

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

CRM-A-No.2117-MA OF 2016
DATE OF DECISION : 5th DECEMBER, 2017

Rukmuddin

.... Appellant

Versus

State of Haryana & another

.... Respondents

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

* * * *

Present : Mr. Surinder Dagar, Advocate for the applicant-appellant.

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A. B. CHAUDHARI, J. (Oral)

Heard learned counsel for the appellant in the present appeal against acquittal and application for leave to appeal.

Learned counsel for the appellant vehemently contended that the trial Court committed an error in making an order of acquittal when the complainant and the witnesses of the prosecution deposed about the accused, accepting the bribe amount of `40,000/- and the same was seized from him. This was fully corroborated by the laboratory test report about the phenolphthalein powder found thereon. He then submitted that presumption under Section 20 of the Prevention of Corruption Act stood raised against the accused and the accused did not rebut the said presumption as required by the law. He therefore submitted that the respondent-accused should have been convicted and accordingly approached this Court.

I have seen the judgment in question. It is true that the prosecution witnesses have categorically supported the case about

accepting money, however, that evidence has not been accepted by the trial Court on the ground that Girdhari Lal PW-7 in whose shop money is stated to have been paid, turned hostile.

In my opinion, the trial Court was wrong in disbelieving all the witnesses only because PW-7 turned hostile. The fact remains that the other witnesses, including the complainant, had supported the prosecution case. However, the trial Court found Exhibit DW-1/B i.e. the statement made by complainant- Rukmudin in the departmental enquiry that was held against the accused. In that statement the complainant deposed that he did not know accused-ASI Ram Kishan nor had he demanded any money from him nor money was paid to him. The trial Court thus found that Rukmudin could not be relied upon as a truthful witness. In the factual background, I do not think that trial Court has committed any mistake in extending the benefit of doubt.

In view of the above circumstances, I do not think it is possible to interfere with the order of acquittal. Hence, the appeal against acquittal is dismissed.

5TH DECEMBER, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned: *Yes* *No*

Whether Reportable: *Yes* *No*