

CRM-A-1014-MA-2011

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

CRM-A-1014-MA-2011 (O & M)

Date of Decision: 28.09.2018

State of Punjab

... Applicant

Versus

Inderjit Taneja

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Pawan Sharda, Sr. DAG, Punjab.

Mr. M.S.Bedi, Advocate,
for the respondent.

INDERJIT SINGH, J.

CRM-68117-2011

This is an application for condonation of delay of 42 days in filing application seeking permission for leave to appeal.

Heard.

For the reasons as mentioned in the application, the same is allowed. Delay of 42 days in filing application seeking permission for leave to appeal is condoned.

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Applicant-State of Punjab has filed this application under Section 378(3) of the Code of Criminal Procedure, 1973, (for brevity, 'Cr.P.C.') seeking leave to file an appeal against the judgment dated 03.08.2011 passed by learned Special Judge, Ludhiana, vide which respondent-accused Inderjit Taneja was acquitted of the charges framed

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against him.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is further stated that the trial Court has acquitted the respondent-accused without cogent and convincing reason. It is, therefore, prayed that leave to appeal be granted.

The above named respondent-accused was made to face trial in FIR No.33 dated 31.10.2006, registered at Police Station Vigilance Bureau, Ludhiana, under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 (for brevity, 'P.C.Act'). The brief facts of the case, as noted down by learned trial Court in the impugned judgment, are as under:

“Jarnail Singh, complainant and his friend Charanjit Singh were partners in M/s J.C.Fabrication Factory situated in New Shimla Puri, Ludhiana. They had taken loan from Punjab Financial Corporation (PFC) to the tune of Rs.13.13 lacs in the year 2002 to start the factory and pleaded kothi No.711-C, Model Town Extension, Ludhiana and the building of M/s J.C.Fabrication with the PFC. They could not pay any instalment of the said loan as the business of the factory could not run properly. On 13.09.2006 M/s J.C.Fabrication factory was sealed by PFC department without issuing any notice to them. The complainant alongwith his relative Gurcharan Singh met Inderjit Taneja accused, Deputy Manager of PFC, Ludhiana on 30.10.2006 and requested him to give back the sale

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deed of Kothi No.711-C Model Town Extension, Ludhiana so that they could sell this kothi to return the loan amount to the PFC. They accused told the complainant and Gurcharan Singh that he will get opened the seal of their factory and will get waived the interest on the loan amount and will get the kothi sold against bribe of Rs.20,000/- On the request of complainant, the accused agreed to receive Rs.10,000/- as bribe. The complainant made false promise with the accused to pay the amount.

2. *Since, he was not willing to give the bribe to the accused, he alongwith Gurcharan Singh went to the office of Vigilance Bureau, Ludhiana and made statement Ex.PM before Banarsi Dass DSP, which was read over and explained to him and he signed the same after admitting the genuineness and correctness, thereof. The complainant produced ten currency notes of the denomination of Rs.1,000/- each before Banrasi Dass DSP, who applied phenolphthalein powder on the currency notes and handed over the same to the complainant, after ensuring that he was not having anything else in his possession, with direction that these currency notes will be given to the accused on demand and also directed him not to shake hand with the accused before or after the giving the currency notes to the accused.*

3. *DSP called two official witnesses namely Kuljit*

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Singh Lecturer, Sr. Secondary School, Bharat Nagar, Ludhiana and Dr. Manjit Singh, Medical Officer, office of Civil Surgeon, Ludhiana and on their reaching in the office of DSP, the complainant and Gurcharan Singh were introduced by the DSP with them and the facts of the case were also narrated by the DSP to them. Thereafter, the DSP prepared a solution of water and sodium carbonate in a glass but its colour did not change and remained white. When the complainant was made to wash his hands, in the said solution, its colour became pink. Then the pink colour solution was destroyed in the office of DSP after showing to the witnesses. Gurcharan Singh was deputed as shadow witness and he was directed by the DSP to accompany the complainant and to give signal to the raiding party, on receipt of bribe money by the accused from the complainant, by moving his hands on his head. A memo Ex.PA was prepared in respect of the taking over and handing over of the notes and aforesaid demonstration, by the DSP. The numbers of the currency notes were noted down in memo Ex.PA, which was attested by the complainant and Gurcharan Singh and both officials witnesses Kuljit Singh and Manjit Singh. DSP made his endorsement Ex.PM/1 on the statement of complainant Ex.PM and sent the same through Lakhmonjit Singh to Vigilance Bureau, Ludhiana, on the basis of which formal FIR Ex.PN was recorded by Mohinder Singh Inspector.

4. *Then raiding party was constituted by the DSP. Before proceeding from the office of DSP, all the members of the party washed their hands with water and soap. Police party then proceeded to conduct raid on the accused in the official vehicle and in a private vehicle. When they reached near Kamal Real Estate, Model Town Extension, Ludhiana, the DSP sent the complainant and Gurcharan Singh on foot to the office of Kamal Real Estate and the DSP, official witnesses and other members of the raiding party started following them and they stood near the office of Kamal Real Estate. The complainant and Gurcharan Singh went inside the said office and after some times, accused Inderjit Taneja came to the said office and he asked the complainant to give bribe money to him and complainant again requested him to get opened the seal of his factory and to return the sale deed of his kothi and the accused replied in the affirmative and he took the bribe from the complainant to the tune of Rs.10,000/- to do the work, on demand and kept these tainted currency notes in the left side pocket of his shirt.*

5. *After that Gurcharan Singh went outside the office and gave signal to the raiding party and on receipt of signal, Banarsi Dass DSP and above said official witnesses and other members of the raiding party entered the office of Kamal Real Estate. Banarasi Dass DSP disclosed his identity to the accused and apprehended him from his arms and apprised him of having*

accepted bribe from the complainant. DSP then prepared solution of sodium carbonate in a plain glass of water. Firstly its colour did not change and remained white and when the accused was made to wash the fingers of his hands in the solution, its colour turned into pink. This solution was put in an empty nip and was seized by the DSP, after sealing the same vide memo Ex.PC. DSP recovered the ten currency notes of Rs.1000/- each from the left side pocket of the shirt of accused. The numbers of the recovered currency notes were got compared with the numbers, mentioned in memo Ex.PA, which tallied. The currency notes were taken into possession vide memo Ex.PD.

6. *From further personal search of accused one purse, about Rs.5700/-, one I-card of the accused, one driving licence, one wrist watch and one mobile phone were recovered, and all these articles were seized vide memo Ex.PF. The shirt of the accused was got removed and the left side pocket was reversed. Solution of water and sodium carbonate was prepared in a glass, but its colour did not change and remained white and when the reverse side of the pocket in question of the shirt of accused was washed in the solution, its colour became pink, which was put in a nip and sealed by the DSP with his seal bearing impression BD. Parcel of the shirt was also prepared by the DSP. Both these sealed parcels were seized vide memo Ex.PE. Memos were attested by the complainant and other witnesses. Accused was*

arrested in this case on 31.10.2006.

7. *Specimen impression of the seal was prepared and the seal after use was handed over to Dr. Manjit Singh. The DSP inspected the spot, prepared rough site plan Ex.PO and intimation of arrest of the accused was given vide memo Ex.PH, which was attested by Smt. Anju Taneja wife of the accused. The DSP also conducted house search of the accused and recovered Rs.30,000/- in cash, a necklace of gold weighing 5 tolas and other articles, which were returned to Smt. Anju Taneja vide memo Ex.PG. On return, the DSP deposited the case property with seals intact with Ashwani Kumar MHC.*

8. *On receipt of report of the Forensic Science Laboratory Ex.PU and after completion of investigation, Deputy Superintendent of Police, Vigilance Bureau, Ludhiana instituted police report u/s 173 Cr.P.C. to the effect that it appears that the accused has committed offence punishable u/Ss 7, 13(2) of the Prevention of Corruption Act, 1988.”*

The charge was framed against the accused for the commission of offences under Sections 7 and 13(2) of the P.C.Act, to which he pleaded not guilty and claimed trial.

The prosecution to prove its case examined total nine witnesses i.e. PW 1 Dr. Manjit Singh, PW 2 R.C.Dass, PW 3 Deepak Kumar, PW 4 Sushil Kumar, PW 5 Jarnail Singh, PW 6 Gurcharan Singh, PW 7 Banarsi

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Dass, PW 8 Head Constable Ashwani Kumar and PW 9 Raj Kumar.

The statement of accused under Section 313 Cr.P.C. was recorded wherein he was confronted with the evidence of the prosecution, but he denied the allegations of prosecution and pleaded himself as innocent. In defence, the accused examined DW 1 V.K.Aggarwal, Deputy General Manager, PFC, DW 2 R.C.Aggarwal, Deputy General Manager, PFC and DW 3 Head Constable Ashwani Kumar.

Learned Special Judge, Ludhiana, after hearing learned Additional Public Prosecutor for the State and learned counsel for the accused, acquitted the respondent-accused of the charges framed against him. Aggrieved from this judgment dated 03.08.2011, the present application seeking leave to file appeal against acquittal has been filed by the State.

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

From the record, I find that in the present case, sanction has been given by the Managing Director of the Corporation. As per the sanction Ex.PB, itself, the Managing Director was authorized by the Board of Directors, but no such document or resolution has been placed on record to show the authorization. Therefore, without authorization resolution/letter, the Managing Director was not competent to grant the sanction. Therefore, learned Trial Court has correctly acquitted the accused.

Perusal of record shows that other reasoning and findings given by learned trial Court after appreciating the evidence are correct, as per evidence and law and in right perspective. In no way, the findings of trial

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Court can be held as perverse or against the evidence and law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the trial Court.

In view of the above discussion, I find that the impugned judgment dated 03.08.2011 passed by learned Special Judge, Ludhiana is correct, as per evidence and law and does not require any interference from this Court. No ground is made out for grant leave to file appeal and, therefore, the present application stands dismissed.

28.09.2018

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Whether speaking/reasoned	:	Yes
Whether reportable	:	No