

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

CRA-S-910-SBA-2000 (O&M)

Date of decision: 12.07.2017

STATE OF PUNJAB

...Appellant (s)

Versus

GURJANT SINGH AND OTHERS

...Respondent(s)

CRR-375-2000 (O&M)

JAWAHAR SINGH

...Petitioner(s)

Versus

GURJANT SINGH AND OTHERS

...Respondent(s)

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

Present: Mr. Ramandeep Sandhu, Sr. DAG, Punjab

Mr. G.S. Sidhu, Advocate
for the petitioner in CRR No.375 of 2000.

Mr. C.M. Munjal, Advocate
for the respondents.

A.B. CHAUDHARI, J. (Oral)

By this common judgment, this Court shall dispose of the
aforesaid two cases.

This criminal appeal is directed against the judgment dated
16.11.1999 passed in S.C. No.1 dated 29.01.1996, whereby all the four
accused persons, who were charged under Section 7 of the Prevention of

the Corruption Act, were acquitted.

I have heard the learned counsel for the appellant, State counsel, Mr. Ramandeep Sandhu, Sr. DAG, Punjab and also learned counsel for the respondents-accused and perused the entire record. I have seen the reasons recorded by the learned trial Judge for acquittal. The trial Court has made the following reasons for making the order of acquittal:-

“As stated above, none of the legal heirs of said Kaku Singh, was examined as a witness, to prove that he was also known as Kaku Ram and died at Dhaba Tek Singh. Mere tendering of a document into evidence, does not connect the same, with a particular person. The prosecution was duty bound to produce some cogent evidence, to establish that the death certificate Ex. PA, pertained to Kaku Singh, who was also known as Kaku Ram. The death certificate PF, relates to one Kaku Ram of Dhaba Tek Singh and not Kaku Ram resident of Bahadurpur who allegedly executed the sale deed dated 03.03.94. This document, therefore, does not go to prove that Kaku Singh son of Sahib Singh of Bahadurpur, who allegedly executed the sale deed died on 27.10.77. The oral evidence, with regard to this factum, cannot be said to be cogent, convincing and credible. The prosecution was required to produce the best evidence, to prove this factum. In the absence of production of best documentary evidence, to prove the death of Kaku Singh, no significance, can be attached to the oral evidence of the witnesses, that Kaku Singh had already died, when the sale deed dated 03.03.94 was allegedly executed.

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11. *Coming to the charge of demand and acceptance of illegal gratification of Rs.10,000/- by Gurjant Singh Patwari, on 09.03.94, in the area of Bahadurpur from Hem Raj through Gurjant Singh son of Nek Singh Namberdar for entering the mutation in favour of Bhura Singh, Pal Singh and Hem Raj, it may be stated here that no cogent and convincing evidence was produced by the prosecution, to prove this factum. Hem Raj (PW3) was examined by the prosecution, to prove this factum. During the course of examination-in-chief, he stated that he paid Rs.10,000/- on 09.03.94, to Bhura Singh, and Gurjant Singh, Namberdar, for further paying the same, to Gurjant Singh, Patwari, for sanctioning the mutation. Bhura Singh and Gurjant Singh Namberdar, to whom the amount was allegedly paid by him, are the accused, in this case. It, therefore, could not be ascertained, as to whether, they allegedly paid the amount to Gurjant Singh, Patwari. Hem Raj is one of the beneficiaries under the sale deed dated 03.03.94, Mark-A. He is thus one of the alleged co-conspirators. Instead of arraying as one of the accused, he was cited as a witness. To save his skin and to wriggle out of the criminal liability he could go to any extent to make a false statement. He is, therefore, an unreliable witness. During the course of his cross-examination, Hem Raj, stated that Gurjant Singh, Patwari, never came to him, in connection with the land in question. He further stated that Gurjant Singh Patwari, never came to him, nor did he demand from him, any illegal gratification for the purpose of entering the mutation. He further stated that he never paid the amount to Bhura Singh and Gurjant Singh, before the aforesaid transaction. Since, Gurjant Singh, Patwari, neither demanded illegal*

gratification, from Hem Raj, nor did he accept such illegal gratification from him for the purpose of entering mutation. Since, there is no evidence on the record to indicate that the amount, if allegedly paid to Bhura Singh, and Gurjant Singh Namberdar, by Hem Raj, was further paid by them to Gurjant Singh, Patwari in his presence, the charge framed under Section 7 of the Prevention of Corruption Act, against Gurjant Singh Patwari, does not stand proved, beyond a reasonable doubt.”

Perusal of the above reasons reveals that the trial Court has given benefit of doubt as the prosecution has not proved his case beyond a reasonable doubt.

In my opinion, the view taken by the learned trial Judge is probable and possible. In the light of the parameters laid down by Hon'ble the Supreme Court in the case of **Darshan Singh versus State of Punjab**, 2010 Vol. Supreme Court Cases 333, in Para 24, I think I will not be able to interfere with the order of acquittal. Hence, CRA-S-910-SBA-2000 and CRR-375-2000 are dismissed.

12.07.2017
ashok

(A.B. CHAUDHARI)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No