

CRM-A-1021-MA-2018

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

CRM-A-1021-MA-2018 (O & M)
Date of Decision:10.12.2018

State of Haryana

... Applicant

Versus

Bhim Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Tanuj Sharma, AAG, Haryana.

INDERJIT SINGH, J.

CRM-20202-2018

This is an application for condonation of delay of 353 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 353 days in filing application seeking permission for leave to appeal is condoned.

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Applicant-State of Haryana 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 29.03.2017 passed by learned Additional Sessions Judge, Sonipat, vide

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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 impugned judgment passed by the trial Court is contrary to law and facts and the same is not sustainable in the eyes of law. It is, therefore, prayed that leave to appeal be granted.

The above named respondent-accused was made to face trial in FIR No.02 dated 08.01.2014, registered at Police Station State Vigilance Bureau, Rohtak, under Sections 7 and 13 of the Prevention of Corruption Act, 1988 (for brevity, 'PC Act, 1988'). The brief facts of the case, as noted down by learned trial Court in the impugned judgment, are as under:

“2. The case of the prosecution in brief is that on 08.01.2014, complainant Virender Singh moved an application to Inspector, Vigilance alleging therein that his cousin Rashi daughter of Singh Ram Singh and wife of Pritam Singh resident of Delhi has given earnest money for purchase of a plot measuring 180 sq. yards situated at Sampla Road, Kharkhoda. He met Bhim Singh, Registry Clerk, Tehsil Kharkhoda for execution of sale deed of said plot. He demanded Rs.18,000/- as bribe, otherwise he would not allow the execution of sale deed. Complainant further alleged that he does not want to give bribe and requested to take legal action against Bhim Singh, Registry Clerk.

On this application, a case under Section 7 P.C.

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Act was got registered at Police Station State Vigilance Bureau, Rohtak. Sanction for getting raid was sought from the office of Deputy Commissioner, Sonapat and Shri Jitender Kumar, B.D.P.O.Kharkhoda was appointed as Duty Magistrate. Complainant Virender Singh was introduced with Duty Magistrate. Complainant Virender Singh produced Rs.18,000/- i.e. currency notes of the denomination of Rs.1000/- each bearing No.1FK431767, 7BG058984, 1FK431764, 1FK 431765, 1AQ 038913, 5CA159573, 5DL254232, 6CU358832, 2DP649509, 4FT816671, 9AN261201, 9DE060328, and currency notes of the denomination of Rs.500/- each bearing No.2PQ388438, 2HM380429, 7GN344416, 5GF808387, 8AW066409, 7LK976370, 0ED897152, 7GA300952, 0HQ 081815, 2HB960589, 8GL936152 and 4BU448144 before Shri Jitender Singh, BDPO, Kharkhoda which were taken into possession. I.O and Duty Magistrate put their initials on the currency notes. Phenolphthalein powder was applied to the currency notes and handed over to complainant with a direction to hand over the same to accused Bhim Singh on his demand. Naresh Kumar, Assistant, B.D.P.O. Office, Kharkhoda was deputed as shadow witness and he was directed to remain with complainant Virender Singh to over hear the conversation between the complainant and accused

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Bhim Singh. He was further instructed to give a signal to the raiding party by hurling his hand over his head.

3. Thereafter, raiding party reached at Tehsil Office, Kharkhoda. Complainant and shadow witness were sent Tehsil Office, Kharkhoda and remaining members of raiding party hidden themselves nearby. After some time, shadow witness gave the pre-determined signal to the raiding team, upon which, raiding team rushed to the spot and that man was apprehended on the signal of shadow witness. On inquiry, he disclosed his name as Bhim Singh son of late Jawahar Lal. Duty Magistrate asked him about bribe money and recovered the same from almirah. The initial on the currency notes and serial numbers of the recovered currency notes were matched with those notes in pre-raid proceedings. The recovered tainted money were put in an envelope and also sealed in parcel with a seal of monogram SVB(H). Thereafter, the wash of the hands of the accused Bhim Singh and complainant Virender Singh was taken and mixed with sodium carbonate which turned pink. The solution was converted into sealed parcels and took the same in police possession. Sample seal after its use was handed over to Duty Magistrate. Rough site plan of place of occurrence was prepared. Thereafter, accused was arrested and joined in the investigation.”

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The charges were framed against the accused for commission of offences punishable under Sections 7 and 13(1)(d) of the PC Act, 1988, to which he pleaded not guilty and claimed trial.

The prosecution to prove its case examined total fifteen witnesses i.e. PW 1 Jitender Kumar, B.D.P.O., PW 2 Inderpal, draftsman, PW3 Naresh Kumar, Assistant, PW4 complainant-Virender Singh, PW 5 Surender, PW 6 ASI Jai Bhagwan, PW 7 EASI Nain Pal Singh, PW 8 Brijesh Kumar, Clerk, PW 9 DSP Ram Bhaj, PW 10 Jagbir Singh, Bill Clerk, PW 11 Surat Singh, PA to DC Sonapat, PW 12 Singh Ram, PW 13 Inspector Kartar Singh, PW 14 Retired Inspector Hari Parkash and PW 15 Ms. Ankita Sharma, learned Additional Civil Judge (Sr. Divn.). The report of FSL regarding chemical examination of hand wash and currency notes wash was placed on record as Ex.PX. Thereafter, evidence of prosecution was closed.

Statement of accused was recorded under Section 313 Cr.P.C. wherein he denied all the incriminating evidence against him. He pleaded innocence and false implication. However, no witness was examined in defence evidence.

Learned Additional Sessions Judge, Sonipat, after hearing learned Public Prosecutor for the State and learned counsel for the accused, acquitted the accused of the charges framed against him. Aggrieved from the impugned judgment dated 29.03.2017, the present application seeking leave to file appeal has been filed by the State.

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I have heard learned State counsel and gone through the record.

From the record, I find that PW 4 complainant-Virender Singh has not supported the prosecution version. He deposed that he had never made any complaint against accused to the Vigilance office at any time and his signatures were obtained by the Vigilance Inspector on blank papers. He also stated that he had never met Vigilance Inspector Hari Parkash at any time. He had never gone to Tehsil Office to get any document registered and the accused had never demanded any money from him nor any recovery was effected from the accused in his presence. PW 3 Naresh Kumar is a shadow witness. In his statement, he has nowhere stated that he had heard conversation between the complainant and accused at the time of raid, meaning thereby the prosecution has failed to prove the demand and acceptance of bribe money. Since PW 4 complainant-Virender Singh has turned hostile by stating that the accused had never demanded any money from him and further PW 3 Naresh Kumar, shadow witness stated that he had not heard conversation that the accused had demanded money from the complainant in his presence, therefore, the demand and acceptance of bribe money has not been proved by the prosecution beyond reasonable doubt.

Perusal of record shows that the trial Court has acquitted the accused after appreciating the evidence in right and proper perspective. In no way, the findings of trial 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.

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In view of the above discussion, I find that the impugned judgment dated 29.03.2017 passed by learned Additional Sessions Judge, Sonapat is correct, as per evidence and law and does not require any interference from this Court. No ground is made out for granting leave to file appeal and, therefore, the present application stands dismissed.

10.12.2018

parveen kumar

(INDERJIT SINGH)
JUDGE

Note:	Whether speaking/reasoned	:	Yes
	Whether reportable	:	No