

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 140 of 2009****Reserved on : 08.10.2018****Delivered on : 30.10.2018**

The State of Chhattisgarh, Through – District Magistrate, Bilaspur
(C.G.)

---- Appellant**Versus**

1. Krishanamurthy Shrivastava, S/o Ramdas, aged about – 54 years, Mining Inspector District Office Ambikapur (C.G.)
2. Anjor Das Dhritode, S/o Late Lateldas, Clerk Assistant Grade-III, Sanchalnalaya Bhotiki and Khanij Karyalaya (C.G.) Raipur.

---- Respondent

For State/ Appellant : Mr. Vinod Tekam, Panel Lawyer.

For respondents : Mr. Prakash Tiwari, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**CAV JUDGMENT**

1. This acquittal appeal is preferred under Section 378 (3) of the Code of Criminal Procedure, 1973 against judgment dated 06.08.2007 passed by Special Judge (Economic Offences), Janjgir, District- Janjgir-Champa (C.G.) in Special Criminal Case No. 06/2006, wherein the said court acquitted both the respondents for commission of offence under Sections 7, 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988.
2. As per case of the prosecution, the complainant Jodhraj Bareliya (PW-5) is a mining contractor and has got lease for mining in village- Birgahni. His lease agreement was extended for a period of 10 years and agreement was to be drafted by mining department.

3. Respondent No. 1- Krishanamurthy Shrivastava was Mining Inspector and respondent No. 2- Anjor Das was Assistant Grade-III in mining department. They demanded illegal gratification for putting up the file before the Collector. The matter was reported and a trap party was organized. Respondent No. 1 caught in the trap. Matter was reported and investigated. Both the respondents were charge-sheeted and after completion of trial, they are acquitted of the charges mentioned above.
4. Learned counsel for the State/ petitioner submits as under:-
 - (i) The trial court is not justified by believing the defence version that respondent No. 1 received the amount of Rs. 10,000/- as the advance royalty against mining for granting the work.
 - (ii) Powder coated currency notes had been recovered from respondent No. 1 and it was not the case where the complainant had to pay royalty at the relevant time, therefore, finding arrived at by the trial court is not liable to be sustained.
5. On the other hand, learned counsel for respondents submits that the finding arrived at by the trial court is based on proper marshaling of evidence and the same does not warrant any interference of this Court with invoking jurisdiction of the appeal.
6. Admittedly, the complainant is a mining contractor while respondents are working in the mining department. Dy.

Superintendent of Police- R.J. Toppo (PW-9) is investigating officer in the present case. He admitted in his cross-examination (Para 12) that upon enquiry, respondent No. 1 informed him that the complainant has deposited royalty amount to the tune of Rs. 10,000/-. He has admitted that the royalty amount was deposited in the mining office and thereafter, challan was prepared for depositing the amount. From his statement, it is clear that after enquiry, he made report that offence of illegal gratification is not made out against the respondents but, that report was not submitted by the prosecution. It is also admitted by him that son of the complainant named Suresh Kumar involved in illegal mining and his truck was seized by respondent No. 1.

7. From the date of incident, respondent No. 1 has admitted that amount was deposited as royalty amount and this fact is substantiated by evidence of investigating officer. The report of investigating officer was not produced before the trial court and the same was suppressed in which it is mentioned that no offence of illegal gratification was made out.
8. It is settled law that when the prosecution is suppressing material documents. The trial is not a fair trial, if the trial is not fair, the same is vitiated by suppressing and therefore, the trial court opined that since, respondent No. 1 seized truck of son of the complainant for illegal mining, it may be the case for roping respondent No. 1 in false charge. Again, suppressing of material documents regarding facts that the offence of

illegal gratification is not made out, it was unsafe for the trial court to convict the respondents.

9. Presumption of innocence is strengthened when the person charged is acquitted as per law laid down by Hon'ble the Supreme Court in the matter of **Banna Reddy & others Vs. State of Karnataka & others** reported in **(2018) 5 SCC 790**.
10. Looking to the fact of the case and looking to the legal pronouncement, this Court has no reason to reverse the finding recorded by the trial court as the same is based on relevant fact and it is not a conclusion which is based on extraneous or irrelevant material. In view of this Court, the finding arrived at by the trial court is not liable to be interfered with.
11. Accordingly, the appeal is liable to be and is hereby dismissed.

Sd/-
(Ram Prasanna Sharma)
Judge