

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

CRA-S-No.1786-SBA OF 2005
DATE OF DECISION : 20th NOVEMBER, 2017

State of Punjab

.... Appellant

Versus

Tilak Raj

.... Respondent

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

* * * *

Present : Mr. Dhruv Dayal, Sr. D.A.G. Punjab,
for the appellant.

Mr. Ramandeep, Advocate for the respondent.

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A. B. CHAUDHARI, J. (Oral)

Being aggrieved by the judgment and order dated 16.04.2005 passed in Sessions Case No.19 of 2002 passed in FIR No.271 dated 15.08.2001 registered under Section 8 of Prevention of Corruption Act at Police Station Vigilance Bureau, Patiala, the present appeal was filed by the State against acquittal of the respondent.

Heard learned counsel for the rival parties.

In support of the appeal, learned State counsel vehemently argued that the trial Court has wrongly assumed inconsistency regarding total payment of amount of ₹10,500/- on intervals. According to him the fact of the matter is that total amount of ₹10,500/- was paid to the respondent and therefore the accused has been wrongly acquitted by the trial Court for the offence under Section 8 of the Prevention of Corruption Act.

Per contra, the learned counsel for the respondent vehemently opposed the appeal and argued that the trial Court has relied

on the evidence that was brought on record which is not truthful and trustworthy. He further submitted that the trial Court has rightly acquitted the respondent and there is no need to interfere with the order of acquittal.

I have perused the reasons given by the trial Court. As to the submission made by learned State counsel, I find that the question was that whether the entire amount of ₹10,500/- was paid or not. It came in evidence that it was paid at different intervals. There was therefore clear-cut, serious, material contradictions and inconsistency in the evidence of the prosecution. The trial Court has recorded number of reasons for showing deliberate involvement of the respondent. The evidence did not at all advance the case of the prosecution. I quote the relevant reasons:

“15. xxx... xxx... xxx... As per complaint Ex. PW3/A the payment was made about 10/15 days prior to the date of application i.e. 10.5.2001 at the house of the accused at village Dharoke. The amount paid at that time was Rs.10,500/-. It is on this point, the prosecution witnesses are most discrepant. As per the averments made in the complaint, the accused met the complainant at his house. It is on this point also that the statement of the prosecution witness differs. PW.3 the complainant has stated that the accused met him at Police Station Kotwali where he had been visiting in connection with the registration of the FIR. It

was there that the accused assured the complainant that he can get all this dispute settled. Thereafter on 31.3.2001 the accused met the complainant in the office of Senior Superintendent of Police. The demand of Rs.10500/- was raised there by him. It was in the office of Senior Superintendent of Police that the complainant paid Rs.3000/- to the accused and paid Rs.7000/- Rs.7500/- 2-3 days thereafter to the accused at his village Dharoke. The complainant has stated that after receiving Rs.10500/- the accused had proclaimed that he will receive the remaining amount of Rs.40000/- completing the job of the complainant. The accused had also asked the complainant that he will get his money released from the jewelers within 15 days and get the combine released from Jagtar Singh in his favour. At the time of demand, Ram Kishan was with him. The payment of Rs.3000/- was made out side the office of the Senior Superintendent of Police in the presence of Raj Bhagwant Singh and Ram Kishan Dass. The above version as given by the complainant in his statement is totally in contradiction with the averments made in the complaint. In the complaint, the presence of Raj Bhagwant Singh has nowhere been mentioned or disclosed. As per

the complaint, the entire payment of Rs.10,500/- was made at one time. There is nothing in the complaint that the accused met the complainant at Police Station Kotwali Nabha or in the office of SSP PW2 Ram Kishan Dass has stated that the accused met the complainant at the office of S.P.(D) and raised the demand of Rs.50000/-. As per the complainant, this demand of Rs.5000/- was raised by the accused at Police Station Kotwali Nabha. Ram Kishan has stated that Rs.3000/- was paid by the complainant to the accused in his presence in the parking zone of the office of Senior Superintendent of Police and 3-4 days thereafter Rs.7500/- were paid to the accused at the house of the complainant at village Dharoke. Raj Bhagwant Singh PW 4 has deposed regarding the payment of Rs.7500/- to the accused at village Dharoke by the complainant in his presence. He has stated that at the house of accused, the matter was settled for Rs.50000/-.

17. The version given by the complainant and his witnesses in their statements recorded in this case, is an improved version. They have not stated these facts to the police even in their statement. The attention of the complainant was drawn towards his complaint and the statement recorded

by the police and as many as ten improvements over and above the averments made in the complaint and the statements made to the police have been put to him, which are quite material in the facts and circumstances of this case....xxx.

21. xxx.... xxx.... In this case, the foundation of the prosecution case was raised on the version as incorporated in the complaint but the prosecution has put up altogether a different case, when the matter came before the court and the statements of the prosecution witnesses were recorded. The question which has again arisen for consideration is as to which version of the prosecution be believed. If the version as given in the complaint is not true, in that case the version given by the complainant and his witnesses in the court cannot be believed to be true as well because it is the first version given by the complainant to the police, which is most material. By the time witnesses come to the Court to depose, they have chance to come across the Investigating Officer, the lawyers, the prosecutor and have got every chance to get their statements shaped up.”

The reasons given by the trial Court cannot be said to be perverse. The view taken by the trial Court is the possible view.

Looking to the parameters relating to the interference in the appeal

against acquittal, I do not think that any interference in the present appeal against acquittal can be made.

In the result, I make the following order.

ORDER

- (i) CRA-S-No.1786-SBA OF 2005 is dismissed.

20th NOVEMBER, 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>