

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

CRA-S-459-SBA-2005

Date of Decision:29.09.2017

The State of Punjab

.....APPELLANT

V/S

Lachman Dass

.....RESPONDENT

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

Present: Mr. Dhruv Dayal, DAG, Punjab.

A.B. CHAUDHARI, J. (ORAL)

Being aggrieved by the order of acquittal dated 03.04.1999 passed by the learned Judge, Special Court, Bathinda in case P.C. Act File No.16 of 06.10.1989, by which the learned trial Court acquitted the respondent for the offences under Section 13(1) (2) of the Prevention of Corruption Act, 1988 (for short “the Act”), the State of Punjab has filed the present appeal.

In support of the appeal, learned counsel for the appellant-State of Punjab, vehemently contended that the reliance placed by the learned trial Court for recording the order of acquittal of the accused on the decision of this Court in the case of *Harnek Singh Vs State of Punjab*, passed in CRM-5860-M of 1991 is misconceived and misplaced and, therefore, the judgment and order made by the learned trial Court will have to be set aside. He further submits that the said judgment in the case of Harnek Singh was overruled by the Apex Court on 15.02.2002 in Criminal Appeal No.801/1999, reported in 2002 (1) R.C.R.(Criminal) 778.

I have perused the impugned judgment and order recorded by the learned trial Judge.

It is clear from the reading of the judgment of the trial Court that

the trial Court acquitted the respondent-accused only on the ground of the applicability of the judgment of this Court in the case of Harnek Singh (supra). There is no trial on merits conducted by the trial Court. The judgment in the case of Harnek Singh (supra) was overruled by the Apex Court in the judgment cited supra.

In that view of the matter, the only course available now is to allow this appeal in part and send the criminal case back to the trial for holding the trial.

In the result, I make the following order:-

ORDER

(i) *CRA-S-459-SBA-2005* filed by the State of Punjab is partly allowed.

(ii) The impugned judgment and order of acquittal dated 03.04.1999 passed by the learned Judge, Special Court, Bathinda in case P.C. Act File No.16 of 06.10.1989 is quashed and set aside. The proceedings in PC Act file no. P.C. Act File No.16 of 06.10.1989 are sent back to the trial Court for holding fresh trial on merits in accordance with law.

(iii) The trial Court shall issue summons to the accused for securing attendance. The trial Court shall thereafter hold the trial and decide the same in any case within a period of six months from the date of receipt of a certified copy of this order.

(A.B. CHAUDHARI)
JUDGE

29.09.2017
Anjal

Whether speaking/reasoned? Yes/No

Whether reportable? Yes/No