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

CRM-A-548-MA of 2015

Date of decision: December 16, 2017

State of Haryana

.....Applicant

Versus

Suraj Bhan

.....Respondent

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

Present: Ms. Tanisha Peshawaria, DAG Haryana.

Mr. Jai Vir Yadav, Advocate for the respondent.

A.B. CHAUDHARI, J (Oral)

This application for leave to appeal has been preferred by the State of Haryana against the judgment dated 14.10.2014 passed by the learned Special Judge, Palwal, by which the respondent-accused was acquitted of the charge levelled against him.

Heard learned counsel for the rival parties.

Learned State counsel vehemently contended that the impugned judgment is wrong and illegal since the trial Court did not rely upon the testimony of the official witnesses of the prosecution. Learned State counsel then submitted that the prosecution had proved its case beyond reasonable doubts and therefore, the order of conviction ought to have been recorded.

Per contra, learned counsel for the respondent vehemently opposed the application and supported the impugned judgment and reasons recorded therein.

I have perused the impugned judgment so also the reasons recorded therein. It is clear from the record that neither the complainant nor the shadow witnesses supported the prosecution case on the question of demand and acceptance. The official witnesses obviously were not present because they were to conduct raid after signal. The trial Court recorded the reasons in following paragraphs of the impugned judgment:-

“38.PW4 Mukesh Kumar, complainant, has deposed that on 14.06.2012 there was some altercation between Tej Ram and others on one hand and Ved Pal and Dharam Pal sons of his uncle on the other hand. He was not present at the spot on that day, but he along with his handicap father has been falsely involved in that case. On 20.06.2012 FIR was lodged in Police Station Chandhut. He went to police station to make enquiries about that case, but they were arrested on 22.06.2012. One Shiv Kumar of his village took him to an office at Faridabad for compromise in that case, where his signatures were obtained on a blank paper. Then he was asked to reach Rest House, Palwal. One person who seems to be an official of Vigilance Department, gave him some amount at Rest House, Palwal. His uncle Megh Raj also came there on a bike and took him to Police Station, Chandhut, for compromise. He was asked to give money to SHO, but he (SHO) did not meet him there. Then he was asked to put the amount under his mattress and accordingly he put the amount under the mattress. Thereafter, he came to Palwal Rest House. No one demanded any bribe from him nor did he give any bribe to any police official. He has further stated in his cross-examination conducted by learned

defence counsel that at the time of altercation with the other party and their arrest, Mr. Lalit Dalal, was the SHO, Police Station Chandhut. He never met Suraj Bhan at any point of time. Thus, this witness unambiguously stated that neither accused demanded any bribe from him nor he paid the same. He has further stated that he put the amount under the mattress in the absence of SHO.

39. Another witness to prove the demand and acceptance of bribe is the shadow witness PW8 Constable Jagesh Kumar. In his examination-in-chief he has stated that the Inspector directed him to pass on the signal after paying bribe money to the accused by putting hand on the head. Thereafter, he gave a signal to the raiding party after paying the demanded money to the accused. He has further stated that on demand, the accused took the said amount from the materss of his bed and handed over the same to Inspector Suresh Kumar. Whereas in his cross-examination he has stated that the currency notes were recovered from under the mattress. This witness was deputed as a shadow witness to hear the conversation between the accused and the complainant and to watch the passing of the illegal gratification to the accused. This witness is completely silent on the point that he heard the conversation between the accused and the complainant.

40. PW1 Shri Rakesh Sharma, Tehsildar, Palwal, who was deputed as Duty Magistrate has also stated in his cross-examination that the shadow witness could not overheard the conversation between the complainant and the accused from point 'B' to point 'D'. He has further stated that the currency notes had fallen on the floor when the investigating officer was taking the same from under the mattress.”

I agree with the above reasons of the learned trial Judge for not supporting the prosecution case regarding demand and acceptance.

In the result, I do not find any merit in the present case.

Hence, the application seeking leave to appeal against judgment of acquittal is dismissed.

(A.B. CHAUDHARI)
JUDGE

December 16, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No