where the ACB laid the trap, commenced and continued the criminal proceedings, at the behest of the appellant, while the department carried on with the enquiry. The findings in the enquiry report also do not persuade us to quash the criminal proceedings as we would presently notice.

**14.** At the outset, we cannot but reiterate that the enquiry report in disciplinary proceedings is not conclusive of the guilt or otherwise of the delinquent employee, which finding is in the exclusive domain of the disciplinary authority. The enquiry officer is appointed only as a convenient measure to bring on record the allegations

against the delinquent employee and the proof thereof and to ensure an opportunity to the delinquent employee to contest and defend the same by cross-examination of the witnesses proffered by the department and even production of further evidence, in defense. The enquiry officer, strictly speaking, merely records the evidence and the finding entered on the basis of the evidence led at the enquiry does not have any bearing on the final decision of the disciplinary authority. The disciplinary authority takes the ultimate call as to whether to concur with the findings of the enquiry authority or to differ therefrom. On a decision being taken to differ from the findings in the enquiry report as to the guilt of the delinquent employee, if it is in favour of the delinquent employee nothing more needs to be done since the enquiry stands closed exonerating the employee of the charges levelled. If the decision is to concur with the finding of guilt by the Enquiry Officer, then a show-cause is issued with the copy of the Enquiry Report. However, while differing from the finding of exoneration in the enquiry report, necessarily the disciplinary authority will not only have to issue a show-cause against the delinquent

employee, with a copy of the Enquiry Report, but the show-cause notice also has to specifically bring to attention of the delinquent, the aspects on which the disciplinary authority proposes to differ, based on the facts discovered in the enquiry so as to afford the delinquent employee an opportunity to proffer his defense to the same.

**15.** Having thus stated the law regulating the final decision in a departmental enquiry, we cannot but notice that in the present case, there is a final order produced as passed by the Disciplinary Authority. The learned Counsel for the respondent vehemently argued that a retired District Judge was the Enquiry Officer, which according to us gives the enquiry no higher sanctity than that would be conferred on any enquiry report in any disciplinary proceeding carried out by a person not trained in law. The Enquiry Officer often is appointed as an independent person who would have no connection with the management to ensure against any allegation of bias. A retired judicial officer being appointed as an enquiry officer does not confer the enquiry report any higher value or greater sanctity than that is normally available to such reports. We cannot but observe that in this

case the Enquiry Officer fell into an error by requiring proof at a higher level than that necessary under preponderance of probabilities and so did the Disciplinary Authority, in concurring with the same.

**16.** We also notice the specific findings in the enquiry report. The exoneration was on the basis of two aspects, one, the Inspector of the ACB who carried out the trap having not been examined and the other, two independent witnesses accompanying the trap team having stated that they were standing outside the office room wherein the handing over of the bribe took place. The first ground of the Inspector not having been examined, according to us, based on the preponderance of probabilities, is not imperative, especially when the two independent witnesses were examined. More so, insofar as the department not being at fault since three summons were taken out and a further request was made again for summoning the witness, which was declined by the Enquiry Officer. We cannot but notice that there would be no consequence in not responding to a summons in departmental proceedings, while a like failure in criminal proceedings would be more

drastic. The criminal court has ample powers to ensure the presence of a witness in a criminal proceeding, which the Enquiry Officer does not possess. In this context, the fact that the prosecuting agency and the one carrying on the departmental enquiry being two entities assumes significance. Further, here the trap was laid by the ACB, and the prosecution was conducted at the behest of the Lokayukta, and we cannot presume or anticipate any laxity on the prosecuting agency of not bringing the Inspector to the box, before the criminal court. More pertinently we cannot, on such anticipated laxity put an end to the prosecution.

**17.** We looked at the evidence laid at the enquiry, not to regulate the order in the departmental proceedings which is not challenged before us, but to satisfy ourselves and to understand whether there is total exoneration on merits, which we find to be absent. In the present case, the witnesses proffered by the department where, (i) the complainant; the contractor who complained of the demand of bribe and (ii) two independent witnesses, government officers in two different departments who accompanied the

trap team. PW-1, the complainant categorically stated that a bribe was demanded from him of Rupees ten thousand to clear five bills at the rate of Rupees two thousand each. He complained to the ACB whose Inspector marked the notes, powdered them and put them in a packet, after noting down the numbers to later identify them. The trap team along with the complainant and two witnesses went to the office of the delinquent employee. The complainant went inside the office room wherein he handed over the packet containing the money to the delinquent employee, who counted and put it in his pant's pocket, clearly spoken of by the complainant at the enquiry. The complainant gave the signal as agreed upon, a missed call on the mobile, when the trap team went in, checked the pockets of the delinquent employee, recovered the packet with the money and when the hands of the delinquent employee were dipped in the solution earlier prepared, the colour changed bringing forth the taint.

**18.** PW-2 and PW-3 were the independent witnesses who were standing outside the office room when the complainant went in. They deposed that on the signal being given, the

officers went inside the room and the witnesses followed. They witnessed the money being taken out from the pocket of the delinquent and the delinquent's hands being dipped in a solution which displayed the tainted colour. Even without the examination of the Inspector who laid the trap we are of the opinion that there was sufficient proof on the standard of preponderance of probabilities to find the delinquent guilty of the charge of demand and acceptance of bribe. The complainant and the independent witnesses have spoken about the incident of the successful trap laid.

**19.** On the principles of law as stated hereinabove and also on the peculiar facts coming out from the above case, we are not convinced that this is a fit case where the criminal proceedings can be quashed on the exoneration of the delinquent employee in a departmental enquiry. We find the decision in ***Ajay Kumar Tyagi***[3] to be squarely applicable. The appeal stands allowed permitting the continuation of criminal proceedings. We make it clear that since the disciplinary authority has accepted the enquiry report, there cannot be reopening of the same based on the findings hereinabove; but a conviction in the criminal case

would bring in consequences as mandated by rules regulating the service, specifically reserved in the order of the disciplinary authority, Annexure R-1.

**20.** The Appeal stands allowed.

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

**..... J.**
**(AHSANUDDIN AMANULLAH)**

**..... J.**
**(K. VINOD CHANDRAN)**

**NEW DELHI**
**JANUARY 06, 2026.**