

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Appeal No.S-703-SBA of 2004
Date of Decision: January 28, 2015

State of Punjab

...Appellant

VERSUS

Thakarpal Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.A.S.Klar, Asst. Advocate General, Punjab
for the appellant-State.

Mr.Matvinder Singh, Advocate
for the respondent.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant-State against Thakarpal Singh respondent challenging the judgment dated 06.08.2003 passed by learned Special Judge, Gurdaspur, vide which the respondent was acquitted under Section 7 read with Section 13(2) of the Prevention of Corruption Act. An application under Section 378 (3) Cr.P.C. for granting leave to appeal had also been filed along with the appeal, which was allowed and leave to appeal was granted.

After notice, learned counsel for respondent appeared and contested the appeal.

I have heard State counsel for the appellant as well as learned counsel for the respondent and have gone through the record.

The brief facts of the case are that Jagdish Raj was running a Tailor shop in a room given to him in a family partition by his father. Electric meter No.BF-22/C0895Y was installed in that room. 4-5 days prior to 24.02.1992, accused-respondent Thakarpal Singh Pathania, J.E, Department of Punjab State Electricity Board came to Jagdish Raj and told him that he would charge electricity bill at commercial rates from the last years otherwise he should pay him ₹150/- as bribe. The accused also assured Jagdish Raj that he would charge less electricity bill. The accused noted the meter number in a note book. On 24.02.1992, Jagdish Raj met the accused in his office at about 10.00 A.M. but the accused was adamant in receiving ₹150/- as bribe. Jagdish Raj made a false promise of making the payment to the accused at the tea stall of Hardeep Singh. Jagdish Raj approached Gurmeet Singh, Vigilance Inspector, Gurdaspur and produced before him one currency note of the denomination of ₹100/- and one currency note of ₹50/-. Joginder Pal accompanied Jagdish Raj to the office of Vigilance Bureau, who was later on made shadow witness. Then after showing the demonstration, phenolphthalein powder on the currency notes was applied. Gurmej Singh and Pritam Singh Naib Tehsildar was joined in the raiding party. Raid was conducted. Accused was apprehended red handed. After necessary investigation, challan was presented against accused-respondent.

On presentation of challan against accused-respondent, copies of challan and other documents were supplied to him under

Section 207 Cr.P.C. Finding prima facie case, the accused was charge-sheeted under Section 7 read with Section 13(2) of the Prevention of Corruption Act, 1988, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Jagdish Raj, PW-2 Joginder Pal, PW-3 Head Constable Kashmir Singh, PW-4 Constable Ravinder Kumar, PW-5 Darshan Kumar, SDC PSEB, PW-6 Jagdish Raj UDC, PW-7 Viresh Bhagat Superintendent, Chief Engineer Border Amritsar, PW-8 Hari Ram. PWs Pritam Singh and Tarsem Lal were given up as unnecessary witnesses. Prosecution further examined PW-9 Gurmej Singh, DSP retired and closed the evidence.

At the close of prosecution evidence, the accused was examined under Section 313 Cr.P.C. and he denied the correctness of the prosecution evidence and pleaded himself as innocent.

No witness was examined in defence.

The learned trial Court, after appreciation of the evidence, acquitted the accused-respondent, as stated above.

The perusal of the judgment dated 06.08.2003 passed by learned Special Judge, Gurdaspur shows that the accused-respondent has rightly been acquitted. First of all, in this case PW-1 Jagdish Raj stated that they reached the office of the accused at 2.00 P.M. and 5-6 persons were present in his offence. Accused quarreled with Vigilance Inspector when he tried to apprehend him and altercation took place for about fifteen minutes and accused was

saying that he was being falsely implicated. Joginder Pal remained standing outside and he (Jagdish Raj) alone went in the office-room of the accused. The case of the complainant is that he had paid the bribe money to the accused in his office whereas, in his statement Ex.PA made before Gurmej Singh, the case of the complainant is that the accused agreed to receive the bribe money at the tea stall of Hardeep Singh. Joginder Pal, who was the shadow witness, has stated in examination-in-chief that he and Jagdish Raj went to a shop (tea stall). Accused was sitting in the tea stall. Jagdish Raj sat near the accused. There was some money matter between Jagdish Raj and accused. As per this witness, raid was conducted at the tea stall and they went to tea stall of Hardeep Singh for paying bribe money.

The statements of both these witnesses are contradictory to each other regarding place of raid, which creates a reasonable doubt in the prosecution version. The recovery witness, who is independent witness i.e. Pritam Singh Naib Tehsildar, was not examined in this case. Furthermore, the Investigating Officer also stated that raid was conducted at tea stall of Hardeep Singh but Hardeep Singh was not joined in the proceedings. There are also other shops nearby the shop of Hardeep Singh, but none was joined in the proceedings. Jagdish Raj deposed that 5-6 persons were there in the office of the accused but none of those persons have been joined in the proceedings. A reasonable doubt exist in the prosecution version and the statement of the witnesses are contradictory on material points. Therefore, learned Special Judge, Gurdaspur has

correctly acquitted the accused of the charge framed against him vide judgment dated 06.08.2003.

Therefore, finding no merit in the present appeal, the same is dismissed.

January 28, 2015
Vgulati

(INDERJIT SINGH)
JUDGE