

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

CRA-S-1806-SB-2003 (O&M)
DATE OF DECISION : 2nd AUGUST, 2017

Shamsher Singh

.... Appellant

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Bhriagu Dutt Sharma, Advocate for the appellant.

Mr. Ramandeep Sandhu, Sr. D.A.G. Punjab.

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A. B. CHAUDHARI, J. (ORAL)

The appellant has put to challenge the judgment and order dated 11.09.2003 in corruption case No.31 of 30.11.2000 by which the appellant was convicted for offence under Section 7, 13(2) of the Prevention of Corruption Act, 1988 (in short, 'PC Act') and was sentenced to undergo rigorous imprisonment for two years and to pay fine of ₹2000/-.

Heard learned counsel for the rival parties.

I have perused the record and reasons recorded by the learned trial Judge for ordering the conviction of the appellant. The trial Court has recorded the following finding in para 15, which I quote hereunder:

“15. From the above discussion, it is clear that the prosecution witnesses have failed to prove that accused being a public servant demanded and accepted Rs.3000/- as illegal gratification on 14.8.2K, but the prosecution witnesses have proved beyond a reasonable shadow of doubt that the

accused used his official position to extract illegal gratification of Rs.3000/- from the complainant to show him favour in case FIR No.73 dated 27.7.2K. Accordingly, the accused is acquitted of the charge framed against him u/s 13 (2) of the Act. However, he is held guilty under section 7 of the Act and he is convicted accordingly.”

I have gone through the entire judgment and I find that the finding above in para 15 is pursuant to the appreciation of evidence by the trial Court made in the earlier paragraphs of the judgment. The trial Court, however, found that the appellant was liable to be convicted for the offence under Section 7 of the PC Act. Section 7 reads thus:

“7. Public servant taking gratification other than legal remuneration in respect of an official act.—Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to five years and shall also be liable to fine.”

It is thus clearly seen that the conviction under Section 7 is contrary to the finding in para 15.

In view of the above, I find that judgment of conviction made by the trial Court is bereft of any logic, much less legal logic. In the result I make the following order:

ORDER

- (i) CRA-S-1806-SB-2003 is allowed.
- (ii) The impugned judgment and order 11.09.2003, is set aside.
- (iii) The appellant is acquitted of the charge framed against him.

2nd AUGUST, 2017
‘raj’

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes</i>	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	<i>No</i>