

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1081 of 2017

- State Of Chhattisgarh Through The Inspector, Anti Corruption Bureau, Raipur, District Raipur Chhattisgarh.

---- **Petitioner**

Versus

- Vandana Gangal W/o Yogendra Gupta, Aged About 50 Years The Then B. D. O. Block Patan, District Durg Chhattisgarh Present Address 292, Jivaji Nagar, Thatipur Gwalior Madhya Pradesh.

---- **Respondent**

For Petitioner/State	:	Shri Vivek Sharma, Govt. Advocate
For Respondent	:	Shri Prasoon Agrawal, Advocate

SB: Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

01.10.2018

1. Heard on I.A.No.1/2017, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by the Hon'ble Apex Court in the matter of State of Haryana Vs. Chandra Mani & Ors., (1996) 3 SCC 132, the application is allowed and delay of 42 days in filing the petition is condoned.
3. Also heard on the application for grant of leave to appeal filed under Section 378 (3) Cr.P.C.
4. The instant Cr.M.P. has been filed against the judgment dated 22.3.2017 passed by the Special Judge under (Prevention of Corruption Act), Durg in Special Case No. 7/2004, wherein the said

Court has acquitted the respondent from the charge under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 and Section 120-B of the I.P.C.

5. As per the prosecution case, the present respondent and other 2 co-accused persons have joined hands together and hatched a criminal conspiracy and embezzled government money under the Rojgar Ashwasan Yojna to the tune of Rs.21,210/-. As per prosecution, one road was to be constructed measuring 1 km under Rojgar Ashwasan Yojna, Patan Block and this construction work was to be executed between village Fekari to Parsahi. Administrative sanction was granted by the government for 1 km at length. 670 meters road was constructed, but the respondent and other co-accused measured the same as 800 meters and the amount which ought to have been paid was Rs.76,840/-, but Rs.98,050/- was paid and loss of Rs.21,210/- was caused to the exchequer. The matter was investigated and the respondent and co-accused were charged. After completion of trial, the trial Court acquitted the respondent of the above mentioned charges.

6. The present respondent was posted as Block Development Officer and as per note sheet dated 9.6.1998, she sanctioned Rs.50,000/-. Again, from note sheet it appears that Rs.15,000/- more were sanctioned by her. In all, amount of Rs.65,000/- was sanctioned, while the work was done for Rs.76,840/-. No record has been produced before the trial Court that Rs.98,050/- was released by the respondent.

7. An estimate was prepared by the co-accused, Sub-Engineer, Sanjay Kumar Rawte and excess amount was received by co-accused, Purendra Chandrakar. The work was executed through the Panchayat in which, co-accused, Sub-Engineer, Sanjay Kumar Rawte was Supervisor and he reported that 800 meters road was completed. On the basis of his report, the amount was sanctioned and released. It is not a case, that the present respondent had instigated him to prepare a false measurement report and it is also not established that any excess amount was paid by the present respondent. Therefore, there is no *prima facie* evidence against the present respondent that she obtained anything for herself or for any other person any valuable thing by illegal means abusing her position as a Public Servant. Again, there is no evidence that she consented for any illegal act with the co-accused, especially, with Sub-Engineer, Sanjay Kumar Rawte. The trial Court has discussed the entire evidence (paragraphs 58 and 59 of the judgment) and 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 this case. Accordingly, the prayer for leave to appeal is rejected.

8. Consequently, Cr.M.P. stands dismissed.

Sd/

(Ram Prasanna Sharma)
JUDGE