



Reserved on - 10.07.2025
Delivered on - 09.10.2025

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 923 of 2002

1 – Parmanand S/o. Late Amrao Singh Rajput, aged about 55 years, Profession Ex.Patwari.
P.C. No. 5, R/o. Amarpur. P.S. Kusmi, District Sarguja, CG. ... Appellant
versus

1 - State Of Chhattisgarh Through P.S. Ramchandarpur. ... Respondent(s)

For Appellant : Mr. N. K. Malaviya, Advocate
For Respondent(s) : Ms. Nupoor Sonkar, PL
/State

Hon’ble Shri Justice Sachin Singh Rajput
C A V Judgment

This appeal has been filed by the appellant under section 374 (2) of the Code of Criminal Procedure, 1973 (for short CrPC), being aggrieved by the judgment dated 20.08.2002, passed in Special case No. 01/1999 by the learned Additional Sessions Judge Sarguja (Ambikapur) (C.G.) by which the appellant has been convicted and sentenced in the following manner :

Conviction	Sentence
Under Section 420 IPC	R.I. for 03 years and fine of Rs.3000/- in case of non-payment of fine further RI of an year.
Under Section 7 of the Prevention of Corruption Act, 1988	R.I. for 03 years fine of Rs.3000/- in case of non-payment of fine further RI of an year.
Both the sentences to run concurrently.	

2. FIR (EX.P-4) was lodged by Ram Prasad (PW-5) who was the Sarpanch of the village, to the effect that the accused/appellant who was Patwari at the relevant time had demanded and accepted money from the villagers for allotting them the land on lease. However, neither he issued the lease papers to them nor returned the money, and thus has committed the offence under Sections 420 IPC and Section 7 of the Prevention of Corruption Act, 1988 (for short the Special Act). Thereafter, the investigation was conducted and the charge-sheet against the accused/appellant was filed followed by framing of charge under Sections 420 and 161 IPC and Section 7 of Special Act, which he denied and claimed trial.

3. Prosecution examined 18 witnesses to supports its case and thereafter the statement of the accused/appellant was also recorded under Section 313 CrPC in which he pleaded his innocence and false implication in the case.

4. Learned trial Court after hearing the parties convicted and sentenced the accused/appellant as described above. Hence this appeal.

5. Learned counsel for the appellant submits that the conviction of the accused/appellant as referred to above and the resultant sentence are without proper appreciation of the evidence on record and therefore, liable to be set aside. He submits that even if the entire case of the prosecution is taken to be correct, the offence under Sections 420 of the Indian Penal Code and Section 7 of the Prevention of Corruption Act are not made out as it is not clear from the record that the accused/appellant demanded, obtained, agreed to accept, or attempted to obtain any money. The only evidence on record is the mere statement of alleged payment, which is insufficient to constitute an offence. He further submits that there is no clarity regarding where and when the money was allegedly given, and the accused had no authority to issue land leases. He submits that no recovery of money has been effected, and the ingredients of the offence alleged are not made out. He submits that

the First Information Report appears to have been lodged under the influence of the local MLA, and do not disclose any transaction between the beneficiaries and the accused/appellant. He further submits that the prosecution has utterly failed to prove the demand of illegal gratification which is a sine qua non for proving its case beyond reasonable doubts under the Special Act. He further submits that there are number of contradictions and omissions in the evidence of the witnesses examined by the prosecution on material particulars which renders the case of the prosecution is extremely doubtful. He further submits that since the investigation in the case has not been carried as per the requirement of the special act, the conviction and sentence under that sections are not sustainable in law. It is because that the prosecution has not been able to prove that any report before the special establishment of Police was made, the trap party etc. was constituted and the trap was laid. He thus submits that since the legal requirements for moving ahead with the proceedings under the special act have not been adhered to, the subsequent conviction under that section cannot be allowed to exist. In support of his submission learned counsel for the appellant placed reliance upon the decision of the Supreme Court in the matter of **Neeraj Dutta Vs. State (Govt. of N.C.T. of Delhi)** reported in **2023 Live Law (SC) 211**, and in the case of **P. Satyanarayan Murthy Vs. District Inspector of Police, State of Andhra Pradesh and another** reported in **(2015) 10 SCC 152**, and a decision of this Court passed in **CRA No. 2243 of 1999 dated 28.05.2021**.

6. On the other hand, learned State counsel supports the judgment impugned to be strictly in accordance with law and based on due appreciation of evidence adduced by the prosecution. He submits that from the evidence of the witnesses it is clear that the accused/appellant demanded illegal gratification from the villagers for allotting them the land on lease and after accepting the same he neither allotted the land nor returned the money. In these circumstances, the learned State Counsel submits that the trial Court has not committed any illegality or irregularity in holding the

accused/appellant guilty under the Special Act as mentioned above, and being so the well reasoned judgment does not require any interference in this appeal.

7. Heard learned counsel for the parties and perused the records.

8. PW-1 Jamaluddin has stated that he was in possession of a government land for considerable long period, and on accused/appellant being contacted, he assured him to allot the said land on lease in his favour for Rs. 400/-. On that occasion, number of people were present. In cross-examination he has stated that no report was lodged by him against the accused/appellant but the statement in the court was given under the influence of local MLA. PW- 2 Salamat and PW-3 Ramdev have also given almost similar statement except the quantum of amount being demanded. PW-4 Sabir Ali has also stated that the accused/appellant had demanded Rs. 500/- for allotting the land on lease, but he has clarified that he was not making the statement on being asked by the local MLA. PW-5 Ram Prashad is the sarpanch of the concerned village and the complainant who made the FIR has also stated that the accused/appellant had demanded money from the villagers for allotting the land on lease but even after receipt of money neither the land as promised was allotted on lease nor the money itself was returned. This witness has also specifically stated that the report was lodged at the behest of local MLA as there was some old existing dispute between him and the accused. PW-7 Lalbihari Ram is the hearsay witness and has not stated anything specific relevant to this case. PW-9 Abdul Aziz has stated that though the accused/appellant had demanded Rs. 400/- for allotting the land on lease but he did not pay the amount to him. PW-12 Asgar Ali has also made the similar statement. He however has stated that there was some old dispute between the accused and the local MLA but has denied that the report was lodged under any influence. PW-10 Soorajdev Prashad Yadav one of the beneficiaries has stated that though he was in possession of the government land and on being approached the accused/appellant assured him to allot the land on lease, but he did not demand any amount for doing

the needful. PW-11 Samshuddin has also stated almost the same thing like PW-10 and has specifically stated that though he was present at the time when the beneficiaries were having a meeting with the accused/appellant yet in his presence no demand of money was made by him. PW-13 Dawood Hussain and PW-14 Nayamat Miyan has also stated that the accused/appellant demanded Rs. 500/- from them for allotting the land on lease and after accepting the same he gave them certain papers. According to them, three other persons were also subjected to the same demand by the accused/appellant for the same purpose for allotting the land on lease. PW-15 R.P. Singh, PW-16 C.S. Bhutia and PW-17 Guruvachan Singh are the witnesses who have taken the investigation forward, have duly supported the case of the prosecution. PW-18 S. P. Suri is the witness who granted sanction to prosecute the accused/appellant has also supported the case of the prosecution.

9. This Court has gone through the entire material available on record including the evidence of the witnesses in its entirety. Though it has come in the evidence of many a witness that the accused/appellant had raised a demand of money for allotting the land which was in their possession for a considerable period of time, on lease, yet not even a single witness has stated that the amount allegedly taken by the accused/appellant from the beneficiaries has been recovered. Furthermore, almost all the witnesses have not supported the case of the prosecution and turned hostile. Even in the cross-examination, the prosecution could not elicit anything substantive which can be placed in implicit reliance upon so as to hold the accused/appellant guilty. Some of the witnesses are there who are stated to have made disclosure against the accused/appellant at the behest of local MLA. This defense has been taken by the accused/appellant also in his 313 Cr.PC statement. Two witnesses being PW-10 and PW-11 have categorically stated that though the accused/appellant was contacted by the villagers in connection with allotment of land on lease yet no demand of any sort was made by the accused/appellant in their presence. The prosecution has not

produced any material to show that the work for which the accused/appellant had allegedly demanded and accepted money was within the domain of the accused/appellant who at the relevant time was holding the post of Patwari. On the contrary, from the material available on record in particular a categorical admission by the accused/appellant himself, it is manifest that it is the Tahsildar who is the competent authority for allotting the land on lease. All this apart, one thing which finds place in the statement of PW-1, PW-2 & PW-3 and also in the statement of the accused/appellant recorded under section 313 Cr.PC the possibility of propelling force of the the local MLA driving the villagers to make the complaint cannot be ruled out. Another phenomena in this case as is apparent from the evidence on record is the procedural irregularity in carrying on the investigation. As per the statutory provision, to launch investigation in the special cases like the case in hand the competent authority is the Deputy Superintendent of Police or the police officer of the equivalent rank but here in this case the investigation had begun by the Sub-Inspector who does not have the authority to do so. This also creates a doubt in the case of the prosecution. This Court has gone through the entire material on record from the perspective of the provision of the Indian Penal Code, but the elements of cheating or dishonest inducement on the part of the accused/appellant making the beneficiaries to deliver any property to him remains unestablished. As already stated, the prosecution has utterly failed to prove that the accused/appellant has raised any demand or accepted money in pursuance of that, the ingredient contained under section 7 of the prevention of corruption Act also vanishes, as has been propounded by the Supreme Court in plenty of cases.

10. In view of what has been discussed above, this Court is of the considered opinion that the prosecution has not been in a position to establish its case beyond reasonable doubt. Likewise, the trial Court has also been unable to appreciate the evidence on record in its proper perspective while holding the accused/appellant

guilty and imposing the sentence as detailed above. This being the position, there is no hesitation in the mind of this Court to say that the judgment impugned cannot be made to stand. Accordingly, the appeal is allowed, the judgment impugned is set aside and the accused/appellant stands acquitted of all the charges levelled against him. Since, the accused/appellant is already on bail, his bail bonds stand discharged.

Sd/-

(Sachin Singh Rajput)
Judge

H.Ansari/J.

HIFZURRAHMAN
ANSARI

Digitally signed by
HIFZURRAHMAN
ANSARI
Date: 2025.10.09
16:58:32 +0530