

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

**CRA-S. No. 2112-SB of 2009
Date of decision: 07.01.2015**

Mukhtiar Singh ... Appellant.

Versus.

State of Punjab ... Respondent.

CORAM:- HON'BLE MR. JUSTICE M. JEYAPPAUL

1) Whether the judgment should be reported in the Digest ?.

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Present: Mr. N.S. Lucky, Advocate,
for the appellant

Mr. Amit Chaudhary, Addl. AG Punjab,
for the State.

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M. JEYAPPAUL, J:

1. Appellant Mukhtiar Singh (since deceased) preferred the present appeal challenging the judgment of conviction and sentence passed by the trial Court under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as the Act).

2. Appellant Mukhtiar Singh unfortunately passed away during the pendency of this appeal. His wife filed a criminal miscellaneous application No. 58840 of 2012 seeking permission to continue with the appeal even after the demise of her husband Mukhtiar Singh. The said application was allowed. Therefore, the appellant's wife now prosecuted the appeal.

3. The brief case of the prosecution is that accused Mukhtiar Singh who was serving as Station House Officer of Police Station, Ajnala, took up the investigation of a case launched as against PW-1 Sarabjit Singh (complainant in the present case) by his wife under Section 406/498-A IPC. It was alleged by the complainant Sarabjit Singh that Inspector Mukhtiar Singh received a bribe of Rs.3000/- from him just for joining him in the investigation process. Thereafter, the accused Mukhtiar Singh demanded a sum of Rs.2000/- as an illegal gratification from the complainant to file a final report. Accused also threatened the complainant with harassment if he did not choose to pay the bribe money. PW-1 approached PW-5 DSP Paramjit Singh Khaira and lodged a complaint alleging the above demand of illegal gratification made by the accused for filing the charge-sheet. The currency notes of Rs.2000/- were entrusted by the complainant to PW-5 who made an arrangement for demonstration of phenolphthalein test. PW-2 Satpal was nominated as a shadow witness and PW-3 Aman Kumar Maini joined as one of the members of the raiding party.

4. Accused having ascertained whether PW-1 had brought the money demanded by him, received the tainted amount of Rs.2000/- and kept it in the card-board box. On receipt of a signal from the shadow witness, PW-5 descended on the office of the accused and recovered the tainted amount. The numbers of the currency notes recovered were compared by PW-3 Aman Kumar Maini. The recovered amount tallied with the numbers mentioned in the endorsement memo. The report of the Forensic Science Laboratory would also disclose that sodium carbonate and phenolphthalein contents were found in the solution sent for examination.

5. Accused took up a plea in his statement under Section 313 Cr.P.C. that the complainant was a relative of Superintendent of Police Mukhwinder Singh Cheena. The complainant was already booked under Section 406/498-A IPC. Challan also was checked on 23.5.2005. The Superintendent of Police Mukhwinder Singh Cheena pressurized him not to file the challan in the court. When the accused got the challan approved from the APP, the Superintendent of Police Mukhwinder Singh Cheena became annoyed and implicated the accused in this case through the complainant.

6. On the side of the defence, the brother of accused, namely, Lakhwinder Singh was examined as DW-1. DW-1 deposed that on 1.6.2005, he was with the accused. The police party forcibly took away the accused Mukhtiar Singh.

7. Trial Court having adverted to the evidence on record, came to the conclusion that the prosecution established beyond reasonable doubt that the accused committed an offence under Sections 7 and 13(2) of the Act.

8. Learned counsel appearing for the appellant would submit that there was no logic for the accused to demand bribe for filing the challan against the complainant. It is his further submission that the defence set up by the accused through his statement under Section 313 Cr.P.C. that the Superintendent of Police Mukhwinder Singh Cheena who was related to the complainant, fabricated this false case as the pressure mounted by him to file closure report did not fructify. He would further submit that the prosecution has come out with a totally unbelievable version.

9. Learned Additional Advocate General, Punjab, appearing for the State would submit that the evidence of PW-1 to PW-3 in the background of

the FSL report, would establish that the accused in fact demanded a bribe of Rs.2000/- and received the same.

10. PW-1, the complainant in this case, has categorically deposed that the accused demanded a sum of Rs.2000/- for filing the charge-sheet. Therefore, he approached PW-5 who laid a trap. Accused having verified the fact that PW-1 brought the amount of Rs.2000/- demanded by him, received the same and put it in the card-board box. PW-2 Satpal, the shadow witness, also completely corroborated the evidence of PW-1. PW-3 Aman Kumar Maini, one of the members of the raiding party, also spoke about the recovery of the tainted amount from the possession of the accused. The FSL report would also support the case of the prosecution.

11. It is found that PW-1 was also serving in the police department. There was no denial of the fact that the accused was investigating the case under Section 406/498-A IPC launched by the wife of the complainant as against the complainant. Unless the accused had demanded a sum of Rs.2000/-, the complainant being a Constable in the police force would not have come out with a totally false version against a police official. Not only the demand of Rs.2000/- but also the receipt thereof by the accused was established by the prosecution by examining PW-1 to PW-5. The amount was recovered from the possession of the accused. There was no reason for PW-1 to PW-5 to speak ill of the accused if at all there was no demand of bribe and receipt thereof by the accused.

12. It is true that the accused had not directly demanded the bribe at the time when PW-1 was present along with the shadow witness at the police station. But the very fact that the accused asked the complainant whether he

had brought the money, would go to show that he had in fact demanded the money and received the same from PW-1 when he was present in the police station. Therefore, the demand at the time when the tainted money was given by the complainant to the accused also stood established.

13. The complainant would have thought of putting an end to the ordeal of the prosecution launched by his wife at the earliest point of time. No wonder, the complainant had approached the accused for filing the charge-sheet at the earliest point of time and in turn, the accused had demanded an amount of Rs.2000/- as bribe for filing the charge-sheet.

14. Coming to the plea set up by the accused in his statement under Section 313 Cr. P.C., I find that except the oral assertion of the accused through such a statement, there is no other material to establish that the Superintendent of Police Mukhwinder Singh Cheena was related to the complainant and that he also pressurized the accused to file a closure report. In other words, the plea of false implication set up by the accused was not established.

15. In view of the above, I find that the trial Court has rightly evaluated the entire materials on record and come to a correct conclusion that the prosecution established charges under Sections 7 and 13(2) of the Act as against the accused. There is no merit in the appeal and therefore, the appeal stands dismissed.

January 07, 2015
JS

(M. JEYAPPAUL)
JUDGE

