

HIGH COURT OF CHHATTISGARH, BILASPUR
Criminal Appeal No. 2044 of 1998

Fattu Singh, S/o. Brijlal Gond, Aged about 36 years, Revenue Inspector,
 Settlement Department, Mahasamund, District Raipur (M.P.)

--- Appellant

Versus

State of Madhya Pradesh, Through Police Station Special Police Station
 Special Police Establishment, Office of Lokayukt Bhopal Unit, Raipur (C.G.)

--- Respondent

For Appellant	:	Mr. V.G. Tamaskar, Advocate.
For Respondent/State	:	Mr. Lav Sharma, Penal Lawyer

SB: Hon'ble Shri Justice Ram Prasanna Sharma
Judgement on Board

30.10.2017

1. This appeal is directed against the judgment of conviction and order of sentence dated 31.08.1998 passed by Special Judge (Prevention of Corruption Act, 1947) Raipur (M.P) now Chhattisgarh in Special Sessions Case No. 21 of 1992, wherein the trial Court convicted the appellant under Section 161 of the IPC and Section 5(1)(d)/5(2) of the Prevention of Corruption Act, 1947 and sentenced him to undergo RI for one year and to pay fine of Rs.1,000/- for each offence with default stipulations.
2. Facts of the case, in brief, are that at the relevant time the accused/appellant was posted as Revenue Inspector, Settlement Mahasamund, District Raipur. Complainant Bodhram (PW-1) wanted his name should be separated in the record of right from

other right holders of the property and for the said purpose the appellant demanded Rs 600/- as illegal gratification. It is alleged that the complainant did not want to give this bribe amount to the accused/appellant and made a request to the Superintendent of Police, Special Police Cell, Lokayukt as per complaint (Ex.P/2). On receiving the said complaint, the matter was handed over to Police Inspector B.D. Dhananjay (PW-8) and then preliminary panchanama was prepared for six currency notes of 100 denomination to be given to the accused/appellant and for purpose preliminary panchanama (Ex.P-3) is prepared. One constable Pothiram subjected the currency notes to phenolphthalein powder and the same was given to the complainant which he was kept in his upper pocket of shirt. Sub-Inspector N.K. Singh prepared solution of sodium carbonate and when the hands of constable Pothiram were washed in the solution, his hands turned into pink and the same was kept in a sealed bottle. Sample of sodium carbonate solution and phenolphthalein powder were prepared and sealed separately. One trap party was organized in which Police Inspector B.D. Dhanjay (PW-8), complainant Bodhram (PW-1), his brother Lekhram, panch witnesses K.S. Baghel, K.N. Sharma, K.K. Sharma and N.K. Singh were the members. Hands of the members of the trap party were washed in sodium carbonate solution but the colour was not changed. All the proceedings were recorded in panchanama (Ex.P-3), thereafter the trap party was proceeded towards village Bramhanpuri by a Government Jeep. Accused/appellant received the amount from complainant thereafter the trap team seized the currency notes and when hands of the accused/appellant were

washed in sodium carbonate solution the colour of the hand turned into pink colour and the currency notes seized from the possession of the appellant which were kept in his full-pant were matched with preliminary panchanama. When the currency notes seized were subjected to solution of sodium carbonate it turned into pink colour and the same was kept in a sealed bottle. After completion of trap proceedings Dehatinalshi Ex.P-11 was registered and FIR was registered Ex.P-12 against the appellant. All the seized materials were sent for chemical examination to Forensic Science Laboratory, Sagar and a report thereof was found positive as per Ex.P/14. Further investigation was taken up by the authorities. After examining the witnesses sanction was obtained to prosecute the appellant/accused from Law and Legal Affairs Department, Government of Madhya Pradesh, Bhopal vide Ex.P-4. After completion of the investigation, charge sheet was filed against the accused/appellants before the Special Court, the trial Court framed the charges as mentioned above to which the appellant did not plead guilty, therefore, trial was conducted. After completion of evidence of the prosecution side, statement of the appellant under Section 313 of the Cr.P.C. was recorded and after completion of trial, the trial Court considering the material available on record by the impugned judgement convicted and sentenced the accused/appellant as mentioned above.

3. To substantiate the charge, prosecution examined as many as 8 witnesses. To nullify the charge defence side examined three defence witnesses.
4. Learned counsel appearing for the accused/appellant submits that as per version of B.D. Dhananjay (PW/8), the complainant has not

described the name of the appellant and neither his name is mentioned in the complaint nor is included in the first information report. He further submits that the version of witnesses is not firm regarding demand and acceptance of the amount and no conviction can rest on the basis of such statement and the version of S.K. Baghel (PW-6) is contradictory to the statement of PW-1 and PW-2 and the same cannot be acted upon. Learned counsel for the appellant in support of his argument placed reliance on **State of Madhya Pradesh v. Lakshmi Prasad Yadav 2017 Cr.L.J 1461.**

5. *Per contra*, State counsel supporting the impugned judgment of the trial Court has submitted that the finding arrived at by the trial Court is just and proper and there is no illegality or infirmity in it warranting any interference by this Court.
6. I have heard counsel for the parties and perused the material on record. In order to appreciate the arguments advanced by learned counsel for the parties, I have examined the evidence adduced on behalf of the parties.
7. Bodhram (PW-1) is the complainant of the case. He deposed that 32 acres of land recorded in his name and also his brothers' name namely Lakheram and Setram. He wanted partition of the land and separation of record. The accused/appellant demanded Rs. 600/- as illegal gratification other than his legal remuneration. The appellant said that when they will give bribe money then only he will make separate record in his name. Complainant did not want to give this bribe amount to him that is why he reported the matter to Superintendent of Police, Special Police Cell, Lokayukt as per complaint (Ex.P/2) and this witness proved the said complaint.

He further deposed that Police, Special Police Cell, Lokayukt has organised a trap proceedings in which his brother Lekhram and another officer were the members of trap team. They started to proceed at 11 AM from Raipur and reached to rest house at village Sankara at 4.00 PM in the evening, there panchanama was prepared by Police Inspector B.D. Dhanjay (PW-8), six currency notes of 100 denomination were subjected to phenolphthalein powder and the same was kept by him and after keeping the said notes his hands were washed which turned into pink colour and the same was kept in a bottle. When he reached to the accused/appellant he asked the complainant whether he brought the money or not, thereafter he gave currency notes to the accused/appellant which was taken by him in his hand and thereafter he kept the currency notes in his full pant which was lying on the hook of wall. The members of the trap party reached there and caught the hands of the appellants and asked about the currency notes then the appellant informed them that he kept the notes in his full-pant, thereafter the hands of the accused/appellant were washed and the same turned into pink colour and for that proceedings were recorded vide Ex.P-3. Version of Bodhram is supported by the version of Lakhiram(PW-2), Mahettar Lal (PW-3), Lakhan(PW-4), K.S. Baghel (PW6), Pothiram (PW-7) and B.D. Dhananjay (PW-8). All the witnesses have supported the version of complainant regarding demand and receive of currency notes. The version of these witness is remained unshaken during the cross-examination even after searching cross-examination nothing could be elicited in favour of the appellant.

8. Premlal (DW-1) deposed that complainant thrust currency notes in the full-pant of the appellant which was hooked on the wall. Ramkrishan Choudhari (DW-2) deposed that 5 to 6 full-pants were hooked on the wall and in one full-pant complainant Bodhram thrust some currency notes. Labho (DW-3) deposed that Bodhram came with some officer and they caught the hands of the accused/appellant thereafter he stated that the accused/appellant has taken bribe from him. He further deposed that when the hands of the appellant were washed it was not coloured and on the basis of defence witnesses it is contended on behalf of the accused/appellant that acceptance of bribe by the appellant is not established.
9. In view of this Court, when there is ample evidence from the prosecution side that the accused/appellant took the bribe money from the complainant and earlier demanded bribe money in presence of prosecution witnesses and after receiving the amount he put the same in his full-pant and when the said currency notes were subjected to solution of sodium carbonate it turned into pink colour and when hands of the appellant washed it also turned pink. Version of defence witness is not acceptable.
10. Looking to the sufficient evidence adduced by the prosecution witnesses, the version of defence witnesses is not reliable piece of evidence and all the defence witnesses who appeared on the screen only after recording of prosecution witnesses, therefore, the version cannot be acted upon. Thus it is proved that the accused/appellant has demanded illegal gratification from the complainant and received the same. The accused/appellant was working as Revenue Inspector and employee of State Government.

11. Section 21 of the IPC, 1860 provides that every person in the service or pay of the Government for the performance of any public duty is a public servant. The present appellant is covered by the said definition. There is no doubt that he was a public servant at the relevant time.
12. D.N. Bile (PW-5) is a clerk of Law and Legal Affairs Department, Government of Madhya Pradesh, Bhopal. He deposed that Additional Secretary, Law and Legal Affairs Department, Government of Madhya Pradesh has issued sanction for prosecution as per Ex.P-4. Ex.P-4 is an elaborate order of three pages in which it is clearly mentioned that the accused/appellant is a Revenue Inspector and for partition and separation of record he demanded bribe money from the complainant Bodhram and received the same, proceedings of all the relevant record were submitted before the Additional Secretary and after applying mind the authority granted sanction for prosecution. Sanction order is a public documents under Section 74 of the Indian Evidence Act 1872 and the same is proved by the witness and the version of the witness is unrebutted. It is proved that the accused/appellant was prosecuted after proper sanction by the authorities of the State Government who can remove the accused/appellant from the service.
13. Minute scrutiny of the evidence goes to show that the appellant/accused who was Revenue Inspector, at the relevant time, had demanded illegal gratification from the complainant for separation of record of right and the matter was reported to Special Police Cell of Lok Ayukt and trap team was arranged and the same was successful. Once it was proved that the money was

received by the appellant, the appellant was under obligation to justify acceptance of money which he is not able to justify through cross examination of the prosecution witnesses or by adducing any convincing evidence. Case law cited by the defence side is distinguishable on the facts and circumstances of the present case.

14. In view of the aforesaid discussion, the findings of the trial Court appear to be in consonance with the evidence of the witnesses available on record, therefore, the judgment being well founded does not call for any interference in this appeal. Accordingly, the appeal being devoid of any substance is liable to be and is hereby dismissed.
15. The appellant is on bail. His bail bonds stand cancelled. The trial Court Special Judge (Prevention of Corruption Act, 1988), Raipur is directed to issue non-bailable warrant against him and after his arrest he be sent to jail for serving out the remaining part of the jail sentence.

Sd/-

(Ram Prasanna Sharma)
JUDGE