

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No.188 of 2009**

State of Chhattisgarh, Through Special Police Establishment,
Anti Corruption Bureau, Raipur (CG)

---- Appellant

Versus

Bhushan Lal Kashyap, S/o. Late Brijlal Singh Kashyap, aged
about 37 years, Occupation Govt. Servant, R/o. Village Temari,
PS Nandghat, Distt. Durg (CG)

---- Respondent

For the appellant/State : Shri Vivek Sharma, Govt. Advocate
For the respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment On Board****13.11.2018.**

1. This appeal is directed against the judgment of acquittal dated 30.4.2008 passed by Special Judge under Prevention of Corruption Act, 1988, (for short 'the Act 1988') Durg (CG) in Special Case No.01/2004, wherein the said Court acquitted the respondent for the charges under Sections 7 & 13(1)(d) read with Section 13(2) of the Act, 1988.

2. In the present case, the respondent was working as Assistant Grade-II at Govt. Higher Secondary School, Temri while complainant Madhavrao Verma was Headmaster at Middle School, Malda. The complainant filed an application for withdrawal of advance amount of General Provident Fund and for clearing his application, the respondent demanded illegal gratification of Rs.500/-. A report was lodged before the Anti Corruption Bureau, Lokayukt, Raipur by the complainant. A trap

party was arranged in which the respondent was trapped. After investigation, he was charge sheeted and acquitted as mentioned above.

3. Learned counsel for appellant/State submits that there is ample evidence against the respondent regarding demand and acceptance of illegal gratification but the trial Court recorded a finding of acquittal on the basis of surmises and conjunctures which is not liable to be sustained.

4. Madhav Rao Verma (PW-8) though lodged a report before the Anti Corruption Bureau regarding demand of illegal gratification to the tune of Rs.500/- by the respondent, but contrary to his application, he filed an affidavit before the said bureau that no demand was made by the respondent from him. There is no shadow witness account of demand of illegal gratification. As per complainant Madhav Rao Verma, the respondent inserted the currency notes in the pocket of his pant but witnesses of seizure deposed that the currency notes were recovered from the shirt of the respondent. Therefore, the trial Court opined that acceptance by the respondent is not established looking to the contrary statement of the witnesses adduced by the prosecution. When the complainant himself was not stable regarding demand of illegal gratification and other evidence is also not stable regarding acceptance of the amount, the trial court opined that the conviction cannot be based on the testimony of the prosecution witnesses. This Court has reassessed the evidence and has no reason to record a contrary finding.

Therefore, the finding arrived at by the trial Court is not liable to be interfered with.

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

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