

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

**CRM-A-284-MA-2016(O&M)
Date of Decision: October 12, 2017**

Rakesh Kumar

.....APPLICANT

VERSUS

Tajinder Sharma and another

.....RESPONDENTS

**CORAM:- HON'BLE MR. JUSTICE M.M.S.BEDI
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: None for the applicant.

M.M.S.BEDI J.(Oral)

The applicant Rakesh Kumar is proprietor of Jandial Book Stall, Sujanpur, who had moved a complaint which was inquired by Inspector Niranjana Singh of Vigilance Department, resulting in registration of FIR for the offence under Sections 409, 419, 467, 468, 471 IPC and 13(1) (d), 13(2) of Prevention of Corruption Act, 1988. The allegations levelled against the respondents were that respondent-Tajinder Sharma was working as District Manager of Regional Office, Punjab School Education Board of Pathankot whereas respondent-Lakhi Ram was posted as Deputy Manager-cum-Store Keeper-cum-Senior Assistant, Punjab School Education Board. The Board used to supply books to Regional Office at Pathankot under the management of accused/respondent Tajinder Sharma and those books were being supplied to 13 approved agencies at concessional rates as per the syllabus of the Board. The authorized agents were further required to sell

As per the complainant, on 12.04.2013 co-accused Naveen Kumar, who is partner of firm Rohit Book Stall, Gurdaspur, forged and fabricated invoice/indent by impersonating as Rohit, a proprietor of Jandial Book Stall Sujampur to receive the books from the Regional Office of the Board at Pathankot at concessional rates. On the basis of such indent, the accused/respondents Tajinder Singh and Lakhi Ram supplied him books at concessional rates by slashing the actual rate of the books causing a loss of ₹12,325/- to the Board by entering into criminal conspiracy with co-accused Naveen Kumar. It was also alleged that other books, the price of which was ₹125/- each, were supplied by the respondents/accused to welfare department under Sarav Shiksha Abhiyaan at lessor rate i.e. ₹67 per book which further caused loss to the Board to the tune of ₹1,66,750/-.

The Special Judge, Pathankot vide impugned judgement dated 13.10.2015 has acquitted the respondents giving benefit of doubt to the respondents observing, on appreciation of evidence, that there had not been any criminal conspiracy of respondents/accused Tajinder Singh and Lakhi Ram with accused Naveen Kumar to forge indent and bill with any intention to cause loss to the Board or PW 2 Rakesh Kumar in the name of whose agency books were received by accused Naveen Kumar forging indent Ex. PW 6/B and invoice Ex. PW6/C. The Court also observed that the basic element i.e. mens rea on the part of said accused-respondents regarding supply of books to welfare department under Sarav Shiksha Abhiyaan was also not established as neither any cash transactions took place nor respondents/accused had any interest in the welfare department on account of the monetary transactions being made by both the departments directly

misunderstanding without any knowledge of the accused-respondents.

After going through the judgment passed by the Special Judge, Pathankot, we do not deem it appropriate to interfere in the order of acquittal passed qua both the respondents.

Learned Special Judge, Pathankot has held accused Naveen Mahajan guilty for the offences punishable under Sections 409, 419, 467, 468, 471 IPC for which he has got independent right to challenge the judgment. Without expressing any opinion on the merits of rights of convict-accused Naveen Mahajan, we do not find any ground to interfere in the acquittal order qua Tajinder Singh and Lakhi Ram. Leave to appeal against their acquittal is thus declined.

Dismissed.

(M.M.S.BEDI)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

October 12, 2017
Jyoti-II

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***