

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 138 of 2009**

State of Chhattisgarh, Through: The Special Police Establishment Unit at Raipur (C.G.)

---- Appellant

Versus

1. Shri K. Satyapal, S/o Ramratan Sharma, aged about 68 years, then Competent Authority, Urban Land Ceiling, Raipur, R/o Shivam Sundaram Nagar, Chhindwada (M.P.)
2. J.S. Gayakwad, S/o Dharmuram Gayakwad, aged about 58 years, then Dy. Registrar, Raipur (C.G.) At Present O/o Up Mahanirikshak (Pangiyak) Bilaspur (C.G.)
3. Dilip Kumar Mahobia, S/o Bhakkuram Mahobia, R/o Chhuikhadan, District- Rajnandgaon (C.G.)
4. Radheshyam Verma, S/o Lallu Prasad Verma, R/o Kailashpuri, Tikrapara, Raipur, District- Raipur (C.G.)
5. Gangaram Sahu, S/o Kishunram Sahu, aged about 57 years, then Revenue Inspector, O/o Competent Authority, Urban Land Ceiling, Raipur At Present Revenue Inspector, Mainpur, District- Raipur (C.G.)

---- Respondents

For State/ Appellant : Mr. Vinod Kumar Tekam, P.L.

For Respondent Nos. 3 & 4 : Mr. Shivendu Pandya, Advocate.

For Respondent No. 5 : Mr. Raja Sharma, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

12/11/2018

1. This acquittal appeal is preferred under Section 378 (4) of the Code of Criminal Procedure, 1973 against judgment dated 24.09.2005 passed by Special Judge and First Additional Sessions Judge, Raipur (C.G.) in Special Criminal Case No. 25/1998, wherein the said court acquitted all the respondents for commission of offence under Section 13(1)(d) read with Section 13 (2) of the Prevention of Corruption Act, 1988 (For

short “the Act, 1988”) and Sections 120 (B), 467, 468 & 471 of IPC, 1860.

2. The prosecution is related to land bearing survey No. 572 & 598 admeasuring 0.276 and 0.028 Hectare respectively situated at village- Chirhuldih. As per version of the prosecution, the land was diverted land but the respondents shown it as agricultural land and assessed less value for execution of sale-deed. As per prosecution, the actual value of the land is Rs. 85/- per sq.ft. but it was shown as Rs. 10.58 per sq.ft.
3. The first question for consideration is whether the land was diverted or whether it was agricultural land. As per Section 172 of the Chhattisgarh Land Revenue Code, 1959, unless procedure of the said section is adopted, no land can be diverted for other than agricultural purpose. In the present case, though prosecution has examined numbers of witnesses, but no one examined to depose the procedure of diversion of the land in question. It was not proved before the trial court that the land was diverted as per the provision mentioned above. In absence of evidence, the trial court opined that the land can not be termed as diverted land, therefore, charges under Sections 120(B), 468 & 471 of IPC are not established against the respondents for showing it to be agricultural land.
4. The next question for consideration is whether valuation of the land was proper before execution of sale-deed. No one

examined before the trial court who assessed the value of the land in question at the time of execution of sale-deed. Unless there is authentic valuation of the land on record, the trial court was not in position to conclude that the amount shown in sale-deed was less than actual amount of the land, therefore, the trial court opined that the charges under Section 13(1)(d) read with Section 13(2) of the Act, 1988 is also not made out.

5. After reassessing the entire record, this Court has no reason to substitute contrary finding and this Court has no reason to disturb the finding recorded by the trial court.
6. Accordingly, the acquittal appeal is liable to be and is hereby dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge