

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 31 of 2019**

State of Chhattisgarh, through Superintendent of Police, Anti Corruption Bureau, Raipur District- Raipur (C.G.).

---- **Petitioner**

Versus

Vinod Gupta, S/o Late Mohan Lal Gupta, aged about 52 Years, Earlier Working as Chief Executive Officer, Jila Sahkari Kendriya Bank, Durg, District- Durg (C.G.), R/o House No. Jipsi-8, Ganpati Vihar, Borsi, District- Durg (C.G.). Permanent Address: Sharda Nagar, Satna Police Station Kolgawa, District- Satna (M.P.)

---- **Respondent**

 For State/ petitioner : Mr. Raghvendra Verma, G.A.
 For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

15/02/2019

1. Heard on I.A. No. 01/2019, 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 8 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 31st August, 2018 passed by learned Special Judge, Prevention of Corruption Act, 1988, Durg, District - Durg (C.G.) in Special Case No. 04/2017 wherein, the said Court acquitted the

respondent for commission of offence under Sections 7 & 13(1)(D)/13(2) of the Prevention of Corruption Act, 1988.

5. In the present case, name of the complainant is Ajay Singh (PW-1). The respondent- Vinod Kumar Gupta was posted as Chief Executive Officer at District Cooperative Central Bank, Durg, District- Durg. It is alleged that the said bank ordered the complainant for stationary printing and bill to the tune of Rs. 1,89,263/- was pending before the bank and respondent demanded a sum of Rs. 27,000/- as illegal gratification for releasing the bill amount and received Rs. 15,000/- as illegal gratification.
6. The complainant- Ajay Singh is not affirmed regarding demand by the respondent. As per version of this witness (Para-4), the complaint made by him was not acted upon by Officer of Anti Corruption Bureau namely Shri Shivbali Singh Senger and he asked the complainant to write another application and other application was not written as per his application. Though, this witness deposed before the trial court that he made complaint regarding demand by the respondent for a sum of Rs. 30,000/- but in his cross-examination (Para-43), he clearly admitted that the respondent did not demand any amount as commission.
7. There is no shadow witness account to demand of illegal gratification. The version of the complainant is not stable and as per version of the complainant himself, no demand was made by the respondent. Looking to the entire evidence, the

Trial Court opined that demand of illegal gratification is not established. The complainant (PW-1) deposed in his examination-in-chief (Para-8) that when he tendered bribe amount to the respondent, he did not receive the same and denied the same, but thereafter, he inserted currency note in his left pocket of the pant.

8. In his cross-examination (Para-43), he clearly admitted that he did not tender any amount to the respondent. Looking to the evidence of the complainant and other witnesses, the Trial Court opined that acceptance of illegal gratification by the respondent, is not established, therefore, presumption under Section 20 of the Act, 1988, is not available to the prosecution. Though, there is evidence of trap witnesses that when hand of the respondent was washed in Sodium Carbonate solution, it turned coloured, but the fact remains that from the evidence of the complainant, it is not established that the respondent received the amount that is why he inserted currency notes in his pocket.
9. Again, he deposed before the Trial Court (Para-47) that he touched the currency note in which the phenolphthalein powder was applied and after touched the currency notes, he kept the same in his pocket and thereafter, he shooked hand with the respondent, therefore, turning colour of Sodium Carbonate solution is not evidence of receiving of illegal gratification, but since the complainant shooked hand with the respondent and prior to that he touched the currency note in

which the phenolphthalein powder was applied, therefore, evidence of trap witnesses is also not helping the prosecution in establishing guilt against the respondent.

10. The trial court has elaborately discussed the entire evidence and came to conclusion that the charge leveled against the respondent is not established. After reassessing the entire evidence, this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
11. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge