

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

CRA-S-No.1787-SBA OF 2005
DATE OF DECISION : 31 OCTOBER, 2017

State of Haryana

.... Appellant

Versus

Rajinder Parshad

.... Respondent

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

* * * *

Present : Mr. Chetan Sharma, AAG, Haryana.

Mr. S. S. Dinarpur, Advocate for the respondent.

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A. B. CHAUDHARI, J.

Being aggrieved by the judgment and order dated 04.03.2005 passed in Sessions Case No.56 of 2003 arising out of FIR No.40 dated 20.09.2002 registered under Sections 7 & 13(1)(d) of Prevention of Corruption Act at Police Station SVB, Ambala, the present appeal was filed by the State of Haryana in this Court against the acquittal of the accused.

Heard learned counsel for the rival parties.

In support of the appeal the learned counsel for the State vehemently argued that the trial Court went wrong in acquitting the accused when as a matter of fact the prosecution has proved its case beyond doubt. He further submitted that the demand and acceptance, both were duly proved by the prosecution and therefore, there was no reason why the trial Court should have acquitted the respondent accused.

Per contra, learned counsel for the respondent accused opposed the appeal and submitted that the trial Court has recorded reasons for recording the order of acquittal and there is no perversity

shown in the reasons recorded by the trial Court. He, therefore, prayed for dismissal of the appeal.

I have gone through the impugned judgment and order so also the reasons recorded by the trial Judge for recording the order of acquittal.

The trial Court found that the prosecution case was shrouded with suspicion and benefit of doubt was required to be given to the respondent-accused. The trial Court has given reasons for arriving at the said conclusion, the relevant portion of paragraph 11 reads thus:

“PW12 Satish Kumar stated that when they went inside the office of the accused he was taking meals. That for sometime there was exchange of hot discussion between the complainant and the accused on the point whether the complainant is eligible as per instructions or not. The accused returned, the money once or twice to the complainant but ultimately he agreed to accept. Initially the money was put in the left pocket of the shirt by the complainant which was taken out by the accused and put back in the pocket of the complainant, but it was again inserted in the pocket of the accused and that time the accused has made up his mind and after taking it from pocket has put it in the left pocket of the pent. That he then accompanied the complainant to leave him outside this office.”

I am satisfied with the above reasons recorded by the trial Court and found no perversity in the aforesaid reasons. In the light of the

decision of the Apex Court in the case of ***Darshan Singh versus State of Punjab & another, (2010) 2 Supreme Court Cases 333*** and in particular para 61 thereof, I do not think it is possible to interfere in the order of acquittal. Para 61 reads thus:

“61. In a case of acquittal, if the trial Court’s view is a possible or plausible view, then the appellate Court or the High Court would not be justified in interfering with it. It is the settled legal position that there is presumption of innocence and that presumption is further fortified with the acquittal of the accused by the trial Court. The appellate Court or the High Court would not be justified in reversing the judgment of acquittal unless it comes to a clear conclusion that the judgment of the trial Court is utterly perverse and, on the basis of the evidence on record, no other view is plausible or possible than the one taken by the appellate Court or the High Court.”

In the result I make the following order:

ORDER

- (i) CRA-S-No.1787-SBA OF 2005 is dismissed.

31 OCTOBER, 2017
‘raj’

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned: *Yes* *No*

Whether Reportable: *Yes* *No*