

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

CRM No.A-2356-MA of 2016 (O&M)

Date of decision: August 21, 2018

Gurnam Singh

...Applicant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Veneet Sharma, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Gurnam Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against State of Punjab and other respondents, challenging the judgment dated 26.10.2016 passed by learned Judge, Special Court, Amritsar, whereby accused-respondents were acquitted.

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, therefore, prayed that leave to appeal be granted.

From the record, I find that challan was presented against accused Sukhpreet Singh and Sukhdeep Singh in case FIR No.74 dated 16.09.2014, under Sections 384, 506, 34 IPC read with Sections 8 and 9 of the Prevention of Corruption Act, by police of Police Station Jhander,

Amritsar (Rural). The brief facts of the case as noted down in the judgment

passed by learned Judge, Special Court, Amritsar, are as under:-

“1. PW1 Gurnam Singh son of Harbans Singh, resident of Village Sangatpura is the complainant, on whose written complaint, First Information Report was registered. Gurnam Singh has retired from Army as Subedar and is working as an agriculturist. Gurnam Singh has one son named Bikramjit Singh, who is doing M.Sc. at Mohali. The complainant has two daughters, who are married. Gurnam Singh on 16.9.2014 made a complaint in writing to the Senior Superintendent of Police, Amritsar (Rural) Exhibit PA, alleging that about two months earlier, his son was called by Balwant Singh, then Station House Officer, Police Station Jhander. Gurnam Singh along with respectable persons from village met Balwant Singh, Station House Officer, who told Gurnam Singh that there is information that his son Bikramjit Singh is involved in smuggling of intoxicants and incidents of snatching and robberies. Station House Officer Balwant Singh asked Gurnam Singh to produce his son before him.

2. On getting said information, Gurnam Singh got disturbed and thought that his son may not be involved in some false case. Gurnam Singh talked to accused Sukhpreet Singh, who was a Member Panchayat and respectable of the village to help him since accused Sukhpreet Singh had been visiting the Police Station in routine. Accused Sukhpreet Singh told Gurnam Singh that he would talk to accused Sukhdeep Singh of their Village Sangatpura and currently residing at Ranjit Avenue, Amritsar since Sukhdeep Singh has very good relations with high police officers. Sukhpreet Singh also told the complainant that he has got it verified and has been told that name of son of the complainant has been put in the list of smugglers of intoxicants and if he is arrested by the police, he would not get bail for about a year. In the meantime, Station House Officer Balwant Singh was transferred from Police Station Jhander. Sukhpreet Singh told the complainant that the new Station House Officer can also call his son and he has talked to Sukhdeep Singh who would shortly convey after talking to the high police officers.

3. After a few days, Sukhpreet Singh told the complainant that he would have to pay a sum of Rs. 5 lacs to save his son. Accused Sukhpreet Singh asked the complainant to arrange money as early as possible. The complainant out of fear collected a sum of Rs.2,95,000/- from his relatives, which he gave to accused Sukhpreet Singh. After a few days, accused Sukhpreet Singh told the complainant that he has handed over the money to accused Sukhdeep Singh and added that Sukhdeep Singh has told him that he would go to the police officers with full amount and for this reason the balance

amount be arranged at the earliest. The complainant arranged an amount of Rs. 1,90,000/- which he gave to accused Sukhpreet Singh. While receiving the money, accused Sukhpreet Singh told the complainant that accused Sukhdeep Singh would arrange his meeting with police officers so that he may be satisfied. The complainant several times asked accused Sukhpreet Singh that his meeting with police officers be arranged, upon which accused Sukhpreet Singh told the complainant that entire amount has been paid to accused Sukhdeep Singh and his meeting would be arranged very soon. However, he put off the matter on one pretext or the other and finally bluntly refused by saying that he has saved his son once and is not bound to save his son throughout life for an amount of Rs.4,85,000/-. On both occasions, the amount was paid to accused Sukhpreet Singh at his residence, in the presence of Palwinder Singh son of Arjan Singh, resident of Village Sangatpura. The complainant was satisfied from the conduct of accused Sukhpreet Singh that he in conspiracy with Sukhdeep Singh has taken a sum of Rs.4,85,000/- as gratification to allegedly influence the police officers. The complainant wanted that an action be taken against accused Sukhpreet Singh and accused Sukhdeep Singh.

4. On this complaint, the Senior Superintendent of Police, Amritsar (Rural) directed the Station House Officer of Police Station Jhander to register a case and investigate. The complaint led to registration of First Information Report for the offence under Section 384/506/34 Indian Penal Code read with Section 8,9 of Prevention of Corruption Act, 1988 which was recorded by Assistant Sub Inspector Jagbir Singh of Police Station Jhander, Amritsar.

5. It was on 16.9.2014 that Inspector Paramjit Singh was posted as Station House Officer, Police Station Jhander and he along with other police officials was present at the turning point of Village Jagdev Kalan when Head Constable Baldev Singh produced before him one closed envelope marked to him by the Senior Superintendent of Police, Amritsar (Rural). On opening the envelope, complaint Exhibit PA made by Gurnam Singh was found. Inspector Paramjit Singh recorded his endorsement in the shape of police proceedings and sent ruqa to the Police Station through Head Constable Harjit Singh and on the basis thereof, First Information Report was recorded by Assistant Sub Inspector Jagbir Singh.

6. Inspector Paramjit Singh along with members of his police party went to Village Sangatpura. Accused Sukhpreet Singh was apprehended from the village and joined in the investigation and interrogated about the allegations made in the complaint. He was arrested vide memo Exhibit PC. On interrogation, accused Sukhpreet Singh disclosed having taken

a sum of Rs. 4,85,000/- from complainant Gurnam Singh to save his son Bikramjit Singh. He further disclosed that out of sum of Rs.4,85,000/-, sum of Rs. 1,35,000/- has come to his share and he has spent a sum of Rs. 10,000/- and kept the remaining amount of Rs.1,25,000/- beneath a pillow in the bed room of his residential house, about which he has exclusive knowledge and can get the same recovered. This disclosure led to preparation of memo of disclosure statement Exhibit PE which was signed by accused Sukhpreet Singh. It was also disclosed by Sukhpreet Singh that he has taken money of Rs. 4,85,000/- along with co-accused Sukhdeep Singh. While moving in police custody, accused Sukhpreet Singh led the police party to the bed room of his residential house and got recovered currency notes of Rs. 1,25,000/- from below a pillow. The currency notes were in the denomination of Rs. 500/- each, which currency notes were taken in police possession vide memo Exhibit PF, which was also signed by accused Sukhpreet Singh. Rough site plan of the place of recovery Exhibit PG was prepared.

7. Thereafter, accused Sukhdeep Singh was arrested on the same day i.e. 16.9.2014 vide memo Exhibit PH. He was also interrogated and on interrogation, accused Sukhdeep Singh disclosed that he along with accused Sukhpreet Singh have taken a sum of Rs. 4,85,000/- from Gurnam Singh to save his son Bikramjit Singh in a drugs case and a sum of Rs. 3,50,000/- has fallen to his share, which he has kept in a Godrej almirah in a room of his residential house in D-Block, Kothi No.41, Ranjit Avenue, Amritsar about which he has exclusive knowledge and can get the same recovered. This disclosure led to preparation of memo of disclosure statement Exhibit PK, which was signed by accused Sukhdeep Singh. While moving in police custody, accused Sukhdeep Singh led the police party to the disclosed place and got recovered currency notes of Rs. 3,50,000/-, which were in the denomination of Rs.500/- each. The currency notes of Rs. 3,50,000/- were taken in police possession vide memo Exhibit PI, which was signed by accused Sukhdeep Singh. Rough site plan of the place of recovery was also prepared. On returning to the Police Station, case property was deposited with the Moharrir Head Constable.

8. Statement of PW2 Palwinder Singh was also recorded on 16.9.2014, who stated that about two months back, Station House Officer of Police Station Jhander had called Bikramjit Singh son of Gurnam Singh of his village in connection with smuggling of intoxicants and incidents of snatchings and robberies. In this connection, Gurnam Singh had talked to Sukhpreet Singh, who was Chairman of Ajnala Mandi Board and Sukhdeep Singh. Sukhpreet Singh and Sukhdeep Singh had told Gurnam Singh that they have good relations with high

police officers and can get the name of his son removed after paying money to those officers. They demanded money from Gurnam Singh. Gurnam Singh collected money from his relatives etc. and twice gave money to Sukhpreet Singh at his residence in his presence. On one occasion, a sum of Rs. 1,90,000/- was paid and on the other occasion, a sum of Rs.2,95,000/- had been paid. Both Sukhpreet Singh and Sukhdeep Singh have extorted money from Gurnam Singh by putting him in fear, whose meeting was not arranged with any police officer.”

On presentation of challan against accused-respondents, copies of challan and other documents were supplied to them under Section 207 Cr.P.C. Finding prima facie case, the accused were charge-sheeted under Sections 8 and 9 of the Prevention of Corruption Act read with Sections 389 and 34 IPC, to which they pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Gurnam Singh, PW-2 Palwinder Singh, PW-3 Dilbagh Singh, PW-4 ASI Tarlok Singh, PW-5 Head Constable Paramjit Singh, PW-6 Baldev Raj, PW-7 Inspector Paramjit Singh, Investigating Officer, PW-8 Inspector Harpal Singh and PW-9 Balwant Singh, SHO (Retd.).

At the close of prosecution evidence, the accused were examined under Section 313 Cr.P.C. and confronted with the evidence of the prosecution. They denied the correctness of the evidence and pleaded their false implication. In defence, accused examined DW-1 Som Nath, Head Messenger, State Bank of India, DW-2 Sukhdeep Singh, DW-3 Parduman Singh, DW-4 Head Constable Paramjit Singh, DW-5 Gurmukh Singh, DW-6 Brij Mohan, DW-7 Ashutosh Babbar, DW-8 Rajiv Kapoor, DW-9 Pankaj Luthra

Learned Judge, Special Court, Amritsar, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated

26.10.2016.

Aggrieved from the above-said judgment, present appeal along with application for grant of leave to appeal has been filed.

I have heard learned counsel for the applicant and have gone through the record.

From the record, I find that PW-1 complainant Gurnam Singh and PW-2 Palwinder Singh, who are material witnesses, have been got declared hostile by learned Public Prosecutor as they failed to deposed anything nor even named accused Sukhdeep Singh. The Court below disbelieved the version of the prosecution, especially, as given by PW-1 and PW-2 in the FIR and also in their statements recorded by the police. The versions given by both these two material witnesses are also contradictory on material points. At the time of arguments, nothing has been explained as to why these PWs are not deposing against accused Sukhdeep Singh and only deposing against accused Sukhpreet Singh. As per prosecution version, money has actually gone to Sukhdeep Singh and role attributed to Sukhpreet Singh is that he introduced the complainant to Sukhdeep Singh, who is stated to be known to the officials.

Learned trial Court after appreciating the evidence and after discussing material improvements and contradictions in the prosecution case, has found that reasonable doubt exists in the prosecution version. The perusal of the findings given by learned Judge, Special Court, Amritsar shows that these have been given as per evidence and law. In no way, the findings can be held as perverse or against the evidence and law. At the time of arguments, 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. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned trial Court.

In view of the above discussion, I find that the impugned judgment dated 26.10.2016 passed by learned Judge, Special Court, Amritsar, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

August 21, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No