

(2018) 10 CHH CK 0077

In the Chhattisgarh High Court

Case No : Acquittal Appeal No. No. 140 of 2009

State of Chhattisgarh @APPELLANT@Hash Krishanamurthy Shrivastava

Date of Decision : 30-10-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 378(3)
Prevention of Corruption Act, 1988 — Section 7, 13(1)(d), 13(2)

Citation : (2018) 10 CHH CK 0077

Hon'ble Judges : Ram Prasanna Sharma, J

Bench : Single Bench

Advocate : Vinod Tekam, Prakash Tiwari

Final Decision : Dismissed

Judgement

1. This acquittal appeal is preferred under Section 378 (3) of the Code of Criminal Procedure, 1973 against judgment dated 06.08.2007 passed by

Special Judge (Economic Offences), Janjgir, District- Janjgir-Champa (C.G.) in Special Criminal Case No. 06/2006, wherein the said court acquitted

both the respondents for commission of offence under Sections 7, 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988.

2. As per case of the prosecution, the complainant Jodhraj Bareliya (PW-5) is a mining contractor and has got lease for mining in village- Birgahni.

His lease agreement was extended for a period of 10 years and agreement was to be drafted by mining department.

3. Respondent No. 1- Krishanamurthy Shrivastava was Mining Inspector and respondent No. 2- Anjor Das was Assistant Grade-III in mining

department. They demanded illegal gratification for putting up the file before the Collector. The matter was reported and a trap party was organized.

Respondent No. 1 caught in the trap. Matter was reported and investigated. Both the respondents were charge-sheeted and after completion of trial,

they are acquitted of the charges mentioned above.

4. Learned counsel for the State/ petitioner submits as under:-

(i) The trial court is not justified by believing the defence version that respondent No. 1 received the amount of Rs. 10,000/- as the advance royalty against mining for granting the work.

(ii) Powder coated currency notes had been recovered from respondent No. 1 and it was not the case where the complainant had to pay royalty at the relevant time, therefore, finding arrived at by the trial court is not liable to be sustained.

5. On the other hand, learned counsel for respondents submits that the finding arrived at by the trial court is based on proper marshaling of evidence and the same does not warrant any interference of this Court with invoking jurisdiction of the appeal.

6. Admittedly, the complainant is a mining contractor while respondents are working in the mining department. Dy. Superintendent of Police- R.J.

Toppo (PW-9) is investigating officer in the present case. He admitted in his cross-examination (Para 12) that upon enquiry, respondent No. 1

informed him that the complainant has deposited royalty amount to the tune of Rs. 10,000/-. He has admitted that the royalty amount was deposited in

the mining office and thereafter, challan was prepared for depositing the amount. From his statement, it is clear that after enquiry, he made report that

offence of illegal gratification is not made out against the respondents but, that report was not submitted by the prosecution. It is also admitted by him

that son of the complainant named Suresh Kumar involved in illegal mining and his truck was seized by respondent No. 1.

7. From the date of incident, respondent No. 1 has admitted that amount was deposited as royalty amount and this fact is substantiated by evidence of

investigating officer. The report of investigating officer was not produced before the trial court and the same was suppressed in which it is mentioned

that no offence of illegal gratification was made out.

8. It is settled law that when the prosecution is suppressing material documents. The trial is not a fair trial, if the trial is not fair, the same is vitiated by

suppressing and therefore, the trial court opined that since, respondent No. 1 seized truck of son of the complainant for illegal mining, it may be the

case for roping respondent No. 1 in false charge. Again, suppressing of material

documents regarding facts that the offence of illegal gratification is not made out, it was unsafe for the trial court to convict the respondents.

9. Presumption of innocence is strengthened when the person charged is acquitted as per law laid down by Hon'ble the Supreme Court in the matter of Banna Reddy & others Vs. State of Karnataka & others reported in (2018) 5 SCC 790.

10. Looking to the fact of the case and looking to the legal pronouncement, this Court has no reason to reverse the finding recorded by the trial court

as the same is based on relevant fact and it is not a conclusion which is based on extraneous or irrelevant material. In view of this Court, the finding arrived at by the trial court is not liable to be interfered with.

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