

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.1684 of 2018**

- State Of Chhattisgarh Through- Anti Corruption Bureau, Jagdalpur, District- Bastar, Chhattisgarh.

---- Petitioner**Versus**

- Premnath Padhi S/o Harihar @ Hemdhar Padhi Aged About 64 Years Reader Assistant Grade- II, Tahsil Office, Tokapal, District- Bastar, Chhattisgarh. R/o- Dharampura No. 1, Near Apurwa Building, Jagdalpur, District- Bastar, Chhattisgarh.

--- Respondent

 For the Petitioner/State : Shri Vinod Tekam, Panel Lawyer
 For the respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

30.10.2018.

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 76 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 04.12.2017 passed by Special Judge under the Prevention of Corruption Act, 1988, Bastar at Jagdalpur (CG) in Special Case No.02/2012 wherein the said Court acquitted the

respondent of the charges under Section 7 & 13(1)(d) read with Section 13(2) of the Act, 1988.

5. As per the version of the prosecution the respondent was working as Reader in the Office of Tahsildar, Tokapal. The complainant namely Dashrath Kashyap filed an application before the Tahsildar for his appointment on the post of village Patel. Present respondent demanded Rs.1000/- as illegal gratification for issuance of appointment order on the post of Patel. The matter was reported and investigated and after completion of trial the Court acquitted the respondent.

6. Complainant Dashrath Kashyap (PW-1) though deposed in his examination-in-chief that the respondent demanded Rs.1000/- from him but in his cross-examination, he diverted to his earlier version and deposed that earlier he took Rs.1000/- from the respondent for supplying him rice and the same amount was returned to him on the date of incident. As per the version of this witness, the amount received by the respondent was not received as illegal gratification but the amount was received as amount which was borrowed by the complainant. Again this witness has deposed before the trial Court that the respondent refused to accept money but he inserted the money in his pocket. Looking to the evidence of this witness, the trial Court opined that the demand and acceptance is not proved on the basis of the evidence of this witness. Other witnesses namely Chabirdhar Kach (PW-5), Laxman Kunjam (PW-6) and Lachhandar Baghel

have not supported the version of the complainant. Therefore, the evidence is not establishing the guilt of the respondent.

7. Again corroborating piece of evidence of washing the hands of the respondent in the Sodium Carbonate solution is also not a connecting piece of evidence in the present case because the solution which was collected after washing of the hands of the respondent was not sent to Forensic Science Laboratory for ascertaining whether the solution contains Phenolphthalein powder or not. Therefore, acceptance of currency notes by the respondents is not established by connecting piece of evidence. The trial Court has discussed the entire evidence and came to a conclusion that the offence charged is not established. After reassessing the evidence, this Court has no reason to record a contrary finding. It is not a case where the respondent should be called for full consideration of the case. Therefore, it would not be proper for this Court to grant leave to appeal.

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

Sd/-

(Ram Prasanna Sharma)
JUDGE