

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 670 of 2018**

The State of Chhattisgarh, Through- Police Station- Anti Corruption Bureau, Raipur, District Unit- Bilaspur (C.G.)

---- **Petitioner**

Versus

Sitesh Kumar Mishra, S/o Shri Rajeshwar Mishra, Aged About 46 Years, P.H.N. -1 Village Khutia, Incharge P.H.N. -2, Village Nimha, Police Station Udaypur, R/o Juna Lakhanpur, District Surguja (C.G.)

---- **Respondent**

For State/ Petitioner : Mr. Vivek Sharma, G.A.

For Respondent : Mr. Rakesh Kumar Jha, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

04/12/2018

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 148 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 25.07.2017 passed by Special Judge (Prevention of Corruption Act), Ambikapur, District- Surguja (C.G.) in Special Criminal Case No. 03/2015, wherein the said court acquitted the respondent for commission of offence under Sections 7 & 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

5. As per case of the prosecution, complainant of the case namely Girdhari Lal Singh (PW-3) submitted a written complaint to Anti Corruption Bureau, Bilaspur with an allegation that he applied for mutation of his land situated at Village- Getara, bearing Khasra No. 1082/7 & 1082/2009 area admeasuring 1.215 hectares to the office of respondent who was posted as Patwari. On 10.04.2014, the respondent/ accused took Rs. 27,000/- from the complainant as illegal gratification in relation to preparation of mutation report. The respondent further demanded Rs. 5000/- for demarcation of the said land. Matter was investigated and after completion of trial, he was acquitted from the charges as mentioned above.
6. Learned counsel for the State/ petitioner submits that there is ample evidence which shows the demand and acceptance by the respondent and when his hands were washed in Sodium Carbonate solution, it turned pink which shows involvement of the respondent for crime in question, but the trial court acquitted him against factual and legal aspect of the matter.
7. On the other hand, learned counsel for the respondent submits that the finding arrived at by the trial court is based on proper marshaling of evidence and the same is not liable to be interfered with invoking jurisdiction of the appeal.
8. In the present case, name of the complainant is Girdhari Lal Singh (PW-3). He has not supported version of the prosecution. As per version of this witness, the respondent has not demanded any amount as illegal gratification and did not accept the amount knowing it to be bribe amount. As per version of this

witness, the amount was seized from table and not from possession of the respondent.

9. One Kashiram Bhuarya-Head Constable(PW-8) is shadow witness account to the incident, but he deposed before the trial court that he did not accompany when he entered into office of the respondent and he was not able to hear their conversation. Looking to the evidence of the complainant and shadow witness, demand and acceptance of illegal gratification was not established. The other piece of evidence, is finger of the respondent, were deeped in Sodium Carbonate solution, it turned pink. This evidence is corroborative piece of evidence and the same is not sufficient independently to establish crime in question. Unless acceptance is established, Section 20 of the Act, 1988 cannot be revoked. In the present case, offence of acceptance was not established by direct evidence. The trial court opined that the charges leveled against the respondent is not established to the satisfaction of the court.
10. The trial court has elaborately discussed the entire evidence in its judgment and this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
11. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge