

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

**Crl. Appeal No.S-1345-SB of 2005 (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 dated 19.07.2005 and order of sentence dated 20.07.2005 passed by learned Addl. Sessions Judge (I), Faridabad, whereby he was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of five 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 and three months under Section 330 IPC; further to undergo rigorous imprisonment for a period of one year and to pay fine of ₹1000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of three months under Section 342 IPC and also to undergo rigorous imprisonment for a period of five years and to pay fine

of ₹10,000/- and in default of payment of fine, to undergo rigorous

imprisonment for a period of one year and three months under Section 7 read with Section 13(1)(d)(i) and (ii) of the Prevention of Corruption Act. All the sentences were ordered to run concurrently.

The brief facts of the prosecution case are that at about 11.00 a.m. on 15.01.2002, the accused while posted as ASI in CIA Staff, Palwal, had brought the complainant Sham Lal to his office forcibly, where he caused hurt to him in order to extort money and he managed to secure ₹8,000/- from Asha Ram, father of complainant, for securing release of his son Sham Lal. After 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 Anoj Kumar, Draftsman, PW-2 ASI Virender Singh, PW-3 HC Hazari Lal, PW-4 HC Kuldeep Singh, PW-5 HC Ram Niwas, PW-6 Shyam Singh (Lal), complainant, PW-7 Prabhu, PW-8 Asha Ram, PW-9 Dr.Anju Verma, PW-10 DSP Ramphal, PW-11 Inspector Naveen Kumar and PW-12 DSP Inder Singh Saini.

Complainant Sham Lal while appearing as PW-6 deposed that on 15.01.2002, he was standing in front of his shop in village Gulawat.

When he was waiting for a bus, a white coloured Maruti car, wherein four persons were in civil dress and accused was in police uniform, stopped there

and started making enquiry from the children playing nearby, who pointed towards him, whereupon, he was pulled inside the car and was taken to CIA Staff, Palwal, where he was made to remove his clothes and to lie on a blanket. Then a roller was put on his legs on the instructions of accused. He added that he was then asked by accused to hand-over the pistol but despite his pleading innocent, he was tortured. He also stated that accused told him, that he should get the case under Section 376 IPC pertaining to rape of his sister by Premi and Nooru, compromised or else he would be harassed in such like manner and thereafter, he was immobilized by putting one of his leg in a wooden lock. PW-6 further stated that after some time, Govind Singh, Lamberdar, Shyam Charan, Prabhu and his father Asha Ram along with Ganga Ram and Parkash of his village reached there. While coming out with them, he learnt that accused had demanded ₹25,000/- for his released but had released him upon receipt of ₹8,000/-. On next day, he visited the hospital for medical check-up but the doctor refused to examine him continuously for three days. Thereafter, he along with other persons met Deputy Commissioner and informed that his medical examination is not being conducted, which was then conducted under orders of the Deputy Commissioner. He also stated that ASI Ranbir Singh thereafter started visiting him for reconciliation whereupon, he reported the matter to the DSP. Asha Ram while appearing as PW-8 also deposed same facts. PW-7 Prabhu also supported the case of the prosecution. PW-9 Dr.Anju Verma, one of the members of the Medical Board, deposed that on 19.01.2002, medico legal examination of Sham Lal, complainant was conducted and found contusion of 1 x 1 cm bluish black in colour over medial side of left

knee, diffuse swelling was present over knee over calf, tenderness were

present and there was complaint of pain in right leg, tenderness was present; patient was complaining pain in anal region. No obvious external injury was seen. The doctor admitted that neither opinion of surgeon, though so advised, was shown to her nor any X-ray report was produced and without such surgeon opinion/X-ray report, the MLR is incomplete.

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 himself as innocent. He further stated that during investigation of case FIR No.72 of 2001, which was registered at Hassanpur, for offence under Sections 392 and 394 IPC, he had summoned Sham Lal to CIA Staff on 15.01.2002, on the basis of secret information that he was in possession of illegal arm but during interrogation, nothing could be recovered from him and he was then released after recording DDR in this regard. Neither any money was demanded nor received from the complainant or his father.

In defence, accused examined DW-1 DSP Manbir Singh, DW-2 MHC Hazari Lal, DW-3 Harun, DW-4 Govind Singh, DW-5 Jeet Ram, DW-6 Shyam Charan and DW-7 Vijay Kumar, Clerk.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellant accused 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 accused-appellant has been falsely implicated in this case as he had enmity with SP Faridabad and DSP Inder Singh Saini, who have got registered false case. Another case was also got registered by them to

falsely implicate appellant, on the similar facts by levelling allegations of corruption. He next argued that PW-6 Sham Lal was given the suggestion that he was involved in 10-12 theft cases, though, he denied this suggestion but he admitted that he was accused in FIR No.130 dated 25.09.1999 under Sections 138, 149, 323, 452, 506, 395, 436 IPC etc. Learned counsel for the appellant further contended that two accused in the rape case of complainant's sister, have already been acquitted by the trial Court. PW-7 Prabhu, during cross-examination admitted that he is co-accused with complainant Sham Lal in case FIR No.130 dated 25.09.1999, which shows that present false case has been planted upon the appellant by involving accused of other case at the instance of senior officers. He next contended that in this case, enquiry was got conducted by DSP Manbir Singh, who had found appellant as innocent. Learned counsel for the appellant argued that DW-4 Govind Singh, whose name and presence is also admitted even by the complainant at that time, has supported the defence version and similar is the case with other DW Jeet Ram etc. 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 PWs have consistently deposed against the accused-appellant. There are no material contradictions in the statements of the witnesses. The prosecution has duly proved its case by leading cogent evidence. 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 and if any reasonable doubt exist in the prosecution version, then, benefit of doubt always goes to the accused. In the present case, reasonable doubt exist in the prosecution version. The appellant was posted as Incharge, CIA Staff. He admits that in one FIR, present complainant of this case was called in CIA Staff and after enquiry, he has been let off. The case of the defence is that no bribe has been demanded nor the complainant was tortured etc. The occurrence is stated to be of 15.01.2002 whereas medical has been got conducted in the present case by filing application to the Deputy Commissioner and by constituting medical board. Only one contusion is stated to have been found on knee. No external injury was found qua injury No.3 and injury No.2 is complaint of pain with tenderness. Neither X-ray report nor surgeon opinion has been produced on record. Otherwise also, there is nothing to show as to why the doctor has not medico legally examined the complainant. No cogent explanation has been given qua the same. There is also no explanation as to why the matter was not immediately reported to the senior police officer and then why he was not got medico legally examined.

In defence, accused has examined DSP Manbir Singh, who has conducted enquiry and found present appellant as innocent. Further, the accused-appellant has also produced so many DWs and out of them, presence of two DWs has been admitted by the complainant and prosecution witnesses and they have deposed that no such money was paid in their presence, as per version of the complainant.

Learned trial Court has failed to appreciate the defence version.

Further, as per defence version, there was rapat entry in the Daily Diary Register regarding release of the complainant on that day, which further supports the defence version. The allegation regarding demand of money and payment thereof, is only supported by oral statements. It is, though, admitted that complainant as well as PW-7 were co-accused in FIR No.130 dated 25.09.1999 under Sections 395, 436 IPC etc. and PW-8 Asha Ram is father of the complainant.

In view of the above facts, I find that reasonable doubt exist in the prosecution version and prosecution has failed to prove its case by leading cogent evidence.

Keeping in view the above discussion, I find that the judgment of conviction dated 19.07.2005 and order of sentence dated 20.07.2005 passed by learned Addl. Sessions Judge (I), Faridabad, are not as per law and the same are set aside. By giving benefit of doubt, present appellant is acquitted of the charges framed against him.

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