

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

CRA-S-1319-SBA-2006

DATE OF DECISION : 13th DECEMBER, 2017

State of Haryana

.... Appellant

Versus

Deepak Kumar

.... Respondent

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

* * * *

Present : Ms. Tanushree Gupta, DAG, Haryana for the appellant.

None for the respondent.

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A. B. CHAUDHARI, J. (Oral)

Being aggrieved by the judgment and order dated 23.02.2005 passed by learned Special Judge, Karnal in FIR No.18 dated 25.03.2003 registered under Sections 7 and 13(1) (d) of Prevention of Corruption Act (in short, PC Act) at Police Station SVB, Rohtak, the present appeal was filed by the State of Haryana in this Court against the acquittal of the respondent-accused.

In support of the appeal, learned counsel for the State has vehemently argued that the trial Court committed error in recording the order of acquittal when as a matter of fact there was sufficient evidence on record. She further argued that merely because the complainant had turned hostile or rather has not supported the prosecution case so also the witness, the order of acquittal could not have been recorded. She therefore prayed for reversal of the order of acquittal.

None has appeared for the respondent.

With the assistance of the learned counsel for the State I have gone through the impugned order and reasons recorded therein. The learned trial Court found that the complainant as well as the witness, both refused to say in the Court on oath that the accused as demanded any bribe or had accepted any illegal gratification. In fact they denied stoutly, the trial Court, therefore, recorded the following reasons in para 20 of its judgment, which reads thus:

“20. Now the question arises whether the said recovery amounts to acceptance of illegal gratification or not? Relying upon the ratio of the case titled M. Narsinga Rao Vs. State of Andhra Pradesh reported 2001 (2) RCR, 95 (Criminal) and case titled State of Andhra Pradesh Vs. C. Uma Maheshwara Rao and another reported in 2004 (2) RCR (Criminal) 451, it has been argued vehemently by the learned Public Prosecutor that in view of Section 20 of the Prevention of Corruption Act, a legal presumption has to be drawn that the amount so recovered was illegal gratification other than legal remuneration. It is pertinent to mention here that in the cases cited above, the Hon’ble Supreme Court has held that the legal presumption to the effect that such gratification was accepted as reward has to be drawn when it is proved that the accused had accepted gratification. In the present case, there is

no evidence on record to prove that the accused had accepted the gratification. Neither Rakesh Kumar nor Bharat Kumar have stated that the accused had demanded a sum of Rs.2500/- and had accepted the said amount as illegal gratification. In cases titled Sat Pal (died) through LRs. Vs. State of Punjab reported in 2004 (1) RCR (Criminal), 830 and Sarwan Singh Vs. State of Punjab reported in 2004 (1) RCR (Criminal), 368, it has been held that mere recovery of the amount does not amount to acceptance of gratification. So, from the evidence discussed above, it is not proved that the accused had accepted gratification. So, the presumption that the said gratification was for doing public duty does not arise.”

In view of the fact that the demand and acceptance both were at all not proved by the prosecution, I do not think that the trial Court has committed any wrong in recording the order of acquittal. In the result, I find no merit in the present appeal. In the result, I make the following order:

ORDER

- (i) CRA-S-1319-SBA-2006 is dismissed.

13TH DECEMBER, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned: Yes No

Whether Reportable: Yes No