

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 229 of 2009

Judgement reserved on 08.04.2019

Judgement delivered on 19.12.2019

Bhishma Dev Verma S/o. Shri Ishwar Chand Verma, aged about 51 years, R/o. Near Adarsh School, Matapara Chowk, Tikrapara, Rapur, at present Peon, Tahsil Officer Kurud (C.G.)

---- Appellant

Versus

State of Chhattisgarh through State Economic Crime Intelligence Bureau/ Anti Corruption Bureau Raipur District Raipur (C.G.)

---- Respondent

For Appellant : Mr. Sudhir Kumar Verma, Advocate.
For Respondent : Mr. Raghvendra Verma, Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgment

1. This appeal is directed against the judgment of conviction and order of sentence dated 28.02.2009 passed by the Special Judge, Raipur in Special Case No. 03 of 2006, whereby the accused/appellant has been convicted under Section 7 and 13(1) (d) read with section 13(2) of the Prevention of Corruption Act 1988 and sentenced him to undergo R.I. for one year and to pay a fine of Rs. 3000/- under Section 7 of the Prevention of Corruption Act and

R.I. for one year and to pay a fine of Rs. 3000/- under Section 13(1) (d) read with section 13(2) of the Prevention of Corruption Act with default stipulation.

2. Facts of the case in short are that the appellant was posted as peon in the Office of Nayab Tahsildar at Raipur. Complainant Heeraman Tondon (PW-3) submitted an application in the said office for partition and correction of records after the death of his father. After submission of application, he visited the office of Nayab Tahsildar several times and found that his application was pending without any progress thereon. Then he met the appellant to know about the progress of his work on which he demanded Rs. 2000/- as bribe for getting his work done. Since the complainant did not want to give bribe, he complained the matter to Superintendent of Police, Anti Corruption Bureau, Raipur on 18.03.2005 (Ex.P-3) where Dehatinalashi (EX.P-4) and panchnama (Ex.P-5) were also prepared. On the basis of said complaint, he was handed over a tape recorder under EX.P-6 for recording the conversation between them. A script of the recorded conversation was prepared vide Ex.P-8; 20 currency notes of Rs. 100/- denomination were given by the complainant to the trap team which in-turn gave back the same to him after coating phenolphthalein powder in the same vide Ex.P-7 and necessary instructions were given to the complainant as to in what manner he has to handover the same to the accused. After making complete preparation of the trap, the complainant and the trap

team proceeded for trap. At about 12:30 PM complainant along with trap team went to the office of the appellant where the members of trap team were standing some steps back from them waiting for the signal from the complainant. The complainant met the accused and on being asked for the bribe money the complainant took out the notes from his safari shirt and handed over to the appellant and came out. Thereafter, when he gave signal by scratching his head, the trap party went to the accused/appellant, caught him red handed while accepting money from the complainant, got his hands washed in the sodium carbonate solution colour of which turned pink. Thereafter, FIR (Ex.P-10) was recorded and currency notes given by the complainant to the accused/appellant were seized from the him under Ex.P-10 (A). The solution was sent to the FSL and the report received from the laboratory was positive. Necessary sanction for prosecution of the accused was obtained vide Ex.P-17 from the competent authority. On completion of the investigation, the charge-sheet was filed against him for offence punishable under Sections 7 and 13(1)(d) read with section 13(2) of the Prevention of Corruption Act followed by framing of charge accordingly.

3. In order to prove its case the prosecution has examined 8 witnesses in support of its case. Statements of the accused was recorded under Section 313 of the Code of Criminal Procedure in which she denied her guilt and pleaded innocence and false implication in the case.

4. Learned counsel appearing for the appellant submits that the judgment impugned convicting the accused/appellant under the Prevention of Corruption Act is incorrect, improper and illegal. He submits that the trial Court has committed illegality in relying upon the testimony of complainant Heeraman Tondon. He submits that the evidence brought on record by the prosecution as regards the demand of bribe is inconsistent and uncorroborated and there is no evidence on record to establish that the appellant had demanded any amount as illegal gratification. The appellant was not the person competent for making any correction in the revenue record therefore, the conviction of the appellant is not sustainable in accordance with the law therefore, the appellant deserves to be acquitted.

5. Per contra, learned State counsel supporting the impugned judgment has submitted that the judgment of the trial Court is strictly in accordance with the law and well founded and there is no illegality or infirmity in it warranting any interference by this Court.

6. I have heard counsel for the parties and perused the material on record.

7. Of course, the evidence of complainant shows that the bribe was demanded by some Verma Babu but if the evidence of Heeraman Tondon (PW-3) is seen, it becomes apparent that in the concerned Tahsil Office it is the accused/appellant though holding the post of Peon, is known as "Verma Babu". Though the Nayab Tahsildar (PW-10) has stated that not even a single document was

written by the accused/appellant yet from the evidence of PW-6 posted as Reader in the Tahsil office goes to show that some of the documents prepared on 04.09.2003 were in the handwriting of the accused/appellant. Thus there is some force in the version of the complainant that the bribe was demanded by the accused/appellant as it is he who is also known as "Verma Babu" in the Tahsil office and had demanded the bribe amount from the complainant for getting the revenue records corrected. This apart, the acceptance part of the bribe amount is also proved to have been made by the accused/appellant. Witnesses namely J.R. Maravi (PW-5), Jogendra Singh Gambhir (PW-4), Meena Shukla (PW-6) and Inspector S.K. Sen (PW-12) have also supported the above statement of the complainant regarding the demand of bribe from the complainant. The complainant stated that he made the written complaint and on the basis of said complaint, he was handed over a tape recorder under EX.P-6 for recording conversation between them. A script (Ex.P-8) of the recorded conversation was prepared. Complainant Heeraman Tandon (PW-3) has further deposed that the currency notes which he had submitted were smeared with phenolphthalein powder by Govind Das Sharma Head Constable. The smeared notes were kept in the pocket of safari suit and he was given a demonstration of the trap proceedings thereafter necessary instructions were given to the complainant. Harvansh Singh Miri (PW-10) and Pawan Kumar Pathak (PW-11) have supported the case of the prosecution.

8. Thus the prosecution has fully proved that the accused/appellant had demand the bribe for getting his revenue record corrected though the needful was already done by the Tahsildar but the accused/appellant was not handing over the papers to the complainant only for grabbing some money from him. The acceptance part has also been proved by PW-1, PW-5, PW-5, PW-6, PW-8 and PW-9 and thus, the prosecution has succeeded in proving its case beyond all reasonable doubt and so also the Court below too has been strictly adherent to the material collected by the prosecution and the evidence of the witnesses. No rebuttal has been made by the accused/appellant which could convince the judicial mind of this Court to take a different view to the one taken by the Court below warranting any interference with the judgment impugned.

9. Accordingly, the appeal is totally substance less and being so, it is hereby dismissed and the judgment impugned is hereby maintained.

Sd/-

(Vimla Singh Kapoor)
JUDGE