

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

**Crl. Appeal No.S-1180-SB of 2004 (O&M)
Date of Decision: November 20, 2018**

Ranbir Singh

...Appellant

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sudhir Sharma and Mr.Ram Krishan Rana, Advocates
for the appellant.

Mr.B.S.Virk, DAG, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant against State of Haryana, challenging the judgment of conviction and order of sentence dated 08.05.2004 passed by learned Special Judge, Faridabad, whereby he was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of four years and to pay fine of ₹5,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one year under Section 330 IPC and also under Section 13(1)(d)(i) and (ii) of the Prevention of Corruption Act; further to undergo rigorous imprisonment for a period of six months and to pay fine of ₹500/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one and half month under Section 342 IPC and also to undergo rigorous

imprisonment for a period of three years and to pay fine of ₹3,000/- and in

default of payment of fine, to undergo rigorous imprisonment for a period of nine months under Section 7 of the Prevention of Corruption Act. All the sentences were ordered to run concurrently.

The case of the prosecution is that accused while posted as ASI, CIA Staff, on 14.01.2001, had demanded and accepted ₹30,000/- as illegal gratification for release of Aji Pal from illegal custody. As per prosecution version, on 14.01.2002, Aji Pal, complainant was proceeding in a three-wheeler driven by one Ram Kumar, from Palwal to his village Tumasara. Upon their reaching Kaslipur Rice Mills, a blue coloured jeep coming from behind, intercepted them, from which three policemen in civil dress including accused ASI Ranbir Singh came out and forcibly made Aji Pal to sit in the jeep despite objections by three-wheeler driver Ram Kumar. One Hari Singh, who was also travelling with Aji Pal, was asked by the complainant to inform his in-laws regarding his being taking away by the police. As per prosecution case, the complainant was brought in the said jeep to CIA Staff, Palwal, where ASI Ranbir Singh forcibly removed ₹700-₹800/- from complainant's purse and also removed his clothes and alleged that complainant is possessing illegal arms to which he replied that he had only a licenced gun. ASI Ranbir Singh also alleged that complainant's relative who belongs to village Kashipur is indulged in the business of illegal arms. The complainant was kept in illegal confinement by the accused for about 4-5 hours and in the meanwhile, complainant's brother-in-law Mawasi also arrived there, upon which, complainant told him that accused is demanding ₹30,000/- for his release. Pursuant to such demand, Mawasi paid ₹30,000/- to ASI Ranbir Singh and thereafter, complainant was released. After his release, Aji Pal moved application Ex.PA before SP,

Faridabad, who marked the same to DSP Palwal, who summoned the complainant. On 22.01.2002, complainant along with Mawasi Ram, Samrat, Hari, Ram Kumar, Bharat Singh and Partap Singh appeared before the DSP and thereafter, FIR was registered. After necessary investigation, challan was presented against the accused-appellant.

On presentation of challan against accused-appellant, copies of challan and other documents were supplied to him under Section 207 Cr.P.C. Finding prima facie case, the accused-appellant was charge-sheeted under Sections 330, 342 IPC and Section 7 read with Section 13 of the Prevention of Corruption Act, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 ASI Virender Singh, who mainly deposed regarding recording of formal FIR Ex.PA/1 upon receipt of complaint Ex.PA. PW-2 Constable Anoj Kumar, Draftsman, proved the scaled site plan Ex.PB. PW-3 Head Constable Rambir Singh, mainly deposed regarding two copies of rapat roznamcha No.5 and 14, both dated 14.01.2002. PW-4 Head Constable Ram Niwas proved the sanctioning order Ex.PD for prosecuting accused ASI Ranbir Singh. PW-5 Devi Dayal deposed that on that day, ASI Ranbir Singh met him near Bhim Hotel and asked him to accompany in pursuit of a suspect who had been travelling in a three-wheeler. This witness also deposed that they also joined Constable Udham Singh, who met them on the way. He also deposed that they intercepted the three-wheeler and also one person was made to disembark by ASI Ranbir Singh and thereafter, said person was dropped along with ASI Ranbir Singh in front of CIA Staff, Palwal. PW-6

Udham Singh also deposed the same facts. PW-7 Kishan Chand deposed

that one year ago, Sunil came to him and demanded ₹25,000-₹30,000/- for personal necessity and accordingly, he gave ₹30,000/-, which Sunil returned to him on next day. PW-8 Aji Pal, complainant, deposed as per prosecution version. PW-9 Mawasi Ram deposed that Aji Pal is his brother-in-law. He also deposed that he took money from Sunil. Thereafter, he went along with Samrat inside CIA Staff and he handed over ₹30,000/- to ASI Ranbir Singh but at that time, Samrat Singh was present at the gate of that room. After taking the money, accused called Aji Pal from some other room and released him. He further deposed that on 17.01.2002, Aji Pal moved application to the police and then on 22.01.2002, DSP Palwal had summoned him and others at his office and his statement was recorded by the police. PW-10 Sunil Kumar mainly deposed that Bharat Singh and Partap Singh came to him and told that they required an amount of ₹30,000/- for the purpose of giving the same to the police as they took their relative in CIA Staff, Palwal. Then he took ₹30,000/- from his neighbour Kishan Chand. PW-11 DSP Inder Singh Saini mainly deposed regarding partial investigation conducted by him in the present case. PW-12 Ram Kumar deposed that accused was taken from his auto-rickshaw. PW-13 Balbir Singh mainly deposed that he came to know in the village that Chanderwati, sister of Mawasi had come to the village and her husband Aji Pal had been caught by the police. On the same day, Mawasi told him that he paid ₹30,000/- to ASI Ranbir Singh for releasing Aji Pal. PW-14 Samrat Singh deposed that he was present in his fields. At that time, his nephew came to him and asked him to come to the house as police had taken Aji Pal in CIA Staff, Palwal. He further deposed that he along with Mawasi went inside the CIA office. Mawasi entered in the room where accused was present while he was standing on the gate.

Mawasi handed over the money to ASI Ranbir Singh and he counted the money in his presence and then put the money in his pocket. Then he along with Mawasi Ram came outside CIA Staff. After some time, accused released Aji Pal. PW-15 DSP Rampal mainly deposed that he arrested accused ASI Ranbir Singh.

At the close of prosecution evidence, the accused-appellant was examined under Section 313 Cr.P.C. He was confronted with the evidence of the prosecution and he denied the correctness of the evidence and pleaded as under:-

“I am innocent. There was secret information against Aji Pal complainant. He was summoned in CIA Staff and he was produced by Deshraj, Parkash and Tek Chand Lumberdar of village Tumasara. In their presence investigation was done and on their assurance that no illegal arm was with said Aji Pal, he was sent with the above said persons. Worthy SP Shri Ranbir Sharma and DSP Inder Singh Saini were having grudge with me because my son Satish Kumar did not oblige them by vacating the shop of Nand Lal Gupta of Jawahar Colony who is close friend of worthy SP Faridabad and due to this reason I was falsely implicated in two cases by the worthy SP Faridabad by giving direction to the DSP Inder Singh Saini. I never apprehended Aji Pal and I never demanded money and received any penny from anyone.”

In defence, accused examined DW-1 SI Virender Singh who mainly deposed that on 14.01.2002, he was posted in CIA Staff, Palwal. On that day, he was present from 8.00 a.m. to 6.10 p.m. in CIA Staff, Palwal. That day, he had arrested two accused Zile Singh and Rajbir Singh in case FIR No.455 of 2001 under Section 302 IPC. He interrogated them and in his presence, ASI Ranbir Singh had not brought any person in CIA Staff. Thereafter, at 6.10 p.m., he went to Police Station Sadar Palwal for putting the accused behind the bars and he returned to CIA Staff on that day at 8.00

Ranbir Singh at any point of time. He brought the roznamcha register and deposited that Ex.DA and Ex.DB are the correct attested copies of DD Nos.8 and 13. DW-2 DSP Manbir Singh deposited that on 17.05.2002, investigation of this case was entrusted to him when he was posted as DSP Crime, Faridabad. On 09.06.2002, Om Parkash and Gujrar had come to his office and on his enquiry, said Om Parkash told him that he along with Desh Raj and Tek Chand, Lumberdar had produced Aji Pal on 14.01.2002 at 7.00 p.m. before ASI Ranbir Singh, who was standing outside the CIA Staff, Palwal. He further told him that they took Aji Pal along with them after making enquiry by ASI Ranbir Singh. Then on 15.06.2002, Desh Raj and Tek Chand visited his office and on his enquiry from them about this case, they verified the above version and they also produced photostat copies of their affidavits to this effect. He further deposited that during his enquiry from aforesaid three persons, accused ASI Ranbir Singh was found to be innocent. DW-3 Desh Raj mainly deposited that Aji Pal was produced by them and after verification by ASI Ranbir Singh, he was let off. DW-4 Tek Chand mainly deposited the same facts.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellant as stated above.

Aggrieved from the above-said judgment of conviction and order of sentence, present appeal has been filed.

At the time of arguments, learned counsel for the appellant argued that a false case has been planted upon the appellant in connivance with SP Ranbir Sharma and DSP Inder Singh Saini, Investigating Officer.

He argued that Nand Lal Gupta was close friend of SP Ranbir Sharma and

Satish, Kumar, son of accused, was not vacating the shop on the asking of

Nand Lal Gupta. Even, son of the accused-appellant filed contempt petition against SP Ranbir Sharma and DSP Inder Singh Saini, copy of which is Ex.D1, for committing contempt of order of status quo dated 24.06.2000 passed by the Court in the civil suit for permanent injunction filed by Satish Kumar against Nand Lal Gupta. In reply to that application filed by SP Ranbir Sharma as well as DSP Inder Singh Saini, it was revealed that Nand Lal Gupta had submitted a complaint to SP Faridabad stating that he had taken loan of ₹2,50,000/- from Satish Kumar and now Satish was not accepting repayment of said amount nor delivering the possession of the shop in question due to employment of his father ASI Ranbir Singh, who was harassing him. As per the reply, an FIR No.265 dated 30.07.2000, Ex.D4 was registered against accused ASI Ranbir Singh. Learned counsel for the appellant next contended that occurrence is stated to be of 14.01.2002 due to this enmity. He also contended that Aji Pal, son of the complainant, was summoned by present appellant, who was produced by Desh Raj and Om Parkash and after verifying the fact that he is not involved in commission of the offence, they have taken Aji Pal with them and this fact is duly proved by the defence witnesses. He next argued that enquiry was also conducted and DSP Manbir Singh, after conducting enquiry, has found present appellant as innocent and in that enquiry, statements of Desh Raj, Tek Chand, Om Parkash etc. have been recorded. Learned counsel for the appellant, therefore, argued that there being merit in the present appeal, the same should be allowed and accused-appellant should be acquitted.

On the other hand, learned State counsel argued that findings given by learned trial Court are correct, as per evidence and law. No

illegality has been committed and evidence has been appreciated in right

perspective. He next argued that there are no material contradictions in the statements of the witnesses and the defence version is concocted one. PWs have consistently deposed against the accused and there is nothing to disbelieve their statements. Learned State counsel, therefore, argued that there being no merit, the present appeal should be dismissed.

I have heard learned counsel for the appellant as well as learned State counsel and have gone through the record.

First of all, I find that it is settled law that prosecution has to prove its case beyond reasonable doubt against the accused. In the present case, reasonable doubt exist in the prosecution case. It is duly proved that Satish Kumar, son of the present appellant, had filed an application under Order 39 Rule 2-A read with Section 151 CPC, in which SP Ranbir Sharma and Investigating Officer of this case i.e. DSP Inder Singh Saini, were made respondents for committing violation of status quo order dated 24.06.2000 passed by the Civil Court in the suit for permanent injunction filed by Satish Kumar against Nand Lal Gupta.

From the evidence on record, it is clear that reply was also filed by SP Ranbir Sharma and DSP Inder Singh Saini in that contempt petition, which shows that SP Faridabad and DSP Inder Singh Saini had motive/enmity against the present appellant ASI Ranbir Singh. Therefore, DSP Inder Singh Saini should not have been Investigating Officer of this case, even for conducting partial investigation. This fact alone itself creates reasonable doubt in the prosecution version. The motive of Investigating Officer and his superior officer SP Ranbir Singh has been duly proved on record by way of cogent evidence i.e. Ex.D1. Further, learned trial Court

has not relied upon the defence produced by the accused that DSP Manbir

Singh has conducted enquiry, in which Desh Raj, Om Parkash and Tek Chand have given statements that they themselves produced Aji Pal and after verification or enquiry from him, he was released and they took him along with them after some time. It is also proved on record that FIR was registered against present appellant earlier on the basis of complaint of Nand Lal Gupta that son of the accused is not delivering the possession and present appellant ASI Ranbir Singh was threatening him by misusing his official status etc.

As regarding the allegations of paying ₹30,000/- etc., these are oral statements. There is no documentary proof regarding this payment. The total case of the prosecution is based on oral statements of the witnesses but in view of the defence version as well as motive of Investigating Officer against the present appellant, reasonable doubts exists in the prosecution case. It is settled law that benefit of doubt always goes to the accused. Therefore, by giving benefit of doubt, present appellant is acquitted of the charges framed against him.

Keeping in view the above discussion, I find that the judgment of conviction and order of sentence dated 08.05.2004 passed by learned Special Judge, Faridabad, are not as per law and the same are set aside. Therefore, finding merit in the present appeal, the same is allowed.

Since, appellant Ranbir Singh, is on bail, his bail/surety bonds stands discharged.

November 20, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No