

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 261 of 2017

- Prakash Narayan Kaumarya S/o Late Shri Rampal Kaumarya, Aged About 54 Years, Occupation Accountant, Chief Medical and Health Office, Rajnandgaon, R/o Village Chikhali, Rajnandgaon, District Rajnandgaon, Chhattisgarh., Chhattisgarh

---- Appellant

Versus

- State Of Chhattisgarh Through S.P. A.C.B. Raipur, District Raipur, Chhattisgarh., Chhattisgarh

---- Respondent

28/01/2019	<p>Shri Vivek Sharma, Advocate for the appellant. Shri Lav Sharma, P.L. for the State/respondent. Heard on I.A.No.1/2018, application for suspension of conviction under Section 389(1) of Cr.P.C. The appellant has been convicted by the judgment of conviction and order of sentence dated 04-02-2017, passed in Special Criminal Case No.1/2015 by the Special Judge (Prevention of Corruption Act), Rajnandgaon, C.G. in the following manner with a direction that both the jail sentences shall run concurrently :-</p> <table border="1" style="width: 100%;"><thead><tr><th style="width: 50%;">Conviction</th><th style="width: 50%;">Sentence</th></tr></thead><tbody><tr><td>1. U/s 7 of Prevention of Corruption Act, 1988</td><td>R.I. for 2 years and fine of Rs.2000/-, in default of payment of fine, additional R.I. for 6 months,</td></tr><tr><td>2. U/s 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988</td><td>R.I. for 2 years and fine of Rs.2000/-, in default of payment of fine, additional R.I. for 6 months.</td></tr></tbody></table> <p>It is submitted on behalf of the appellant that the appellant is a public servant who had been working as Coordinator in Chief Medical and Health Office at Rajnandgaon, who has been dismissed from his service vide order dated 19-03-2018. The appellant has a strong case in appeal in which he is hopeful to succeed. On behalf of the appellant reliance has been placed on the judgment delivered by Hon'ble the Supreme Court in the matter of</p>	Conviction	Sentence	1. U/s 7 of Prevention of Corruption Act, 1988	R.I. for 2 years and fine of Rs.2000/-, in default of payment of fine, additional R.I. for 6 months,	2. U/s 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988	R.I. for 2 years and fine of Rs.2000/-, in default of payment of fine, additional R.I. for 6 months.
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Rakesh Kapoor v. State of Himachal Pradesh [2012 E-Juris(SC) (11) 83].

It is submitted that no case is made out for conviction against the appellant. Therefore, he may be granted relief by suspending the order of conviction against him.

Learned counsel for the State opposes the application.

Heard learned counsel for the parties and perused the record of the trial Court.

It is now well settled in **K.C. Sareen v. CBI, Chandigarh** [(2001) 6 SCC 584], **State of Maharashtra v. Gajanan and another** [(2003) 12 SCC 432], **Union of India v. Avtar Singh and another** [(2003) 12 SCC 434], **State of Haryana v. Hasmat** [2004(6) SCC 175] and **Central Bureau of Investigation, New Delhi v. M.N. Sharma** [(2008) 8 SCC 549] that conviction of a public servant under the provisions of Prevention of Corruption Act cannot be suspended, hence, for this reason, this application cannot be allowed and the same is rejected accordingly.

Sd/-

(Rajendra Chandra Singh Samant)
Judge