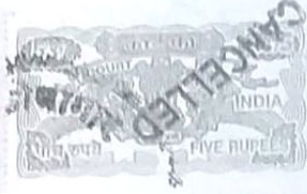


संलग्नक-20/14



Special S.T.No. 27 of 2002  
(State. Vs. Virendra Kumar  
Sharma and others)  
arising out of  
Case Crime No.40 of 2002  
Under Section 409, 420 IPC and  
13(1)(D) R/w 13(2) Prevention of  
Corruption Act  
Police Station Allahganj  
District Shahjahanpur

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD  
\*-

CRIMINAL APPELLATE JURISDICTION

GOVERNMENT APPEAL NO. 5512 /OF 2016  
(Under Section 378 of the Criminal Procedure Code)

DISTRICT : SHAHJAHANPUR

State of U.P. On behalf of: Appellant  
-----  
VERSUS

1. Virendra Kumar Sharma Son of Sri Laxmi Narayan Sharma, Resident of 267, Madinath, Police Station Subhas Nagar, Bareilly. At present Secretary, Centre Incharge, Sadhan Sahkari Samiti, Ratanpur Bela
2. Mahesh Singh Son of Sri Ram Lal Singh, Resident of Sherpur Churhari Police Station Jalalabad, (Accountant)
3. Mahesh Chandra Son of Sri Puttu Lal, Resident of Jera Rahimpur Police Station Allahganj, district Shahjahanpur (Accountant)

-----Accused-Respondents

\*\*\*\*\*

Till the time of drafting of the present Government Appeal the complainant has filed/not filed the Criminal Appeal (Under Section 372 Cr.P.C.) before the Hon'ble Court, against the judgment and order of acquittal of the accused respondents dated 11.07.2016 passed by Sri Shiv Kumar Singh, the learned Additional Session Judge / Special Judge

B

(Anti Corruption) Court No.2, Bareilly in Special S.T. No. 27 of 2002 (State. Vs. Virendra Kumar Sharma and others)

**Under Sections 409, 420 IPC**  
**And 13(1)(D) R/w 13(2) Prevention of Corruption Act**

Appeal on behalf of the State of U.P., appellant, is being preferred against the impugned judgment and order of acquittal of the accused-respondents dated 11.07.2016 passed by Sri Shiv Kumar Singh, the learned Additional Session Judge / Special Judge (Anti Corruption) Court No.2, Bareilly in Special S.T. No. 27 of 2002 (State. Vs. Virendra Kumar Sharma and others), on the following amongst other:

B  
08-12-16

**GROUND**

1. Because the learned trial court has not considered the entire evidence brought on record and has also not applied its judicial mind while passing the impugned judgment and order of acquittal, as such, the impugned judgment and order is bad in the eye of law and is liable to be set-aside.
2. Because the learned trial court has failed to consider and assess the entire evidence of prosecution and has arrived at a wrong conclusion while acquitting the accused respondents.
3. Because the impugned judgment and order of the acquittal of the accused-respondents is perse illegal, unjustified and bad in the eyes of law.
4. Because the learned trial court has not properly appreciated the evidence of the prosecution and has decided the case only on the basis of conjectures and surmises.
5. Because the judgment and order of acquittal of the accused-respondents is wholly illegal, perverse and against the weight of evidence on record, therefore, liable to be set aside by this Hon'ble Court.

Court No. - 37

Case :- GOVERNMENT APPEAL No. - 5512 of 2016

Appellant :- State Of U.P.

Respondent :- Virendra Kumar Sharma & 2 Others

Counsel for Appellant :- G.A.

Hon'ble Vikram Nath, J.

Hon'ble Prabhat Chandra Tripathi, J.

This appeal arises out of the judgment and order dated 11.7.2016 passed by the Additional Sessions Judge/Special Judge (Anti Corruption), Court No.2, Bareilly, acquitting the accused-respondents in Special Sessions Trial No.27 of 2002, State of U.P. vs. Virendra Kumar Sharma and others, arising out of Case Crime No.40 of 2002, under sections 409, 420 IPC and 13 (1) (D) read with 13 (2) Prevention of Corruption Act, P.S Allahganj, District Shahjahanpur. The Trial Court has recorded the acquittal of the accused-respondents for the following reasons :

- i) The star witness of the prosecution (Chawkidar) was not examined.
- ii) Relevant documentary evidence was not filed before the Trial Court.
- iii) Sanction under section 19 of the Prevention of Corruption Act was not accorded.

We have heard learned AGA for the State - appellant and perused the record.

On a careful perusal of the judgment, it cannot be said that the view taken by the trial judge is perverse or unreasonable. Simply because another view might have been taken of the evidence provides no ground for interfering with the order of acquittal unless the view taken by the trial judge is not a possible view. On the evidence available on record, it cannot be said that the view taken by the Trial Judge was not a reasonably possible view.

In this view of the matter, there is no merit in the application for leave to appeal which is rejected and consequently, the Government Appeal is also dismissed.

Order Date :- 8.11.2016 *Sd. Vikram Nath, J.*  
*Sd. Prabhat Chandra Tripathi, J.*

pk

*Compared by -*

*B*  
*08-12-16*

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*[Signature]*  
*08-12-16*

Section Officer  
Copying & Department  
High Court, Allahabad