

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 1343 of 2018**

State of Chhattisgarh, Through The Superintendent of Police, Anti Corruption Bureau, Raipur (C.G.)

---- **Petitioner**

**Versus**

Umesh Kumar Mishra, S/o Late Shri Brij Bhushan Mishra, Aged About 48 Years, Incharge Chief Municipal Officer, Nagar Panchayat Utai, District- Durg (C.G.)

Permanent Address- Opp. State Bank of India, Post Mahuranipur, District- Jhansi (U.P.).

---- **Respondent**

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

For Respondent : Mr. Ganesh Burman, Advocate.  
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**Hon'ble Shri Justice Ram Prasanna Sharma**

**Order On Board**

**04/12/2018**

1. Learned counsel for the State/ petitioner seeks to withdraw I.A. No. 01/2018, application for condonation of delay in filing the petition, as there is no delay in filing the petition.
2. Accordingly, I.A. No. 01/2018 is dismissed as withdrawn.
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 31.03.2018 passed by Special Judge (Prevention of Corruption Act), District- Durg (C.G.) in Special Case No. 15/2016, 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 - Ashish Tandon (PW-1) was a partner of Transfield Engineers Construction, who was awarded contract of construction of C.C. road at Ward No. 4 of Nagar Panchayat Utai, District- Durg. The cost of the work contract was Rs. 2,06,000/-. After completion of the work, the assessment was done and Rs. 1,65,000/- was paid to him through cheque. The said cheque was issued to him after obtaining Rs. 20,000/- as bribe towards issuance of said cheque. The accused further demanded Rs. 6,700/- for issuance of rest of the amount of the work contract i.e. Rs. 41,000/-. The matter was reported to Economic Offence Wing and after investigation, the respondent was charge-sheeted and acquitted as mentioned as above.
6. Learned counsel for the State/ petitioner submits that the trial court overlooked the material evidence. The demand and acceptance of illegal gratification which is corroborated by deeping fingers of the respondent in Sodium Carbonate solution, which turned pink, but the entire evidence is ignored by the trial court that is why the same is liable to be reversed.
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, complainant- Ashish Tandon (PW-1) did not depose against the respondent regarding demand of illegal gratification. As per version of this witness, demand

was made by Executive Engineer- P.K. Verma to the tune of Rs. 6000/-. As per version of this witness, he never reported the matter against the present respondent.

9. Again, as per version of this witness, he made conversation with Executive Engineer- P.K. Verma who asked him to go to the home of the respondent where the said engineer and the complainant had decided meeting, but Engineer - P.K. Verma did not reach there. As per version of the complainant, demand and acceptance of illegal gratification by the respondent is not established.
10. Hemant Arora (PW-4) and Constable- Ram Pravesh Mishra (PW-9) are shadow witnesses of this case, have not supported version of the prosecution. From their version, demand by the respondent is not established. When demand and acceptance was not established by direct evidence. The only evidence left in record is deeping of fingers of respondent in Sodium Carbonate solution which according to Panch witnesses, turned pink when hands of the respondent was washed in the said solution.
11. This corroborative piece of evidence can be take in support of direct evidence, but in absence of direct evidence, this part of evidence is not independently sufficient to establish demand or acceptance by the respondent. When demand and acceptance of illegal gratification was not established, Section 20 of the Act, 1988 cannot be invoked against the present respondent. The trial court has elaborately discussed the

entire evidence and came to conclusion that the charges leveled against the respondent is not established.

12. After reassessing the entire evidence, 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.
13. Consequently, the petition stands dismissed at motion stage itself.

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