

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 507 of 2018**

- Late K.P. Jaiswal Memorial Education Committee, Gandhi Vidya Mandir, Kumda, District- Surguja, C.G., Branch Office-Gandhi Vidya Mandir, Shahid Chowk, Dallirajhara, now District- Balod, C.G., Bearing Registration No. 221727, through its authorized signatory. **---- Appellant**

Versus

1. State of Chhattisgarh, through- Station House Officer, Police Station- Dallirajhara, District- Balod (C.G.)
2. Rajendra Kumar Mane, S/o- Babulal Mane, Aged about- 38 years, R/o Near Manohar Office, Ward No. 15, Rajhara, Police Station- Rajhara, District- Balod (C.G.) **---- Respondents**

For Appellant : Shri Aman Yadav & Shri B.P. Singh,
Advocates.

For State/Respondent 1 : Shri Dinesh R.K. Tiwari, Dy. G.A.

For Respondent No. 2 : Shri Shikhar Sharma, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment on Board****20/01/2020**

1. This appeal is preferred against the judgment dated 8th August, 2018 passed by Sessions Judge, Balod, District- Balod (C.G.) in Criminal Appeal No. 28/2013 wherein the said Court acquitted respondent No. 2 for commission of offence under Section 408 of the Indian Penal Code (for short 'IPC'), 1860 and affirmed the judgment of acquittal passed by Judicial Magistrate First Class, Dallirajhara, District- Balod (C.G.) on 21st February, 2012 in Criminal Case No. 538/2009.
2. In the present case, respondent No. 2 Rajendra Kumar Mane was Headmaster of Gandhi Vidya Mandir, Shahid Chowk,

Dallirajharah. He was charge-sheeted on the basis of audit report that amount from 2004-2005 to 2007-2008 is misappropriated and same amount is to the tune of Rs. 4,22,987/- for this four years.

3. The question for consideration of this Court is whether the appellant was trusted for the amount in question. No one examined before the trial Court to substantiate how much amount was collected as fees in the year 2004-2005. Again, there is no evidence how much amount is collected for the year 2005-2006, 2006-2007 and 2007-2008. It is also not established by the evidence that how much amount is spent for payment of salary of employees of the school, how much amount is spent for maintenance of building including electricity charges and how much amount is spent for purchasing furniture. It is also not clear whether any amount was spent for contingency work.
4. The whole case of the prosecution is based on audit report, but that audit report is not backed by documents regarding receiving of fees and expenses on above counts. No explanation was called from the appellant during investigation and as per version of the witness Hari Shankar Dewangan (PW-2) (Para-10) who was Manager of the said school that respondent No. 2 handed over the cash in hand in the year 2006-2007 to the tune of Rs. 15,790/-. Both the Courts below have evaluated the entire evidence and recorded finding that there was separate account register for purchasing of furniture which was not produced and proved before the trial Court. Again, the Courts below recorded

finding that the Auditor has made report only on the basis of paper which were submitted to him, but entire document was not submitted before him for preparation of audit report. Different authorities have mentioned deficit of different amount. District Education Officer recorded finding that there is deficit of Rs. 65,000/-, but it is not clear on what basis said deficiency was recorded.

5. After assessing the entire evidence, the Court below recorded finding that it is a case of missing of account of Rs. 5000/- to 10,000/- which cannot be termed as breach of trust. After re-assessing the entire evidence, this Court has no reason to take a contrary view. It is not a case where interference of this Court is required in the judgment of the trial Court. It is not a case where the respondent should be called for full consideration of this petition.
6. Accordingly, the application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge