

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 857 of 2017**

State of Chhattisgarh, Through the Incharge Police Station, State Economic Offence Wing/ Anti Corruption Bureau, Raipur, Unit At Bilaspur (C.G)

---- Petitioner**Versus**

Ravi Kumar Sao, S/o Shri Baijnath Sao, Age 46 Years, Chief Executive Officer, Janpad Panchayat, Rajpur, District- Surguja (C.G.)

---- Respondent

 For State/ Petitioner : Mr. Suryakant Mishra, Panel Lawyer.
 For Respondent : Mr. Mayank Chandrakar, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****06/09/2018**

1. Heard on I.A. No. 01/2017, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 124 days in filing the petition is condoned.
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 16.11.2016 passed by Special Judge (Prevention of Corruption Act), Ambikapur, District- Surguja (C.G.) in Special Criminal Case No. 04/2009, wherein the said court acquitted the respondent

for commission of offence under Section 7 & 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

5. The respondent was charge-sheeted on the basis of allegation that he was working as Chief Executive Officer, Janpad Panchayat Rajpur, District-Surguja and in that capacity he demanded bribe of Rs. 10,000/- from complainant- Parshuram Bhagat against releasing of payment towards construction work of bridge at village-Parsapani. Upon the complaint made by Parshuram Bhagat, the authority of Anti Corruption Bureau constituted a team to conduct trap and accordingly, trap was conducted and the respondent was charge-sheeted.
6. First question for consideration of this Court is whether the respondent demanded bribe money from said complainant. To substantiate the charge, the prosecution examined as many as 17 witnesses. Complainant-Parshuram Bhagat (PW-1) is the sole witness regarding demand of illegal gratification. As per version of this witness (Para 2 & 7), he met with the clerk of respondent and it is the clerk who demanded money. From his entire evidence, there is no evidence that respondent demanded illegal gratification. The witness is subjected to cross-examination, but demand of illegal gratification by the respondent is not established from his statement as a whole.
7. Second question for consideration of this Court is whether the respondent received the amount of illegal gratification. Complainant-Parshuram Bhagat deposed (Para 10) that when he tendered the amount to the respondent, he refused to take

the same and thereafter, he kept the amount in a cot in the house of the respondent. From his evidence, it is not established that the respondent received any amount from the complainant.

8. A.K. Malve, Executive Engineer (PW-10), G.R. Chouhan, Deputy Director (PW-11), R.K. Shukla, SDOP (PW-12), Ramakant Sharma, Inspector (PW-13) & J.S. Bhadoriya, Retired DSP (PW-15) are witnesses regarding raid, as they are members of the raid party. From evidence of these witnesses, it is established that amount was collected from a cot in the house of respondent and hand of the respondent turned pink when it is subjected to sodium carbonate solution. As per version of prosecution, phenolphthalein powder was smeared into currency notes and when it is subjected to sodium carbonate solution, it turns pink. Now the point is whether the evidence of trap witnesses is sufficient to hold that respondent has received illegal gratification.
9. From evidence of the complainant-Parshuram Bhagat (PW-1), he tendered the currency notes smeared with phenolphthalein powder. Other witnesses have also deposed the same that phenolphthalein powder was smeared into currency notes and therefore, it is natural that phenolphthalein powder will be found in the hand of the complainant. From statement of the complainant (Para-10), he shackled hand with respondent in his house and from evidence of this witness, it is established that phenolphthalein powder is transmitted from hand of the

complainant to the hand of the respondent, therefore, test of phenolphthalein powder and sodium carbonate solution is no bearing with acceptance of illegal gratification. Again, seizure of currency notes from a cot in the house of the respondent has also no bearing with acceptance of illegal gratification, because from statement of direct evidence of the complainant, it is established that the respondent denied to accept the amount and the complainant kept the amount in a cot.

10. Finding of the trial court is based on proper evaluation of the evidence and this Court has no reason to interfere with the finding recorded by the trial court.
11. Accordingly, application for grant of leave to appeal is rejected.
12. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge