

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 695 of 2010**

- State Of Chhattisgarh Through Police Station Anti Corruption (Lokayukt Office), Bhopal, Branch Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Petitioner**Versus**

1. Prem Lal Gajbhiye S/o Dashram Gajbhiye Aged About 56 Years (Chief Executive Officer - Raipur Development Authority, Raipur), Gram Tekadi, P. S. Balaghat, Present Occupation Advocacy, R/o D-1/104, Sector -5, Devendra Nagar, Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Inderchand Dhadiwal S/o Uttamchand Dhadiwal, aged about 62 years, Occupation Social Work, R/o Sudner Bazar District Raipur Chhattisgarh
3. Dipak Suran S/o Bhikam Surana Died R/o Vill. Budapara, Sadar Bazar, Raipur, District Raipur Chhattisgarh

---- Respondent

For Petitioner/State	:	Shri Vivek Sharma, Govt. Advocate
For Respondents	:	Shri G.D. Vaswani, Shri Saurabh Dangi and Shri Sandeep Yadav, Advocates

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

30/10/2018

1. Heard on the application for grant of leave to appeal filed under Section 378 (3) of the Cr.P.C.
2. The instant Cr.M.P. has been filed seeking leave to appeal against the judgment dated 12.04.2007, passed by the Special Judge/ First Additional Sessions Judge, Raipur (CG) in Special Cr. Case No.7/97,

wherein the said Court has acquitted both the surviving respondents of the charge under Section 13 (1) (d) and 13 (2) of the Prevention of Corruption Act, 1988 read with Section 120-B of the I.P.C.

3. In the present case, respondents were charge-sheeted on the ground that in connivance with the Chief Executive Officer of Raipur Development Authority, Raipur, they executed allotment deed of commercial plot area measuring 1,08,000 sq. ft. of the government land situated at Devendra Nagar Scheme No. 32 for construction of shopping complex and cinema hall in a meager amount of Rs.29.75 per sq. ft. whereas the prevailing rate at the relevant time of the land was Rs. 300/- per sq.ft. and thereby the Raipur Development Authority/State Government suffered a huge financial loss.

4. Admittedly, the land was not sold to any of the respondent by the Raipur Development Authority. It was only given on lease for a period of 30 years. Raghubir Prasad Yadav (PW13) is a Retired Deputy Collector, who was posted as Chief Executive Officer of Raipur Development Authority at the prevailing time in the year 1985. As per version of this witness (para 3), the government rate for premium of the land was Rs.20 and 50 paise per sq.ft. The auction was conducted and it was a public auction for paying lease of the said land. The highest bidder was Jain and Brothers, Civil Line Raipur, who had lastly bidden the auction for Rs.29.75 per sq. ft. It is not a case where the land was transferred to any of the respondent, but it is a case of lease and auction was only for fixing the premium. The basic premium was less than for Rs.21/- per sq. ft. while the premium in auction was reached upto Rs.29.75 per sq. ft. This witness has admitted in his statement (para 25) that the authority has gained Rs.10/- per sq. ft. to the

minimum price. It means no loss was sustained by the Raipur Development Authority after auction as per version of this witness who was the Chief Executive Officer at the time of fixing of premium.

5. The complaint was filed on the ground that the price of the land was Rs.300/- per sq. ft. in the year 1996, but in the present case since the land was not auctioned for sale, the price of the land was irrelevant and only the premium of the land was relevant and as per version of the Chief Executive Officer, the Raipur Development Authority got more premium than assessed by the officers of the Authority. The trial Court has evaluated the entire evidence and came to the conclusion that the charges levelled against the respondents are not established. This Court has re-assessed the entire evidence and found no reason to record a contrary finding than the finding recorded by the trial Court. It is not a case where the respondents should be called for full consideration of the case. Accordingly, the prayer for leave to appeal is rejected.

6. Consequently, Cr.M.P. stands dismissed. Sd/

(Ram Prasanna Sharma)

Judge