

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 856 of 2017**

State of Chhattisgarh, Through: Inspector General, State Economic
Offence Investigation and Anti Corruption Bureau, Raipur (C.G.)

---- **Petitioner**

Versus

Prabhat Kumar Jain, S/o Kundan Lal Jain, Aged About 54 Years,
Cooperative Extension Officer, Durg (C.G.), R/o In front of Old Ganj,
Rajnandgaon (C.G.)

---- **Respondent**

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

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

03/12/2018

1. Heard on I.A. No. 01/2017, 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 15 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 17.03.2017 passed by Special Judge (Prevention of Corruption Act), Durg (C.G.) in Special Case No. 01/2009, 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, one Setram Yadav, who is complainant in the present case, is President of Hamal Union, Bhilai, Durg, lodged a written complaint before Superintendent of Police, Anti Corruption Bureau, Raipur alleging that at the time of payment of wages, a fixed amount are being deducted from every labour for Future Security Fund by the Hamal Shramik Sahkari Samiti Maryadit, Durg. The account is being maintained by the office bearer of the Union. In the year, 2003, Vice President Makhanlal Sahu, Secretary Banshi and Cashier Dharmu Chandrakar embezzled the amount of Rs. 51,000/- from the fund. Thus, a complaint was made before the Dy. Registrar, Cooperative Societies, Durg. In pursuance to the complaint, respondent who was working as Cooperative Extension Officer was appointed as Enquiry Officer by the Dy. Registrar, Cooperative Societies, Durg. It is alleged that the respondent demanded Rs. 3000/- from the complainant for making report in favour and received Rs. 1500/- as illegal gratification. Matter was investigated and respondent was charge-sheeted and after completion of trial, he was acquitted from the charges as mentioned above.
6. Learned counsel for the State/ petitioner submits that the order of acquittal recorded by the trial court is perverse looking to the evidence adduced by the prosecution and the

same is not considered in its true perspective that is why finding arrived at by the trial court is liable to be reversed.

7. Setram Yadav (PW-4) is complainant, but he did not depose before the trial court that any demand was made by the respondent. As per version of this witness, he tendered Rs. 1500/- to the respondent, but he denied accepting the same and he kept the said amount in his bag. Horilal Sahu (PW-2) is shadow witness account to the demand and acceptance, but he has not supported version of the prosecution. After questions from prosecution side, he is not firm about demand and acceptance of illegal gratification.
8. Looking to the evidence of the complainant and shadow witness, it is not established that any demand of illegal gratification was made by the respondent or he received the amount knowing it to be illegal gratification. The other piece of evidence laid by the prosecution is regarding trap witnesses. As per version of these witnesses, when hands of the respondent was washed in Sodium Carbonate solution, it turned pink. Corroborative piece of evidence can be looked into in support of direct evidence, but in the present case, when demand of illegal gratification and acceptance of the same is not established by the complainant and other shadow witnesses, the trial court was not in a position to conclude that any demand or acceptance of illegal gratification was done by the respondent.

9. The finding arrived at by the trial court is based on relevant material placed on record and the same is not based on irrelevant or extraneous matter. The finding of the trial court is one of the plausible view 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.
10. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge