

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 250 of 2018**

- State of Chhattisgarh Through The Superintendent Of Police, Anti Corruption Bureau, Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Petitioner

Versus

1. Himmat Ram Verma S/o Late Shri Bodhi Ram Verma Aged About 56 Years Assistant Grade 3 District Treasury Office Durg District Durg Chhattisgarh Permanent Address R/o Village Kurmi Gunda, Police Station Ranitarai District Durg Chhattisgarh, District : Durg, Chhattisgarh
2. Laxman Singh Thakur S/o Shri Ram Singh Thakur Aged About 49 Years District Treasury Officer, District Treasury Office Durg District Durg Chhattisgarh Permanent Address R/o Village Jhalmala, Balod, Police Station Balod, District Balod Chhattisgarh, District : Durg, Chhattisgarh
3. Uttam Chand Dewangan S/o Shri Loknath Dewangan Aged About 52 Years Assistant District Treasury Officer, District Treasury Office, Durg District Durg Chhattisgarh Permanent Address R/o Village Kankalipara, Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondents

 For the petitioner/State : Mr. Vivek Sharma, Govt. Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**Order on Board****1-10-2018.**

1. Heard on I.A.No. 2 of 2018 which is an application for deleting the name of respondent No.2 Laxman Singh Thakur from the array of respondents in the cause title on account of his death supported with death certificate in which it has been mentioned that he died on 12-8-2016.

2. For the reasons mentioned in the application, same is allowed and name of respondent No.2 Laxman Singh Thakur be deleted from the array of respondents in the cause title.
3. Also heard on I.A.No. 1 of 2018, which is an application for condonation of delay in filing the instant petition.
4. For the reasons mentioned in the application and as per law laid down by the Hon'ble Supreme Court in the matter of **State of Haryana vs. Chandra Mani and others, reported in (1996) 3 SCC 132**, delay of 32 days in filing the instant petition is allowed.
5. Also heard on application for grant of leave to appeal under Section 378 (3) of the Code of Criminal Procedure 1973.
6. This petition is preferred against the judgment of acquittal dated 15-9-2017 passed by the Special Judge (Prevention of Corruption Act, 1988) (for short, "the Act, 1988") Durg (CG) in Special Case No. 16 of 2016 wherein the said court acquitted the respondents for charge of commission of offence under Sections 7 & 13 (1) D read with Section 13 (2) of the Act, 1988.
7. As per case of prosecution, on 24-6-2011 in District Treasury Office, Durg, the respondent No.2 Laxman Singh Thakur (died) was posted as District Treasury Officer. Respondent No. 3 Uttam Chand Dewangan was posted as Assistant District Treasury Officer and the respondent No.1 Himmat Ram Verma was posted as Assistant Grade III. The complainant Baldau

Prasad Sharma who was posted as Head Clerk in S.T.F Baghera had deposited the bill for withdrawal of amount of arrears of officers/employees of S.T.F. It is alleged that for withdrawal of the said bill amount, Treasury Officer Laxman Singh Thakur demanded Rs.25,000/- as illegal gratification. The matter was reported and investigated. Trap party was arranged and amount was received from respondent No.1 Himmat Ram Verma. The respondents were charge-sheeted and after completion of trial, the trial Court acquitted all the respondents as mentioned above.

8. In the present case, Baldau Prasad Sharma (PW/1) is complainant and as per version of this witness, one Mahendra Singh Yadav who is posted in Treasury Office informed him that for clearing the bill of arrears, Treasury Officer is demanding Rs.25,000/-. From the version of this witness it is not clear as to who really demanded the amount. From the version of this witness, it is clear that after lodging the report one trap party was arranged and the amount was recovered from respondent No.1 Himmat Ram Verma.
9. To substantiate the charge, prosecution examined as many as eight witnesses, but no one deposed that respondent No.3 Uttam Chand ever demanded illegal gratification or received the amount.

- 10.** From the entire evidence, it is not established that respondent No.3 Uttam Chand had any role to play in commission of the said offence. From the evidence, it is not clear that respondent No.2 Laxman Singh Thakur had demanded money. Statement of complainant is vague on this point because as per version of this witness one Mahendra Singh Yadav informed him regarding demand. From the evidence of the complainant, it is not established that he ever met with Laxman Singh Thakur and any demand was made by the said respondent. Receiving the gratification is also not established against Laxman Singh Thakur. Therefore, looking to the entire evidence, the trial Court opined that charge levelled against respondent No.2 Laxman Singh Thakur and respondent No.3 Uttam Chand Dewangan is not established. As respondent No.2 Laxman Singh Thakur has already died, the trial Court did not give finding against him. Though it has come in evidence that the amount was recovered from respondent No.1 Himmat Ram Verma, but it is not established that Himmat Ram Verma ever demanded any illegal gratification.
- 11.** As per version of the complainant Baldau Prasad Sharma (PW/1), one Treasury Officer asked him to pass the amount to Himmat Ram Verma. There is no evidence that Himmat Ram Verma knew that the amount received by him is the amount of

illegal gratification. It is also not clear that he knew that any demand was made by the Treasury Officer.

12. Looking to the entire evidence, the trial Court opined that *mens rea* on the part of respondent No.1 Himmat Ram Verma is not established as he has not demanded the money and did not receive the same knowingly to be an amount of illegal gratification. Finding of the trial Court is based on relevant material and it cannot be said that same is based on irrelevant or extraneous material. This court has no reason to record contrary finding and it is not a case where the respondents should be called for full consideration of the case.
13. Considering the facts and material on record, this court is of the view that it is not a fit case for grant of leave to appeal. Accordingly the application for grant of leave to appeal is rejected. Consequently, the instant CRMP is also dismissed.

Sd/-

(Ram Prasanna Sharma)
JUDGE

Raju