

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1400 of 2018

- State Of Chhattisgarh Through S H O Police Station A C B/ E O W Raipur, Unit Of A C B Bilaspur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Petitioner

Versus

- Rajnarayan Gahirwar S/o B Gahirwar Aged About 64 Years Education Officer, Sitapur District Surguja, Chhattisgarh, R/o Village Saloni, Police Station And Tahsil Baloda Bazar, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondent

For Petitioner	:	Shri Vinod Tekam, Panel Lawyer
For Respondent	:	Shri Manoj Paranjape and Ms. Vaishali Mahilong, Advocates

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

04/12/2018

1. Heard on I.A.No.1/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application, same is allowed and delay of 96 days in filing the petition is hereby condoned.
3. Also heard on the application for grant of leave to appeal filed under Section 378 (4) of the Cr.P.C.
4. This petition is preferred against the judgment dated 5.12.2017, passed by the Special Judge under Prevention of Corruption Act, 1988, Ambikapur, District Surguja (CG) in Special Criminal

Case No.07/2014, wherein the said Court has acquitted the respondent of the charges under Sections 7, 13 (1) (d) r/w Section 13 (2) of the Prevention of Corruption Act, 1988 (for short the Act 1988).

5. As per version of the prosecution, complainant Chandra Prakash Singh was posted as Headmaster at Primary School, Barpara in Sub-Division Sitapur. His arrears of the pay-scale and salary for the month of October, 2009 was withheld. When he applied for his salary, the respondent who was Block Education Officer at Sitapur, demanded Rs.10,000/- from him as illegal gratification. The matter was reported and investigated and after completion of investigation, respondent was charge-sheeted. After trial, as the offence was not proved, the respondent was acquitted of the charges mentioned above.
6. Learned counsel for the petitioner submits that there is ample evidence against the respondent for establishing demand and receipt of illegal gratification, but the trial Court recorded finding of acquittal against the factual matrix and legal aspect of the matter.
7. On the other hand, learned counsel for the respondent submits that the finding arrived at by the trial Court is based on proper marshalling of evidence and same is not liable to be reversed.
8. In the present case, complainant-Chandra Prakash Singh has been examined as PW1, but he has not supported the version of prosecution. As per version of this witness, the respondent

did not demand any illegal gratification from him and he never tendered money to him as bribe. From the evidence of the complainant demand and receipt of illegal gratification was not established. Arvind Kumar Chourasia (PW2) and Pradeep Kumar Dahire (PW8) are shadow witnesses to the incident but both have not supported the version of the prosecution. From the evidence of shadow witnesses, there is no incriminating piece of evidence against the respondent. Other piece of evidence is deepening of fingers of the respondent in the sodium carbonate solution and as per version of some trap witnesses when hands of the respondent were washed in sodium carbonate solution, it turned pink. Sodium carbonate test is a corroborative piece of evidence which is not sufficient to establish the offence independently. In absence of demand of illegal gratification presumption under Section 20 of the Act 1988 is also not available to the prosecution in the facts and circumstances of the case.

9. The trial Court has elaborately discussed the entire evidence and recorded finding of acquittal. 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. Accordingly, the prayer for leave to appeal is rejected.
10. Consequently, Cr.M.P. stands dismissed. Sd/

(Ram Prasanna Sharma)

Judge

