**NAFR**

# HIGH COURT OF CHHATTISGARH, BILASPUR

## Acquittal Appeal No.124 of 2009

The State of Chhattisgarh, Through Special Police Establishment, Lokayukt, Rajnandgaon (CG)

**---- Appellant**

**Versus**

1. Aditya Asna S/o. Late S Asna, aged about 42 years, Occupation SDO (Agriculture Khairagarh) R/o. Near Tarbahar Church, Bilaspur
2. Ravindra Rao, S/o. Madhav Rao Jagdhale, aged about 55 years, Occupation Asstt. Engineer, R/o. Mahesh Nagar, Rajnandgaon (CG)

**---- Respondents**

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| For the appellant/State | : Shri Lav Sharma, Panel Lawyer |
| For respondent No.1 | : Shri Vishnu Koshta, Advocate |
| For respondent No.2 | : Shri YC Sharma, Advocate |

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**Hon'ble Shri Justice Ram Prasanna Sharma**

**Judgment On Board**

**24.10.2018.**

**1**. This appeal is directed against the judgment of acquittal dated 09.5.2005 passed by Special Judge under Prevention of Corruption act, 1988, Rajnandgaon (CG) in Special Case No.01/1998, wherein the said Court acquitted both the respondents for the charges under Section 13(1)(d) read with Section 13(2) of the Act, 1988**.**

**2**. As per the prosecution case, respondent No.1 was posted as Sub Divisional Officer (Agriculture) at Khairagarh and respondent No.2 was Asst. Engineer of Mahesh Nagar. It is alleged that one criminal case was pending against respondent No.2 for possession of property for which he cannot satisfactorily account of pecuniary resources and in that case respondent No.1

submitted income report of wife of respondent No.2 to the tune of Rs. 7,91,750/- which was on higher side i.e. 8 times of the actual income of the agricultural field. Wife of respondent No.2 namely Ratna Jagdhale is having land measuring 4.536 hectare and her agricultural income was assessed for the years 1982-83 to 1992-93 i.e. for 11 years. Three different reports were submitted by different officers. One officer has reported the income to the tune of Rs.92,695/- while the other officer reported the income to the tune of Rs.4,66,000/- and respondent No.1 reported the income to the tune of Rs.7,91,750/-.

**3**. Now the point for consideration is whether the report of income of Smt. Ratna submitted by respondent No.1 is on higher side or not. The prosecution is under obligation to prove agricultural income of Smt. Ratna, but from the evidence it is not clear as to on what basis the income certificate was issued by three different officers. It was also not clear about the nature of crop which was sown in the field and cost of the crop for each year. It is also not clear as to how much quantity of crop was produced and what was the selling price of the said crop. Profit can be determined only by selling price and cost price of the crop. But in all the reports no one calculated regarding the expenditure towards cultivation of the crops and the selling price of the same. In absence of these evidence, the calculation made by the authorities are vague and it would not be proper to come to a conclusion that respondent No.1 has made certificate showing income on higher side.

**4**. From the record it is not clear whether the land belongs to Smt. Ratna was irrigated land or not and whether she was harvesting single crop or double crop in a year. The authorities have not done their homework and without doing their proper homework in the field they prepared certificate of income which cannot be termed as true certificate of the income. Unless true certificate of income is prepared after real assessment of the each year, total amount for 11 years cannot be calculated. But this procedure was not done by any of the authorities. Therefore, it cannot be held that respondent No.1 who prepared certificate against the real income of Smt. Ratna is on higher side.

**5**. The trial Court elaborately discussed the entire evidence and this Court has reassessed the record in which it is not clear regarding the nature of crop and real income from the crop. In absence of cogent evidence, the trial Court opined that the charges levelled against the respondents are not established. Looking to the entire evidence, this Court has no reason to record a contrary finding and therefore, acquittal order passed by the trial Court is not liable to be reversed.

**6**. Accordingly, the appeal is liable to be and is hereby dismissed.

**Sd/-**
**(Ram Prasanna Sharma)**
**JUDGE**

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