

HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No. 94 of 2009

Judgement reserved on 8-10-2018

Judgement delivered on 30-10-2018

- State of Chhattisgarh through Lokayukta Office, Special Police, Establishment, Bilaspur (Chhattisgarh).

---- Appellant.

Versus

- Anil Kumar Raj s/o. Dhansingh, aged about 27 years, r/o. Village Khaira, PS Ratanpur, District Bilaspur (CG).

---- Respondent

For Appellant/State : Mr. Lav Sharma, Panel Lawyer.

For Respondent : Mr. Abhishek Sinha, Advocate.

(SB: Hon'ble Mr. Justice Ram Prasanna Sharma)

CAV Judgment

1. This appeal is directed against the judgment of conviction and order of sentence dated 4-8-2006 passed by Special Judge/ First Additional Sessions Judge (under Prevention of Corruption Act, 1988), Bilaspur in Special Case No. 1 of 2001 wherein the said Court acquitted the respondent from charge under Sections 7 and 13 (1)(d) read with Section 13 (2) of the Prevention of Corruption Act, 1988 (for short, "the Act, 1988").
2. In the present case, respondent was posted as Patwari at the relevant time and he is a public servant. One Amar Singh (PW/4) purchased agricultural land as per Ex.P/29 and proceeding of mutation was pending and for that respondent demanded

Rs.500/- as illegal gratification. The matter was reported and investigated. Respondent was charge-sheeted and after investigation he was acquitted by the Special court as mentioned above.

3. Learned counsel for the appellant/State submits that from the statement of Amar Singh (PW/4) and witnesses of trap party, case of the prosecution is fully established, but the court below has not considered the evidence in its true perspective which is not liable to be sustainable.
4. On the other hand, learned counsel for the respondent would submit that the evidence of PW/4 Amar Singh is not inspiring confidence of the Court that is why the court is well within its jurisdiction in acquitting the respondent. Therefore, finding of the trial Court is just and proper.
5. I have heard learned counsel for the parties and perused the record of the court below in which judgment was passed.
6. In the present case, Amar Singh (PW/4) is complainant and decoy witness. As per version of this witness, respondent did not demand any illegal gratification. As per version of this witness one Tahasildar was demanding money but the said Tahasildar and his name is unknown to the record of the trial Court. No such report was made by the complainant against

the Tahasildar and, therefore, version of the complainant is not befitting to his complaint . Again, from the statement of this witness, he tendered money for Tahasildar and in absence of Tahasildar, he kept money into drawer of a table. It is not the case of complainant that respondent received money as illegal gratification. This witness has been subjected to leading questions by the prosecution side, but it is not established from his entire evidence that respondent demanded money as illegal gratification and received the same knowing it to be bribe money. There is no shadow account of witness regarding demand of illegal gratification and the case of the prosecution is based on the statement of Amar Singh (PW/4) who has not supported the version of prosecution. Though some prosecution witnesses of trap party deposed that when fingers of the respondent were dipped into solution of sodium carbonate it turned pink, but the fact remains that acceptance of illegal gratification is not proved by the direct evidence of the complainant. There is no expert opinion that solution which was collected after dipping the fingers of the respondent was containing phenolphthalein powder and sodium carbonate. In absence of chemical examination, solution collected in the present case after washing of the hands of the respondent has no bearing

with acceptance of illegal gratification. One tape recorder was provided to the complainant for recording the voice of the respondent, but as per version of the complainant he did not record the voice of the respondent.

7. On over-all assessment of the evidence, the trial Court came to conclusion that charge leveled against the respondent is not established. This court has re-assessed the entire evidence of the prosecution and has no reason to record contrary finding what is recorded by the trial Court.
8. Accordingly, the appeal being devoid of merit is liable to be and is hereby dismissed.

Sd/-

(Ram Prasanna Sharma)
Judge

Raju