

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.1286 of 2018**

- State Of Chhattisgarh Anti Corruption Bureau, Raipur District
Raipur Chhattisgarh

---- Petitioner**Versus**

- Jhadu Singh S/o Late Jaggu Singh Rajput Aged About 61 Years
Occupation Head Constable, R/o Police Station Bemetara,
District Bemetara Chhattisgarh Permanent R/o Village Khajri,
Police Station Nandani District Durg Chhattisgarh

---- Respondent

 For the Petitioner/State : Shri Vivek Sharma, Govt. Advocate
 For the respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****24.10.2018.**

1. Heard on IA No.01/18 for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 340 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This appeal has been preferred against judgment of acquittal dated 12.4.2017 passed by Special Judge under the Prevention of Corruption Act, 1988, Bemtara, Distt. Bemetara (CG) in Special Case No.02/2013 wherein the said Court acquitted the respondent of the charge under Section 7 & 13(1)(d) read with

Section 13(2) of the Act 1988 for demanding illegal gratification from one Baldeo Yadav on 21.5.2007 at Police Station Saja to the tune of Rs.4,000/- and for accepting the said gratification.

5. As per the version of the prosecution, the respondent demanded illegal gratification of Rs.4000/- from complainant Baldeo Yadav for providing benefit in one case registered against him. At the time of the incident, the respondent was posted as Head Constable at Police Station Saja. The matter was reported and investigated and after the completion of the trial, the trial Court acquitted the respondent.

6. Baldeo Yadav (PW-1) is the complainant but he did not support the version of the prosecution in his examination-in-chief. As per the version of this witness no procedures were followed against the respondent before him. This witness has been subjected to leading questions by the prosecution in which he answered in affirmative but the fact remains that his version in examination-in-chief and his version after leading questions are self contradictory. Looking to his entire evidence, the trial Court opined that the demand of illegal gratification is not established.

7. Pawan Kumar Pathak (PW-6) is the Head Constable and he was the member of the trap party. Inspector (Retd.) SS Bhagat (PW-9) was also a member of the trap party. As per the versions of both these witnesses, when the hands of the respondent were washed in Sodium Carbonate solution, colour of the solution turned into pink. Both these witnesses were the members of the trap party but they were not expert of the Sodium

Carbonate and Phenolphthalein test. In absence of examination of the solution recovered after washing the hands of the respondent it is not established to be of sodium carbonate solution and phenolphthalein powder. Mere sodium carbonate test is not sufficient to establish that the respondent has received illegal gratification. No witnesses stated before the trial Court that the respondent received the amount knowingly it to be the illegal gratification. The trial Court opined that the evidence adduced by the prosecution is not clinching against the respondent and this Court has no reason to substitute a contrary finding. It is not a case where the respondent should be called for full consideration of the case.

8. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

**Sd/-
(Ram Prasanna Sharma)
JUDGE**