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

CRA-S-590-SBA of 2006

Date of decision: December 12, 2017

State of Punjab

.....Appellant

Versus

Ram Rattan

.....Respondent

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

Present: Mr. Dhruv Dayal, Sr. DAG Punjab.

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

A.B. CHAUDHARI, J (Oral)

State of Punjab had filed the present appeal against the judgment dated 04.04.2005 passed by Special Judge, Fatehgarh Sahib in Sessions Case No.1 of 14.1.03, by which the respondent charged for offence under Sections 7, 13(2) of Prevention of Corruption Act, 1988 was acquitted.

In support of the appeal, learned State counsel vehemently argued that even if the complainant and shadow witness have not supported the prosecution case, the fact, nevertheless remains that admittedly, evidence was proved by the Deputy Superintendent of Police Ranjit Singh, namely the complaint that was proved and exhibited by the prosecution which indicated the demand of bribe. He, further argued that the trial Court ought to have ignored the fact that the fingers of the accused, which were tested with the Phenolphthalein powder, washed with water and turned into Pink colour, which clearly

indicated that the respondent-accused had accepted the money and therefore, the presumption under Section 21 was liable to be raised against the respondent. Respondent did not rebut the said presumption that has arisen against him. The trial Judge should have, therefore, recorded the conviction of the respondent.

Per contra, learned counsel for the respondent-accused vehemently supported the impugned judgment and order and the reasons recorded therein. He submitted that the complainant and shadow witness both had admittedly not supported the prosecution case. He, further submitted that the first demand as well as acceptance both were not proved. He, then submitted that the demand and acceptance is a *sine qua non* holding the accused guilty of the charge framed against him and that is totally absent in the present case and therefore, the impugned judgment and order is liable to be maintained.

Heard learned counsel for the rival parties at length and perused the reasons recorded by the learned trial Judge. In the present case, undoubtedly, the complainant as well as shadow witness did not at all support the prosecution before the trial Court. On the contrary, the complainant and shadow witness both categorically deposed that they were being asked by P.S. Sodhi to put the amount of ₹7,000/- underneath the file relating to their case and therefore, they put the amount underneath the file. These witnesses were not declared hostile by the prosecution and therefore, it can be assumed that the prosecution still wanted to rely upon them, even otherwise, it can be

seen that there was failure on the part of the prosecution to discharge the initial burden of proof, namely demand and acceptance by the accused of the bribe amount that was not proved. The prosecution relied on the evidence of PW3-Dr. Raijnder Pal Gupta and PW5-Dr. Devinder Singh, but then the trial Court found that the prosecution case suffered from the basic defect, namely to discharge the initial burden of proof. On the contrary, the prosecution made a case of suspicious by the evidence of complainant and shadow witness who stated that the money was required to be kept underneath the file. Admittedly, money was not seized from the person and that is a fact situation, therefore, no fault can be found with the trial Court in making the order of acquittal. The trial Court recorded the reasons in Para-10 of its judgment, which I quote as under:-

“10. In the present case demand of bribe was made by Shri P.S. Sodhi GA to DC. Tainted currency notes were handed over by the complainant to Shri P.S. Sodhi on demand. As per the complainant and the shadow witness no demand was ever made by accused Ram Rattan nor bribe money was handed over to accused Ram Rattan. DSP Ranjit Singh Dhillon PW8 deposed in his cross-examination that no demand was made by accused Ram Rattan. Recovery was not effected from the person of accused Ram Rattan but was effected from the table of Sh. P.S. Sodhi GA to DC. This witness deposed that he was told by the shadow witness that money had been handed over to accused on the directions of Shri P.S. Sodhi. Complainant and the shadow witness on the other hand have categorically deposed that they had been asked by

Shri P.S. Sodhi to put the amount of Rs.7000/- underneath the file relating to their case. They had not been told by Shri P.S. Sodhi to hand over the amount to accused Ram Rattan. There is nothing on the record to suggest that there was any conspiracy between accused Ram Ratan and Sh. P.S. Sodhi with regard to demand of bribe. Demand of bribe has been made by Shri P.S. Sodhi from the complainant. Raiding party had also conducted the raid on Sh. P.S. Sodhi GA to DC as deposed by PW8 Sh. Ranjit Singh Dhillon. Assuming that accused Ram Rattan might have kept the money on the table of GA to DC at the asking of Shri P.S. Sodhi then accused Ram Rattan cannot be held guilty for an offence under Section 7 or 13(2) of the Act as there is no material on the record to the effect that there was any conspiracy or connivance between accused Ram Rattan and Shri P.S. Sodhi with regard to acceptance of the bribe from the complainant. In this situation even if the solution of sodium carbonate turned pink when the hands of accused Ram Rattan were dipped in it pales into insignificance as there was no demand or acceptance of bribe money by accused Ram Rattan. In this case sanction to prosecution was not received from the competent authority with regard to Shri P.S. Sodhi who was the main accused and only accused Ram Rattan was challaned who had not demanded the bribe money. There is nothing on the record to suggest that accused Ram Rattan was also to get share in the bribe money accepted by Shri P.S. Sodhi. There is also nothing on the record to suggest that accused Ram Rattan knew the purpose for which the amount had been accepted by Shri P.S. Sodhi because as per the complainant and the shadow witness accused was not present when the amount of bribe was paid to Shri P.S. Sodhi, by the complainant. Bribe money

was not recovered from the person of accused Ram Rattan but was recovered from the table of Shri P.S. Sodhi. Thus, prosecution case is not free from doubt. An accused is presumed to be innocent till proved to be guilt. Prosecution is required to prove its case against the accused beyond reasonable doubt. However, in the present case prosecution story is doubtful against accused Ram Rattan.”

In my opinion, looking to the parameters regarding the appeal against acquittal, it is not possible to have second view in the matter. Hence, I find no merit in the appeal.

Appeal stands dismissed.

(A.B. CHAUDHARI)
JUDGE

December 12, 2017

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No