

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 66 of 2009**

State of Chhattisgarh, Through: The Special Police Establishment
Lokayukta, Unit- Raipur, (C.G.)

---- Appellant

Versus

Parmal Singh Rajput, S/o Ram Gopal Singh Rajput, aged about 48 years, Occupation: Asstt. Gr.II, Directorate of Financial Department, Life Insurance Corporation of India, Raipur.

Permanent Address: Government Quarter No. 5/16, Ram Krishnapuri, Bahipur, Gwalior (M.P.)

---- Respondent

For State/ Appellant : Mr. Raghvendra Verma, G.A.

For Respondent : Mr. Devershi Thakur & Mr. J.K. Gupta,
Advocates.

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment On Board**

11/02/2019

1. This acquittal appeal is preferred under Section 378 (3) of the Code of Criminal Procedure, 1973 against judgment dated 10.02.2005 passed by First Additional Sessions Judge & Special Judge, Raipur (C.G.) in Special Criminal Case No. 15/2002, wherein the said court acquitted the respondent for commission of offence under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 (for short "the Act, 1988").
2. In the present case, name of the complainant is Shiv Prasad Soni. The respondent was working as Assistant Grade-II in the office of Directorate of Life Insurance Department under Ministry of Finance Department, Raipur (C.G.). The respondent was charge-sheeted on the basis of complaint filed by Shiv Prasad Soni on 01.05.2001. Sanction of prosecution for the respondent

is granted by Government of Chhattisgarh, Law and Legislative Affairs Department vide order dated 24th July, 2002 as per Ex.P/2. The respondent filed copy of M.P. Gazette dated 1st August, 2002, Page 722 (49) that respondent has been finally allocated to State of Madhya Pradesh from 22nd July, 2002, therefore, after allocation, he was employee of State Government of Madhya Pradesh. From 22nd July, 2002 onwards, he was employee in connection with affairs of State of Madhya Pradesh. His removal from his office only by sanction with State Government of Madhya Pradesh as per Section 19(b) of the Act, 1988.

3. In the present case, though, the incident took place on 1st May, 2001, but since, the respondent was not the employee of the State of Chhattisgarh after 22nd July 2002, therefore, sanction as per Section 19(b) of the Act, 1988 should have been accorded by State of Madhya Pradesh. The case of sanction should have been forwarded to State of Madhya Pradesh after 22nd July, 2002, but that is not done in the present case and State Government of Chhattisgarh granted sanction for prosecution which is not permissible under the law as the respondent was to be removed from his office only by Government of Madhya Pradesh after 22nd July, 2002.
4. The trial court has elaborately discussed the entire evidence and came to conclusion that it is not sanctioned under Section 19(1) (b) of the Act, 1988, therefore, cognizance of the offence itself is revocable. As cognizance could not have been taken as per Section 19(1)(b) of the Act, 1988, therefore, the trial court is right

in holding that it is a case where sanction is not legally granted, therefore, the trial is vitiated. The trial court also dealt with other aspect of the matter, but the fact remains that when the court was not competent to take cognizance, it is not a case where any interference with judgment of acquittal is called for by this Court.

5. Accordingly, the acquittal appeal is liable to be and is hereby dismissed.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun