

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1454 of 2017

1. Chiman Lal Sahu, S/o. Premchand Sahu, Aged About 48 Years, Junior Engineer, Electricity Center, Thankhamhariya, District Durg, Chhattisgarh, Present Address : Assistant Engineer, TSG-9, Kanker, District North Bastar Kanker Chhattisgarh.....(Accused)
2. Shri Satyadhar Bandhe, S/o. Shri Chaitram Bandhe, Aged About 30 Years, Designation - Assistant Grade - III (Contract) Electricity Distributor Center, Thankhamhariya, District Durg, Chhattisgarh, Permanent Address : Baroda, Thana Mana Camp, Raipur, Chhattisgarh At Present Bemetara Division Office.

---- Petitioners

Versus

State Of Chhattisgarh, Through the Superintendent Of Police, Anti Corruption Bureau, Raipur, Chhattisgarh.

---- Respondent

For Petitioners : Mr. Tarun Dansena, Advocate

For Respondent : Mr. Ashish Shukla, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

23.10.2017

Heard

1. The instant petition is against the order dated 04.07.2017 wherein an application under Section 19(4) of the Prevention of Corruption Act, which was preferred by the petitioners was dismissed.
2. Learned counsel for the petitioners would submit that the petitioner No.1 Chiman Lal Sahu was working as Junior Engineer in the Electricity Department and petitioner No.2 Satyadhar Bandhe was working as Assistant Grade-III in the Electricity Distribution Center at Durg. It is contended that one Ghanshyam Singh Rajput who was given a connection of electricity for the agriculture was selling the same to another person and thereby he was caught red-handed, consequently a fine of Rs.25,000/- was imposed. It is stated that the complainant contended that he would not be able to pay the amount of Rs.25,000/- in one go and requested for payment in installments and while installment of

Rs.5000/- was paid instead it was converted into bribe and undue demand, whereas the receipt was issued for the same. It is stated that initially request for sanction was refused when was sought by the ACB by the Executive Engineer but subsequently the sanction was granted by the Chief Engineer of the Electricity Department and in given case once the sanction has been refused, it cannot be revived; therefore, the prosecution itself cannot be sustained. Therefore the entire proceedings may be quashed.

3. Per contra, learned State counsel opposes the argument advanced by the petitioners.
4. Perused the documents. Perusal of the sanction, which was granted by the Chief Engineer purports that in order to provide the new electricity connection, a demand was made of Rs.5000/- and while it was being transacted both the petitioners were apprehended red-handed. The record also contains the refusal of sanction which was by the Executive Engineer on the ground that both the petitioner were working in the interest of the Department. The order of the trial Court records that the receipt though was issued of Rs.5000/- by Ex.D-4 was of dated 02.05.2009 whereas the actual raid was conducted on 01.05.2009. Consequently, prima facie, it do not inspire confidence that the payment was made in lieu of the demand raised by the Electricity Department, as the dates do not tally with the raid and issuance of receipt. The receipt was issued a day later by few of the officers of Electricity Department itself. The entire defence has to be tested at the floor of the trial Court. The defence which has been raised at this stage cannot be appreciated. More so perusal of the order of sanction granted by the Chief Engineer of the Electricity Department cannot be faulted at this stage and it cannot be adjudicated by accepting the statement of petitioners as gospel truth while exercising the jurisdiction under Section 482 of Cr.P.C.
5. In view of the above, the petition has no merit and is accordingly dismissed.

Sd/-
(Goutam Bhaduri)
Judge