

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

CRM No.A-553-MA of 2015 (O&M)

Date of decision: September 24, 2018

State of Haryana

...Applicant

Versus

SI Mahabir Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.B.S.Virk, Deputy Advocate General, Haryana
for the applicant-State.

Mr.Ram Bhatia, Advocate
for the respondent.

INDERJIT SINGH, J.

Applicant-State of Haryana has filed this application under Section 378(3) Cr.P.C. seeking permission for leave to appeal against respondent SI Mahabir Singh, challenging the judgment dated 28.10.2014 passed by learned Special Judge/Addl. Sessions Judge, Sonapat, whereby accused-respondent was acquitted.

It is mainly stated in the application that judgment of acquittal passed by learned trial Court is contrary to law and facts. It is further stated that judgment of acquittal of accused has caused grave miscarriage of justice. It is, therefore, prayed that leave to appeal be granted.

From the record, I find that challan was presented against accused SI Mahabir Singh in case FIR No.06 dated 07.03.2012 under

Sections 7 and 13(1) of the Prevention of Corruption Act by police of Police Station SVB, Rohtak. The brief facts of the case as noted down in the judgment passed by learned Special Judge/Addl. Sessions Judge, Sonapat, are as under:-

“2. The case of the prosecution, in brief, is that on 07.03.2012 complainant Karambir moved complaint before the Vigilance Inspector to the effect that SI Mahavir Singh demanded Rs 20,000/- in order to exonerate his nephew in a case being FIR No.114 of 2012 under section 387 IPC P.S City Sonapat. The complainant told SI Mahabir Singh that he is a poor person and Rs 20,000/- are excess. The matter was settled at Rs 10,000/-. The complainant went to the office of Vigilance Inspector and moved application against SI Mahabir. He told the facts to Inspector Vigilance. Thereafter Jitender Singh Tehsildar and his Reader Anup Singh were appointed as a Duty Magistrate and shadow witness respectively. Raiding party was formed. Ten notes in the denomination of Rs.1,000/- each were arranged by the complainant, numbers thereof were noted down and Jitender Singh Tehsildar and Inspector Sushil put their signatures on the said notes. Phenolphthalein powder was also applied on currency notes. Other formalities were also completed. As per directions of the Duty Magistrate , the complainant gave the above said currency notes to the accused, who accepted the same as illegal gratification. Raid was conducted. Currency notes recovered from the possession of the accused were taken into police possession. The accused was arrested. After completion of investigation, the report under Section 173 of the Code of Criminal procedure was submitted in the court.”

In support of its case, prosecution examined 14 witnesses. At the close of prosecution evidence, the accused was examined under Section 313 Cr.P.C. and confronted with the evidence of the prosecution. He denied the correctness of the evidence and pleaded his innocence.

Learned Special Judge/Addl. Sessions Judge, Sonapat, after appreciating the evidence, acquitted the accused-respondent vide impugned judgment dated 28.10.2014.

Aggrieved from the above-said judgment, present appeal along

with application for grant of leave to appeal has been filed.

Notice of the application was issued. Learned counsel for the respondent appeared and contested the application.

Lower Court record was also requisitioned.

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

From the perusal of the record, I find that in the present case, complainant Karambir has not supported the prosecution version and turned hostile. He has specifically stated that accused did not demand any money as bribe from him. He stated that no one demanded any money from him. In the present case, demand and acceptance of bribe money has not been proved by the prosecution beyond reasonable doubt. Furthermore, PW-6 Anup Singh, who was shadow witness and Reader of the Tehsildar, stated that he has not heard conversation between the complainant and accused at the time of giving bribe money. Therefore, this shadow witness has also failed to prove demand and acceptance of bribe money.

The perusal of the findings given by learned Special Judge/Addl. Sessions Judge, Sonapat 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. The findings have been given by correctly appreciating the evidence in right perspective

and accused-respondent has been rightly acquitted.

In view of the above discussion, I find that the impugned judgment dated 28.10.2014 passed by learned Special Judge/Addl. Sessions Judge, Sonapat, 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.

September 24, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No