

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A No.1789-MA of 2017

DATE OF DECISION: NOVEMBER 8, 2017

STATE OF HARYANA

...APPLICANT

VERSUS

PREM SINGH

...RESPONDENT

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN.
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU.**

PRESENT: MR. KAPIL AGGARWAL, ADDL.A.G., HARYANA

MAHABIR SINGH SINDHU, J.

CRM-25240-2017

1. There is a delay of 111 days in filing the appeal.
2. For the reasons mentioned in the application, the delay is condoned and the application is allowed.

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3. The State of Haryana has filed the present application seeking leave to prefer an appeal against the judgement dated 13.1.2017, passed by learned Addl. Sessions Judge, Ambala vide which the sole respondent Prem Singh has been acquitted of the charges under Section 120-B, 409, 467, 468, 471, 201 IPC and Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act.
4. The FIR was lodged on the basis of the complaint made by Nirmal Singh to the effect that directions were received from the Chief Secretary, Haryana in the office of State Vigilance Bureau, Ambala and

the same was entrusted to him by Superintendent of Police, State Vigilance Bureau, Ambala for enquiry. As per the allegations, various owners of the trucks in District Ambala have deposited goods through agents in the office of Excise & Taxation Department regarding which entries were made in the Gatta copy of the concerned truck, but the same was not deposited in the account of the Government. Therefore, the employee of the Taxation Department in connivance with the agents have misappropriated the public funds.

5. After investigation by the State Vigilance Bureau, on the basis of the complaint, a formal FIR was registered and thereafter on completion of necessary formalities, report under Section 173 Cr.P.C. was submitted. The case was committed to Sessions Court for trial and *prima facie*, offences under Sections 120-B, 409, 467, 471, 201 IPC and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act were made out and charges were framed against the respondent to which he pleaded not guilty and claimed trial.

6. To prove its case, the prosecution examined as many as 25 witnesses and produced documentary evidence Ex.P1 to Ex.P385.

7. Precisely, the allegation in this case is that the respondent misappropriated an amount of ₹13,125/- and forged the documents by making fake entries in the copy maintained with the truck owners. PW3 deposed that on the basis of communication received from the Chief Secretary, Haryana, he conducted enquiry and found that the respondent in connivance with some agents have misappropriated the Government

funds. PW24 deposed that he was posted as Inspector in State Vigilance Bureau, Ambala on 3.9.2012 and was the Investigating Officer in this case. He arrested the respondent who suffered a disclosure statement and obtained his specimen handwriting also. The FIR in this case was registered on 24.9.2009 and the offence is alleged to have been committed during the period 2003-2007. As per Ex.P1, the complainant has mentioned the name of actual offenders, but no action has been taken against them as all are senior officers. PW24 has specifically deposed that he received a communication from the office of Chief Secretary, Haryana for registration of case against Hemant Kumar, Assistant Excise & Taxation Officer and others on the basis of Ex.P1 and in which name of respondent Prem Singh is not mentioned. As per the deposition of PW3, he prepared his report Ex.P1 and the same was forwarded to Director, Vigilance Bureau for further action. Learned trial Court had the occasion to peruse the report Ex.P1 and came to the conclusion that *“the allegation were with regard to vehicles bearing No.HR-37A-4431, HR-37A-2836 and HR-37A-2413 and it was stated by this witness in his enquiry report that forged entries have been made in the demand and receipt register of the department by Surinder Lathar, AETO. He further stated that entries in the Demand and Collection register have been made by Hemant Kumar AETO, Surinder Lathar, AETO, K.S. Rathi, AETO, S.P. Taneja, AETO, Joginder Pal, Clerk, Ravinder Kumar, Inspector, but these entries are not to be found in the DCR register of the department.”*

8. In view of the above, this Court is of the considered view that

the prosecution has failed to prove its case against the respondent. Apparently, the officers who were said to be responsible, as deposed by PW3, have gone scot-free from prosecution and the respondent being the lower rank employee of the Department has been made the scape-goat by shifting the whole blame on him.

9. In view of the above, we find that the application lacks merits and the same is dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

November 8, 2017
Gulati

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No