

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-2343-SB-2007 (O&M)

Date of decision: July 31, 2017.

State of Punjab

... **Appellant**

v.

Darshan Singh and others

... **Respondents**

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

Present: Ms. Samina Dhir, Deputy Advocate General, Punjab.

None for the respondents.

A.B. Chaudhari, J. (Oral):

This is an appeal by the State of Punjab against the judgment of acquittal dated 25.9.2006 recorded by learned Special Judge, Moga in Sessions Case No.18 dated 28.10.2003 arising out of FIR No.46 dated 7.6.2003, under Sections 7, 12, 13(1,2) of the Prevention of Corruption Act, 1988, registered at Police Station Vigilance Bureau, Ferozepur.

Heard Learned Counsel for the State. She contended that the judgment of acquittal is not based on the evidence on record. She, therefore, prayed for dismissal of the said judgment and order.

Perused the judgment and order of acquittal recorded by the learned court below. The trial court has recorded reasons in para 14, 15, 20 and 26 for recording the order of acquittal. I quote the same as under:-

“14. PW2 complainant Hari Singh had contradicted himself when he has stated that he was having copy of the

Jamabandi containing all the Khasra numbers including the land purchased by him on 19th May, 2003 and in the next sentence he had stated that the sale deed dated 16.5.2003 was executed and registered on the basis of the same copy of Jamabandi which implies that witness had the Jamabandi with him on 19.5.2003 when the sale deed was executed earlier on 16th May 2003. So it does not lie in the mouth of the complainant that he could not get sale deed executed and registered on 16.5.2003 when he had not established that prior to 16th May, 2003, he was having copy of Jamabandi, rather he has stated that he was having copy of the Jamabandi on 19.5.2003. He has denied that he had obtained copy of Jamabandi on 13.5.2003 from Darshan Singh but the sale deed was executed on the basis of the same copy of Jamabandi.”

“15. He had also testified that he does not know the name of DSP Vigilance Bureau posted at Moga during the month of May 2003 which established that he was knowing only Surjit Singh Khosa, DSP, Vigilance Bureau, Muktsar because he was related to him and he had contacted only him. This suspicious circumstance is not explained by this witness in any way as to what was the circumstance that he had not approached Vigilance Bureau, Moga and instead had approached DSP Vigilance Bureau, Muktsar. Further, he stated that he does not know the name of Tehsildar before whom the sale deed dated 16.5.2003 was registered. ...”

“20. It is worth while to mention here that the accused were having a tape recorded version of Harinder Singh HC No.44 a witness of this case. Much effort was made by this court but this witness had not turned up and had not dared to get his voice recorded for identification of the voice or comparison of the recorded voice with his original voice. Finally the court was left with no other alternative, the defence evidence, had to be closed by order with the observations that adverse inference will be drawn against PW

Harinder Singh HC that he had not appeared to get his voice recorded under the fear that it may tally with the voice recorded in the tape and it may not become an evidence against him. ...”

“26. Three Patwaries were admitted to be present in the office of the accused by both these witnesses i.e. Complainant Hari Singh and Jalaur Singh shadow witness and the Investigating Officer had not joined any of these Patwaries or any other independent person in the investigation which would have support the prosecution case from being shattered into pieces. This witness was moving with the raiding party but this witness had stated that he does know from where Charanjit Lal was joined by DSP. He does not know Whether Charanjit Lal brought from his house or office by DSP. He has further stated his statement was recorded by Reader of the DSP while earlier he had stated that his statement was not recorded by any police official. He had also demolished the prosecution story by stating that Rs.1200/- was recovered from Gurbinder Singh which was tainted money and Rs.50/- was recovered from the personal search but he had not stated as to from where Rs.1200/- had been recovered whether it was in pocket or it was held in his hand or was kept anywhere in his short etc. He had admitted that there was no pinkish colour on the pocket of the shirt which was removed from the person of Gurbinder Singh. He had stated that shirt was got washed by DSP while DSP had stated that the himself and not washed shirt said to be of Gurbinder Singh but got it washed from other witnesses. He was recalled for his further cross-examination. He was asked about the dates of the mutations sanctioned to which he replied that he cannot tell the dates of any mutation. This witness who had been examined as shadow witness had not corroborated but contradicted the investigating officer on material points.”

I am in agreement with the reasons given by the trial court for

recording the order of acquittal. In view of the judgment of the Apex Court in the case of Darshan Singh v/s State of Punjab, 2010(2) RCR (Crl.) 333, and in particular para 24 thereof, I am not inclined to interfere with the impugned judgment.

Dismissed.

July 31, 2017.

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[**A.B. Chaudhari**]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No