

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CRA-S-791-SB of 2005**

DATE OF DECISION: AUGUST 12, 2015

DR.RAVINDER PAL SINGH ...APPELLANT

VERSUS

STATE OF HARYANA ...RESPONDENT

2. **CRA-S-947-SB of 2005**

KHUBI RAM ...APPELLANT

VERSUS

STATE OF HARYANA ...RESPONDENT

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

1. Whether the judgement should be reported in the digest? Yes

PRESENT: MR. T.S.SANGHA, SR.ADVOCATE
WITH MR. H.S.SANGHA, ADVOCATE
FOR THE APPELLANTS.

MR. PRITAM SAINI, ADDL.A.G., HARYANA.

M. JEYAPPAUL, J.

1. Accused Dr.Ravinder Pal Singh and Khubi Ram were convicted under Sections 7 and 13 of the Prevention of Corruption Act, 1988. Dr.Ravinder Pal Singh was sentenced to undergo R.I. for 1 year and to pay a fine of ₹1000/- and in default, to undergo a further period of 3 months R.I. for the offence under Section 7 of the Prevention of Corruption Act. He was also sentenced to undergo R.I. for 2 years and to pay a fine of ₹2000/- and in default, to undergo a further period of 6 months R.I. for the offence under Section 13 of the Prevention of Corruption Act. Accused

Khubi Ram was sentenced to undergo R.I. for 1 year and to pay a fine of ₹500/- and in default, to undergo a further period of 2 months R.I. for the offence under Section 7 of the Prevention of Corruption Act. He was also sentenced to undergo R.I. for 2 years and to pay a fine of ₹1000/- and in default, to undergo a further period of 3 months R.I. for the offence under Section 13 of the Prevention of Corruption Act.

2. Challenging the above judgement of conviction passed by the trial Court, both the above named accused have preferred the above individual appeals.

3. It is the case of the prosecution that accused Dr. Ravinder Pal Singh who was posted as Dental Surgeon, demanded a sum of ₹2000/- from PW4 Yudhbir Singh as an illegal gratification for examining the injury caused to his teeth and accepted the bribe of ₹2000/- on 21.7.2001 and handed over the same to co-accused Khubi Ram who shared common intention with him.

4. PW4 Yudhbir Singh, who was the complainant in this case, deposed that on 19.7.2001, there was a quarrel between him and one Sukhpal in their village Seekri. He lodged a report in the police station at Sadar Ballabgarh. Thereafter, he proceeded to Civil Hospital, Ballabgarh, for medical examination where accused Dr. Ravinder Pal Singh demanded a sum of ₹2000/- for conducting his medical examination. He did not prefer to pay the bribe amount demanded by accused Dr. Ravinder Pal Singh. He proceeded to the office of Superintendent of Police, Faridabad and submitted written application Ex.PD. Thereafter, they proceeded to the residence of PW9 Mrs. Anju Chaudhary, SDM, Ballabgarh and handed her

over four currency notes of the denomination of ₹500/- which was thereafter treated with phenolphthalein powder. PW14 Om Parkash was employed as a shadow witness to accompany PW4. PW4 and PW14 proceeded to the hospital where accused Dr. Ravinder Pal Singh was found. PW4 handed over a sum of ₹2000/- to accused Dr. Ravinder Pal Singh who accepted the same in a handkerchief and handed it over to accused Khubi Ram who was his son. Pre-arranged signal was given to the police party headed by PW13 DSP Kuldeep Singh. Thereafter, the tainted currency notes of ₹2000/- were recovered from the possession of accused Khubi Ram. The hands of accused Khubi Ram on being dipped in sodium carbonate solution prepared at the site, turned pink in colour.

5. PW2 Constable Manoj prepared the site plan. PW7 ASI Jeewan Singh got the complainant medico-legally examined by PW8 Dr.S.C.Bhagat and also by accused Dr. Ravinder Pal Singh. PW8 Dr. S.C.Bhagat medico-legally examined the complainant and issued an MLR. It was he who referred the complainant for the opinion of the dentist. PW9 Mrs.Anju Chaudhary, SDM, Ballabgarh was the official witness. PW12 Dr.S.P.Singh Bhatia was the competent authority who sanctioned prosecution. PW13 DSP Kuldeep Singh who conducted the raid and investigated the case filed final report.

6. Accused Dr. Ravinder Pal Singh set up a plea in his statement under Section 313 Cr.P.C. that complainant Yudhbir Singh alongwith PW14 Om Parkash pressurized him to submit a wrong report showing grievous injury. Accused Dr. Ravinder Pal Singh refused to give any wrong report. Due to grudge, a false case has been registered against him, he has

submitted. Accused Khubi Ram set up a plea in his statement under Section 313 Cr.P.C. that a false case was foisted on him, though he was innocent.

7. On the side of the defence, one witness was examined.

8. The trial Court having adverted to the evidence on record returned a judgement of conviction as against both the accused.

9. Learned counsel appearing for the appellants submitted that the foundation laid by the prosecution on the basis of the first information report lodged by PW4 is completely shaky. Learned Addl.A.G., Haryana would contend that the first information report is not an encyclopedia which shall contain all the minute particulars.

10. The first information report lodged by PW4 would read that on 21.7.2001, PW4 proceeded alongwith PW14 Om Parkash to Civil Hospital for medical examination of his teeth and met the Dentist Dr. Ravinder Pal Singh. He made a request for his medical examination. But Dr. Ravinder Pal Singh demanded a sum of ₹2000/- for medical examination of his teeth. The above foundation laid by the prosecution will have to be tested by the evidence adduced by the prosecution.

11. The evidence of PW7 ASI Jeewan Singh is very important to test the truth or otherwise of the allegation found in the first information report. PW7 ASI Jeewan Singh has categorically deposed that PW4 Yudhbir Singh was not only medico-legally examined by PW8 who issued MLR, but also by accused Dr. Ravinder Pal Singh as regards the injury he sustained in his teeth. He has also stated that it is only the duty of the police and not the private party to collect the opinion expressed by the Doctor.

12. The above evidence of PW8 completely shatters the case of the

prosecution that accused Dr. Ravinder Pal Singh demanded a sum of ₹2000/- for examining the injured teeth of PW4. The testimony of PW7 demonstrates that PW4 had not gone to accused Dr. Ravinder Pal Singh of his own. He was in fact taken by PW7 ASI Jeewan Singh to the hospital for dental examination. It is only in the presence of PW7, PW4 was subjected to examination by PW8 Dr. S.C.Bhagat and accused Dr. Ravinder Pal Singh.

13. Learned senior counsel for the appellants is right in submitting that there was no necessity for accused Dr. Ravinder Pal Singh to demand any bribe after he had subjected PW4 to dental examination. Therefore, in my considered view, the very foundation laid by the prosecution is completely shaky.

14. PW4 has not whispered as regards the original demand of ₹5000/- by accused Dr. Ravinder Pal Singh and the deal ultimately struck at ₹2000/-. PW14 Om Parkash who allegedly accompanied PW4 to the hospital for his dental examination comes out with a version that in fact a sum of ₹5000/- was demanded, but ultimately, the deal was struck at ₹2000/-. Such an inconsistent version by PW4 and PW14 who are the star witnesses in this case throws doubt on the case of the prosecution as regards the demand made by accused Dr. Ravinder Pal Singh.

15. PW4, of course, has stated in his first information report that he proceeded alongwith PW14 Om Parkash to Dr. Ravinder Pal Singh for his dental examination. But, during the course of deposition, he made a marked departure and stated that he proceeded to the hospital accompanied by a Constable. Never has he whispered in his testimony that PW14 Om Parkash

accompanied him to the hospital for his dental examination. The above vital contradiction creates a doubt in the version of the alleged shadow witness PW14 Om Parkash.

16. PW4 has come out with another damaging version that in the very presence of a Constable who accompanied him, the bribe amount was demanded by Dr. Ravinder Pal Singh. It is to be noted that PW4 has come out with an unbelievable version that bribe was demanded in the presence of a Constable. No Government servant would have the guts to demand bribe from an individual in the presence of a Constable.

17. PW4 did not speak about any demand made by Dr. Ravinder Pal Singh at the time when he proceeded to him with tainted money. It is his version that accused Dr. Ravinder Pal Singh received the money and held in his handkerchief and handed over the same to the co-accused. But PW14 comes out with a contradictory version that Dr. Ravinder Pal Singh in fact received the amount from PW4 and kept it in his pocket and thereafter he handed over the same to the co-accused.

18. The evidence of PW13 DSP Kuldeep Singh would go to establish that the hands of accused Khubi Ram which were dipped in sodium carbonate solution turned pink. In other words, the hands of accused Dr. Ravinder Pal Singh did not turn pink in colour on being dipped in the sodium carbonate solution.

19. Learned senior counsel appearing for the appellants referring to the site plan Ex.PB and the evidence of PW9 Mrs. Anju Chaudhary, SDM, Ballabgarh, rightly submitted that PW14 was in fact standing about 60 feet

away from PW4 when he allegedly handed over the money. In other words, we find that the shadow witness was not actually present alongwith PW4 at the time when alleged amount was passed on by PW4 to the accused. PW14 could not have noticed the amount passed on by PW4 to accused Dr.Ravinder Pal Singh.

20. The charge as against accused Khubi Ram would read as though he demanded bribe and received the same. I find that the charge has no connection with the evidence adduced before the Court.

21. It is a well settled position of law that mere recovery of tainted money would not prove the charge under Section 7 or Section 13 of the Prevention of Corruption Act, 1988.

22. For all these reasons, I am of the considered view that the prosecution miserably failed to establish the charges under Section 7 and 13 of the Prevention of Corruption Act, 1988 framed as against the accused-appellants. Both the appellants are entitled to acquittal.

23. Therefore, the judgement of conviction and sentence passed by the trial Court stand set aside. Both the appellants are acquitted of the charges. The appellants are on bail. The bail bonds executed by them shall stand discharged. Consequently, both the appeals are allowed.

August 12, 2015
Gulati

(M. JEYAPPAUL)
JUDGE