

State Of Chhattisgarh Vs Parmal Singh Rajput

Court: Chhattisgarh High Court

Date of Decision: Feb. 11, 2019

Acts Referred: Code Of Criminal Procedure, 1973 " Section 378(3)
Prevention Of Corruption Act, 1988 " Section 13(1)(d), 13(2), 19(b)

Hon'ble Judges: Ram Prasanna Sharma, J

Bench: Single Bench

Advocate: Raghvendra Verma, Devershi Thakur, J.K. Gupta

Final Decision: Dismissed

Judgement

Ram Prasanna Sharma, J

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 24 th July, 2002 as per Ex.P/2. The respondent filed copy of M.P. Gazette dated 1 st August, 2002, Page 722 (49) that

respondent has been finally allocated to State of Madhya Pradesh from 22 nd 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 1 st 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 22 nd 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.