

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**Crl. Appeal No.S-2498-SB of 2004**  
**Date of Decision: February 25, 2015**

Gurmail Singh and another

...Appellants

**VERSUS**

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Ramesh Goyal and Mr.Arihant Goyal, Advocates  
for the appellant.

Mr.S.S.Chandumajra, Deputy Advocate General, Punjab  
for the respondent-State.

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**INDERJIT SINGH, J.**

This appeal has been filed by the appellants against the judgment of conviction and order of sentence dated 24.11.2004, passed by learned Special Judge, Hoshiarpur, whereby the accused-appellants were held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of two years each and to pay a fine of ₹2000/- each and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months under Section 12 of the Prevention of Corruption Act, 1988.

The brief facts of the prosecution case are that Inspector Jasbir Singh, SHO, Police Station Garhshankar was present in his office on 08.02.2003. He received a telephonic call from some unknown person for permission to meet SHO personally in connection

with FIR No.20 of 2003 under Sections 411 and 482 IPC registered against Narinder Lal. The caller was permitted to meet the SHO. After some time, accused-appellant Gurmail Singh and Gurdev Raj came to the police station and met SHO in his office. They wanted the case against Narinder Lal to be closed and promised to pay ₹1 lac as bribe money to the SHO for closing the case. They also told that they have brought ₹70,000/- as advance amount contained in the red envelope, which was kept on the table and promised to pay balance amount of ₹30,000/- after the work is done. Inspector Jasbir Singh, SHO, called ASI Bhupinder Singh and ASI Lehmbur Singh, who were present in the police station and he also sent a message to DSP on wireless, who also reached the police station. The FIR was registered against the accused-appellants. The investigation was conducted by the DSP. The envelope was found containing ₹70,000/-, which was taken into police possession vide recovery memo Ex.PB. Accused were arrested. Challan was presented against the accused-appellant

On presentation of challan against accused-appellants, copies of challan and other documents were supplied to them under Section 207 Cr.P.C. Finding prima facie case, accused-appellants were charge-sheeted under Section 12 of the Prevention of Corruption Act, to which they pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 ASI Kehar Singh, who mainly brought the record regarding posting of the complainant. PW-2 ASI Lehmbur Singh, who is the witness to the occurrence, deposed as per prosecution version. PW-3 Inspector

Jasbir Singh complainant, deposed as per prosecution version. PW-4 DSP Navjot Singh, who is the Investigating Officer, deposed regarding investigation conducted by him in the present case.

At the close of prosecution evidence, the accused-appellants were examined under Section 313 Cr.P.C. and they denied the correctness of the evidence and pleaded themselves as innocent. Appellant Gurmail Singh further pleaded that his son Narinder Singh was wanted by the police in connection with FIR No.20 dated 3.2.03 under Section 411 IPC and in this connection, firstly the raid was conducted at the house of Narinder Singh on 3.2.03 for arresting him but he was not available. Thereafter, raid was conducted on 7.2.03 for effecting his (Narinder Singh) arrest but again he was not available. He further deposed that he was taken by the police for effecting raid in the house of Gurdev Raj, who is closely related to Narinder Singh. The raid was conducted at the house of Gurdev Raj on 7.2.03 but Narinder Singh was not found present there. During the house search conducted by the police, currency notes of ₹70,000/- were recovered and the same were taken into possession by the police. He and Gurdev Raj along with recovered currency notes were taken to Police Station Garhshankar. When they asked to return the currency notes, the police told them that they should produce Narinder Singh first and then the money could be returned, otherwise the same would be used against them but both of them showed their inability for producing Narinder Singh. Gurmail Singh further deposed that on 7.2.03 at about 10 AM, he and Gurdev Raj were also produced before

DSP Navjot Singh and he asked them to produce Narinder Singh before the police but they again showed their inability for producing Narinder Singh and therefore the present case has been planted upon them. They never attempted to give the bribe nor offered any money to Inspector Jasbir Singh.

In defence, accused-appellants examined DW-1 Karam Singh who mainly deposed that his house is at a distance of two or four houses from the house of Gurdev Raj. On 7.2.03, he was present outside his house when the police came. Police went to the house of Gurdev Raj and he also followed them. Sodhi Lal, who is immediate neighbour of Gurdev Raj, also came there. Police enquired from Gurdev Raj about the whereabouts of Harinder and Gurdev Raj was unable to disclose about Narinder. The police then searched the house of Gurdev Raj and recovered bundle of ₹50,000/- cash amount from the Almirah. Apart from that, there were 40 currency notes of denomination of ₹500/-. Total sum of ₹70,000/- was taken by the police. He further deposed that police then told Gurdev Raj that they would return the money to him in case, he and Gurmail Singh accompany them to police station. Sodhi Lal and he requested the police party to return the cash amount. DW-2 Sodhi Lal, deposed as per the defence version. DW-3 Karunakar Saka, Senior Manager, Canara Bank mainly deposed regarding withdrawal of amount of ₹50,000/- by Channo wife of Mehnga Ram

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellants, as stated above.

During the pendency of the appeal, accused-appellant Gurdev Raj died on 03.07.2010 and the proceedings qua appellant Gurdev Raj were abated by this Court vide order dated 18.02.2015.

At the time of arguments, learned counsel for the appellant Gurmail Singh argued that the case against the appellant is false. The appellant Gurmail Singh is innocent and has been falsely implicated in this case. He further argued that police made up false story. The amount has been brought from the house of Gurdev Raj and appellant Gurmail Singh and Gurdev Raj were called to police station and police was pressurizing them to produce Narinder Lal, who was not traceable and still he is not traceable and this false case has been planted upon the accused. He next argued that defence version is more probable and has been duly proved and creates doubt in the prosecution version. Learned counsel for the appellant, therefore, argued that there being merit in the appeal, the same should be allowed and accused-appellant should be acquitted. Learned counsel for the appellant, in the alternative, prayed for reduction of sentence.

On the other hand, learned State counsel argued that case of the prosecution has been duly proved by the PWs. There is no enmity or motive to falsely implicate the accused. The defence version is not believable and afterthought. He further argued that there is no representation etc. regarding false implication at that time. Learned State counsel, therefore, argued that there being no merit in the appeal, the same should be dismissed.

I have heard learned counsel for the appellant as well as

learned State counsel and have gone through the record minutely and carefully.

From the evidence on the record, I find that the main dispute in the present case is that whether the prosecution version is believable or defence version is believable. As per the prosecution version, both Gurmail Singh and Gurdev Raj came to the police station and asked to accept bribe of ₹1 lac to Inspector Jasbir Singh, SHO for closing the case of Narinder Lal and ₹70,000/- were offered in the red envelope whereas the case of the accused is that ₹70,000/- were taken from the house of Gurdev Raj and appellant Gurmail Singh and Gurdev Raj were called to the police station. The police was pressurizing the appellant and Gurdev Raj as they were unable to produce Narinder Lal and therefore, the present false case was planted.

From the record, I find that prosecution version has been duly proved. There are no material contradictions or material improvements in the statements of the PWs. The prosecution version has been duly proved by the eye witness and complainant, which is supported and corroborated by the case property. On the other hand, the version of DWs looks to be afterthought and cannot be believed. Even as per the statement recorded under Section 313 Cr.P.C. and also suggestions given to the complainant and the Investigating Officer etc., there is no mention of DW-1 Karam Singh and DW-2 Sodhi Lal, being present at the time of search by the police in the house of Gurdev Raj. When the accused himself is not taking the

stand that amount of ₹70,000/- was recovered from the house of Gurdev Raj from the almirah in the presence of Karam Singh and Sodhi Lal, then the statements of DW-1 and 2 cannot be believed. Their presence on the spot is not proved. There is no version of the accused put to these witnesses that accused have been brought by the police in the presence of DW-1 and DW-2. Therefore, the statements of DW-1 Karam Singh and DW-2 Sodhi Lal cannot be believed and it looks that this is an afterthought version.

Furthermore, no representation has been given to the higher authorities by the accused or his relative or by these two defence witnesses. There is nothing on the record that any information was given to the Gram Panchayat. There is no explanation that when the accused are falsely implicated, then why the steps have not been taken to move to higher authorities or to give information to Gram Panchayat. As already discussed, as there is no mention of these two DWs in the suggestion given to the witnesses and also in the statement recorded under Section 313 Cr.P.C., therefore, the version given by DW-1 and 2 cannot be believed, especially in the absence of any representation or any information given to Gram Panchayat. No person from the Gram Panchayat has supported the defence version that accused were taken from the village. Therefore, the defence version is not believable and looks an afterthought and it is not supported by any documentary evidence.

On the other hand, I find that the PWs have consistently deposed regarding the prosecution version. The motive was to give

the bribe as Narender Lal is son of Gurmail Singh and relative of Gurdev Raj and wanted his case closed. The investigation has been conducted by a Gazetted Officer. The occurrence has taken place in the police station itself. There is no question of joining any independent witness. There are no material contradictions or improvements in the statements of the PWs. There is nothing in their cross-examination, which may make their statements unreliable.

In view of the above discussion, I find that prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt against the appellant. The judgment of conviction dated 24.11.2004 passed by learned Special Judge, Hoshiarpur is correct, as per law and the same is upheld.

As regarding sentence, keeping in view the facts and circumstances of the present case and fact that occurrence is of the year 2003 and for the last about 12 years, the appellant is suffering long criminal proceedings and further in view of the age of the appellant, who is now more than 65 years of age and there being no other criminal case against him, the sentence of the appellant is reduced to rigorous imprisonment for a period of one year from two years under Section 12 of the Prevention of Corruption Act.

With the above-said modification in the sentence, the present appeal stands dismissed.

Since, appellant Gurmail Singh is on bail, his bail bonds stand annulled. He is directed to surrender himself before the jail authorities immediately for completing remainder of sentence, failing

which the concerned authority shall proceed against him in  
accordance with law.

**February 25, 2015**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**