

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 2074 of 1999

Special Police Establishment, LOK AYUKT KARYALAY, Madhya Pradesh, Bhopal, through Special Police Establishment Lok Ayukt (Raipur)

---- Appellant

Versus

V.J. Warghese S/o. V.C. John, Aged 59 years, Resident of Model Town Bhilai, the then Assistant Engineer, S.A.D.A., Bhilai (M.P.) (now Chhattisgarh)

---- Respondent

For Appellant : Mr. Prasoon Bhaduri, Govt. Advocate
For Respondent : Mr. Sudeep Agrawal, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma

Judgement on Board

11.04.2018

1. Challenge in this appeal is to the judgment of conviction and order of sentence dated 26.02.1999 passed by the First Additional Sessions Judge Durg, Session Division Durg (C.G.) in Special Case No. 1/1996, wherein the said Court acquitted the respondent for commission of offence under Section 13(1)(E) read with Section 13 (2) of the Prevention of the Corruption Act 1988, for having property in his possession for which he cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

2. In the present case, the respondent was working as Assistant Soil Conservator Officer at Jagdalpur from April 1971 to July 1971. Thereafter, as Draftsman in the office of Joint Director, Agriculture. It is alleged that he received salary of Rs. 2.18 lakhs during check period of 01.11.1977 to 13.11.1992, while the property was found in possession of the respondent was worth more than six lakhs.

3. To substantiate the charge prosecution has examined as many as 18 witnesses in their support.

4. Kailash Nath Dewangan (PW-5) deposed that he sold the land bearing survey No. 324/30, area 6780 Sq. fit for Rs. 1500/- to wife of respondent. Khorbahara (PW-6) also deposed in the same line. Value of both sale deeds come out to Rs. 4100/-.

5. As per version of S.R.Bhagat (PW-11) they seized cash Rs. 48,000/- and gold ornaments from the respondent. But this witness was not in a position to value the ornaments. Shrikrishn Gupta (PW-15) deposed regarding gold article and other documents seized from the house of the respondent. But this witness was also not in a position to value the gold ornaments.

6. The prosecution has not adduced evidence of any Goldsmith or other expert to value the gold ornaments. It is also not clear whether the ornaments seized was made of gold and regarding purity of gold. In absence of any evidence regarding valuation of gold ornaments by any expert, it was not established before the

trial Court the exact value of said ornaments. All that was established his execution of two sale deeds valued at Rs. 4100/- and amount of Rs. 48,000/- in cash that comes out to Rs. 52,100/- in total.

7. The prosecution was under obligation to prove that the respondent was in possession of property which is disproportionate to his known sources of income but that was not established before the trial Court. The prosecution itself is based the charge that income of the respondent was more than two lakhs for the check period i.e. from 01.11.1977 to 13.11.1992, and the authorities are not able to establish that whatever property found with the respondent was disproportionate to his known source of income and property mentioned above is less than his known sources of income.

8. Taking into consideration the fact that the trial Court is right in holding that the prosecution has failed to establish the case of disproportionate assets against the respondent and the same is not liable to be disturbed while invoking jurisdiction of the appeal, therefore, the instant appeal fails and is hereby dismissed.

Sd/-

(Ram Prasanna Sharma)
JUDGE