IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No. S-1791-SBA of 2004
Date of Decision : April 01, 2015

State of Punjab

.....Appellant

VERSUS

Avtar Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. Vikram Bishnoi, Asstt. Advocate General, Punjab

Mr. Sunil Chadha, Senior Advocate with
Mr. Kirpal Singh, Advocate

T.P.S. MANN, J. (Oral)

The respondent was tried for the offence punishable under Sections 7 and 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988 on the allegations that during the check period from 1.4.1985 to 31.7.1993 when he remained posted as an Assistant with the Improvement Trust, Khanna, he misused the official position and amassed wealth to the tune of Rs.5,45,536/- disproportionate to the known sources of his income. Vide impugned judgment dated 22.3.2004, the Special Judge, Ludhiana after holding that the prosecution had failed to prove the charges against him, acquitted him of the same. Hence, the present appeal by the State of Punjab.

As per the prosecution, the accused incurred expenses amounting to Rs.12,54,652.00 during the check period. The details of the same are as under :-

Sr.No.			Rs.
(i)	Amount spent on purchase of Plot No.129, Narotam Nagar, Khanna	:	30,796.00
(ii)	Amount spent on construction of House on the aforementioned plot	:	1,47,813.00
(iii)	Amount spent on purchase of plot measuring 14 marlas in Adarsh Nagar, Khanna	:	80,000.00
(iv)	Amount spent on registration and stamp	:	10,801.00
(v)	Amount spent on construction of aforementioned plot	:	5,10,042.00
(vi)	Telephone expenses	:	3,027.00
(vii)	Purchase of Bajaj Chetak scooter	:	11,000.00
(viii)	Amount spent on daughter's marriage	:	70,000.00
(ix)	Amount deposited in Punjab and Sind Bank, Khanna	:	744.89
(x)	LIC premium	:	952.80
(xi)	Amount borrowed from Public Sector General Finance for purchase of Bajaj Chetak scooter	:	19,660.00
(xii)	Amount deposited in account with UCO Bank, Khanna	:	1,160.00
(xiii)	Repayment of loan taken from Housefed	:	1,21,863.00
(xiv)	Amount deposited in cash as provident fund	:	1,01,493.00
	TOTAL	**:**	**12,54,652.00**

Similarly, he had an income of Rs.7,09,116.00p. during the cheque period. The details of the same are as under :-

Sr.No.			Rs.
(i)	Sale of House No.129, Narotam Nagar, Khanna	:	1,20,000.00
(ii)	Amount borrowed from Housefed for construction over the aforementioned plot	:	73,400.00
(iii)	Amount taken on loan from his department for construction	:	50,000.00
(iv)	Amount borrowed from his department through OBC Bank	:	61,500.00
(v)	Income	:	1,94,743.00
(vi)	Military service benefits received	:	12,998.60
(vii)	Sale of Plot at Hoshiarpur	:	34,000.00
(viii)	Amount deposited with Union Bank of India and Punjab and Sind Bank	:	38,898.00
(ix)	Interest from Punjab and Sind Bank	:	1,004.60
(x)	Interest from Indian Bank	:	704.65

(xi)	Interest from Indian Bank	:	445.00
(xii)	Amount deposited with Union Bank of India	:	972.17
(xiii)	Maturity amount of LIC	:	8,092.50
(xiv)	Interest from Union Bank	:	624.93
(xv)	Arrears	:	9908.5
(xvi)	Interest from UCO Bank		245.00
(xvii)	Income from sale of scooter	:	9,500.00
(xviii)	Loan obtained from Housefed	:	92,000.00
	TOTAL	:	**7,09,116.00**

On going through the aforementioned details, it is made out that the total expenditure incurred during the check period was Rs.11,09,352.69p. and not Rs.12,54,652/- as calculated by the investigating officer. Similarly, the total income was Rs.7,09,036.95p., instead of Rs.7,09,116.00 as calculated by the investigating officer. Going by the re-calculated details, the deficit, i.e., expenditure minus income, comes to Rs.4,00,315.74p. which can be considered as the disproportionate assets of the respondent.

From the records, it is made out that a number of financial transactions under which the respondent had obtained various sums of money were not investigated into by PW9 DSP Babu Singh, which fact was specifically accepted by him. In all, the respondent had received arrears to the tune of Rs.18,807.50p. but only an amount of Rs.9,908.50p. was taken into account under the said head. There was, thus, an amount of Rs.8,899/- available to be considered as income. From the testimony of PW1 Jasbir Singh, it is made out that the joint house owned by him and the respondent, situated at Batala, was sold and a sum of Rs.35,000/- was given to the respondent towards his share. Further, plot measuring 300 sq. yards situated at Basti Jodhewal, Ludhiana upon which house had been built and a saw mill installed, the total worth of which was Rs.2,40,000/-, was partitioned and, accordingly, another sum of Rs.1,20,000/- was paid by PW1 Jasbir Singh to the respondent. Thus, from the sale and partition of the two plots, the respondent had received an amount of Rs.1,55,000/-. Wife of the respondent had filed an affidavit giving details of her salary from the year 1969 to 1993. Despite the same, PW9 DSP Babu Singh could not say if she and her children earned a sum of Rs.62,840/- from private tuitions during the check period. He also could not say if the respondent received Rs.50,000/- from his sister Gurnam Kaur and Rs.45,000/- from his mother-in-law Harbans Kaur as loans. He, however, admitted that during the check period, the respondent received a sum of Rs.46,965.50p. by way of sale of ornaments. He could not deny if the family members of the respondent were performing religious functions and religious recitations during the check period and earned Rs.34,885/- in that regard. Thus, it is apparent that the respondent had an income of Rs.4,03,589.50p. which had not been taken into consideration by the investigating agency. Under these circumstances, it cannot be held that the respondent was in possession of the assets which were disproportionate to his known sources of income. Therefore, the respondent had not committed the offences for which he stood charged.

In view of the above, there is no merit in the appeal, which is, therefore, dismissed.

(T.P.S. MANN)
JUDGE

April 01, 2015
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