

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-A-286-MA of 2013 (O&M)

Date of Decision:05.04.2017

State of Punjab

... Applicant/Appellant

Versus

Ranjit Singh

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. P.S.Grewal, DAG, Punjab,
for the applicant/appellant.

Mr. Bikramjit Aroura, Advocate,
for the respondent.

TEJINDER SINGH DHINDSA, J.

CRM-A-286-MA of 2013 is an application preferred under Section 378 (3) of the Code of Criminal Procedure ('Cr.P.C.' for short) seeking leave to appeal against the judgment of acquittal dated 30.01.2013 passed by the learned Sub Judge, Tarn Taran.

Briefly, it may be noticed that the process of law was set in motion on a complaint dated 10.01.2004 made by Sital Singh in the office of Vigilance Bureau, Range Amritsar. Complainant stated that he is a resident of Village Chamba Kalan and is an agriculturist. He had purchased 6 killas of land in January, 2003 from Kashmir Singh, Dalbir Singh, Joginder Singh and Gurmeet Singh sons of Milkha Singh and from a joint khata. A dispute arose with regard to possession of the land and which led to the institution of civil proceedings in the Court of Civil Judge, Tarn Taran and such matter was decided on 13.12.2003. Complainant asserted that his counsel had called upon him to furnish a copy of jamabandi with regard to the land purchased by him so that the same may be produced

before the Court in the civil proceedings. Accordingly, complainant is alleged to have gone to accused Ranjit Singh Patwari (respondent herein) for obtaining the certified copy of jamabandi and for which demand of illegal gratification of Rs.2000/- was raised. One Ranjit Singh son of Major Singh was stated to have accompanied the complainant who also prayed to the accused for supply of jamabandi and as per allegations the accused made it clear that the document would not be supplied unless an amount of Rs.1000/- is given. The complainant at that point of time returned back on the pretence that he does not have the requisite amount and after making arrangement he will pay the same and shall obtain copy of jamabandi. Against such backdrop complainant approached the office of DSP Vigilance Bureau, Amritsar.

Statement of the complainant was recorded on 10.01.2004 itself. A raiding party was constituted. 10 currency notes of the denomination of Rs.100/- each i.e. total Rs.1000/- were produced by the complainant and numbers of such currency notes were taken down in a memo. Phenolphthalein powder was applied. Ranjit Singh was appointed as shadow witness and was directed to accompany the complainant for handing over the same to the Patwari/accused. DSP Kashmir Singh made endorsement Ex-PW-8/A on the statement of complainant Sital Singh and sent the same for registration of the case through HC Hardeep Singh on which FIR Ex- PW-8/B was registered against the accused by SI Gurjinder Singh. Raid is stated to have been conducted. The DSP is stated to have conducted personal search of the accused which led to the recovery of currency notes of Rs.1000/- from front left pocket of his shirt. As per prosecution, a solution of water and Sodium Carbonate was prepared in a

tumbler and when the fingers of the hands of accused Ranjit Singh Patwari were dipped in the solution, its colour changed to light pink. The pink solution was transferred to a nip sealed by DSP with his seal KS and was taken into possession vide memo Ex. PD.

After obtaining sanction to prosecute the accused and upon receipt of report from FSL, Chandigarh EX. PW8/E, the final report under Section 173 Cr.P.C. was presented in the Court. Copies of necessary documents were furnished to the accused as mandated under Section 207 Cr.P.C.

Upon finding a prima facie case, the accused/respondent was charged on 20.10.2004 for offence punishable under Sections 7 and 13 (2) of the Prevention of Corruption Act, 1988 and to which he pleaded not guilty and claimed trial.

In order to prove its case, prosecution examined complainant Sital Singh as PW-1, shadow witness Ranjit Singh as PW-2, HC Baljit Singh as PW-3, Surmukh Singh Kanungo as PW-4, Baldev Singh ADO as PW-5, ASI Gurminder Singh as PW-6, Kashmir Singh Kanungo as PW-7 and DSP Kashmir Singh as PW-8. Statement of the accused was recorded under Section 313 Cr.P.C. in which he pleaded innocence and claimed false implication. In his defence, evidence Ex. D2 was tendered and thereafter defence evidence was closed.

After having heard parties on either side and having evaluated the evidence adduced on record, the trial Court vide judgment dated 30.01.2013 has acquitted the accused/respondent herein of the charges levelled against him. It is against such brief factual backdrop that the instant application seeking leave to appeal has been filed.

Learned State counsel has argued that the trial Court has wrongly recorded a judgment of acquittal whereas it is a case of proven demand and acceptance of illegal gratification. It is argued that recovery of tainted money had been effected and the complainant's version is duly supported even by the testimony of shadow witness Ranjit Singh and other members of the raiding party.

Per contra, counsel appearing for the respondent would submit that the trial Court has passed a well-reasoned judgement and which is based on due appreciation of evidence adduced on record and the same does not call for any interference.

Having heard counsel for the parties at length and having perused the trial Court records, this Court is of the considered view that it is not a fit case for granting leave to file appeal against the impugned judgment of acquittal.

Tendered in evidence is document Ex. D2 whereby the Collector, Amritsar on 25.12.2003 had passed the order of suspension of the accused/respondent Ranjit Singh Patwari, Circle Kambo Dhai Wala and which was affirmed by Sh. Ramender Singh, IAS, Collector, Amritsar on 02.01.2004. It has gone uncontroverted that present case was registered against the accused vide FIR No.04 dated 10.01.2004 and the raid by the Vigilance Bureau was also conducted on the same very date i.e. 10.01.2004. Prosecution version hinges upon the allegation of demand and acceptance of illegal gratification for supply of a jamabandi to the complainant. Clearly, on the date of filing of the complaint by Sital Singh, the accused/respondent had already been placed under suspension and as such there was no occasion for him to have raised a demand of illegal gratification for supply

of the jamabandi document when he was not even competent and authorized to do so at the relevant point of time.

This Court finds that the trial Court has rightfully doubted the credibility of complainant Sital Singh. As per his initial complaint/statement Ex. PA given to DSP Kashmir Singh, Vigilance Bureau, Amritsar he had approached the accused/respondent for supply of copy of jamabandi so as to be produced in Court in the civil proceedings pertaining to the land that he had purchased. In the complaint, he had stated that the civil case stood decided in his favour on 13.12.2003. If such version is taken to be correct then there was no occasion for any jamabandi to be produced in Court at a subsequent point of time and for which complainant is stated to have approached the accused/respondent in the month of January, 2004. However, complainant Sital Singh while appearing before the trial Court as PW-1 took a somersault and deposed that the civil suit with regard to dispute of possession of his land was still pending in the Civil Court, Tarn Taran.

This Court is of the considered view that the prosecution has not been able to prove the allegations against the accused/respondent beyond any shadow of doubt. The judgment of acquittal is based on cogent and sound reasoning. No case for interference has been made out.

Even otherwise, it is a settled proposition of law that whenever two views are possible, the view which favours the accused has to be followed by the Court. A reference in this regard may be made to the judgment of the Apex Court in *Ghurey Lal Vs. State of Uttar Pradesh (2008) 10 SCC 450*.

In 'Mrinal Das & others, V. The State of Tripura', (2011 (6)

Law Heraled (SC) 4149: 2011 (9) SCC 479, decided on September 5, 2011, the Hon'ble Supreme Court, after referring to many earlier judgments, has laid down the parameters for interference against a judgment of acquittal, by observing as under:-

“An order of acquittal is to be interfered with only when there are 'compelling and substantial reasons”, for doing so. If the order is “clearly unreasonable”, it is a compelling reason for interference. When the trial Court has ignored the evidence or misread the material evidence or has ignored material documents like dying declaration/report of ballistic experts etc., the appellate Court is competent to reverse the decision of the trial Court depending on the materials placed.”

Considering the totality of facts and circumstances of the case noted above and keeping in view the dictum laid down by the Apex Court in ***Ghurey Lal's case and Mrinal Das's case (supra)***, this Court would have no hesitation to conclude that neither any patent illegality nor perversity has been pointed out in the impugned judgment of acquittal.

In view of the above, the instant application seeking leave to appeal against the judgment of acquittal dated 30.01.2013 is declined.

Resultantly, even the accompanying appeal stands dismissed.

05.04.2017

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**

Whether speaking/reasoned

Yes

Whether Reportable

Yes