

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

**Crl. Appeal No.S-2037-SB of 2003 (O&M)**  
**Date of Decision: October 17, 2018**

Jagdish Chander

...Appellant

VERSUS

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Keshav Pratap Singh, Advocate  
for the appellant.

Mr.B.S.Virk, Deputy Advocate General, Haryana  
for the respondent-State.

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**INDERJIT SINGH, J.**

The present appeal has been filed by the appellant against State of Haryana, challenging the judgment of conviction dated 09.10.2003 and order of sentence dated 10.10.2003 passed by learned Special Judge, Faridabad, whereby the appellant was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of three years and to pay fine of ₹10,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of nine months under Section 7 of the Prevention of Corruption Act.

The brief facts of the prosecution case as noted down in the judgment passed by learned Special Judge, Faridabad, are as under:-

*“The prosecution case is that the accused while posted as steno-typist in the office of Estate Officer, HUDA at Faridabad, had received an amount of Rs.2500/- from one Viresh Kumar as illegal gratification on 24.11.2000 which amount was recovered from him by a police party headed by Murari Lal, DSP, who had organized a raid pursuant to receipt of a complaint in this regard from the above named*

*Viresh Kumar.*

After necessary 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 Section 7/13 of the Prevention of Corruption Act, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Viresh Kumar, complainant, who deposed that he had purchased plot No.830 in Sector-45, Faridabad and had given an application for transfer of plot to HUDA Faridabad. Accused Jagdish Chander did not demand any bribe money from him. As the witness has not supported the prosecution version, therefore, he was got declared hostile. In cross-examination, he stated that he has heard statements Ex.PB and Ex.PC and no such statements were made by him to the police, however, same bear his signatures but the police obtained his signatures on blank papers. He denied that accused demanded ₹3,000/- from him for transfer of plot and he handed over ₹2,500/- to accused and same were recovered from the accused person by Manjeet Singh Mann, DRO. The complainant also stated in the cross-examination that Ex.PD recovery memo and Ex.PE to Ex.PH bear his signatures but stated that his signatures were obtained on blank papers by the police. He also stated that he had given ₹2,500/- of his own towards incidental charges to be incurred in the transfer proceedings as HUDA charges. PW-2 Kulbhushan mainly deposed that he was posted in Estate Office, HUDA, Faridabad. On that day, on the asking of DSP Murari Lal, he handed over him copies of transfer order and service book of accused. PW-3 Ram Met,

Clerk, deposed that he was posted as Clerk in Estate Office, Faridabad. He received the file of Sector-45 on 14.11.2000 for permission to transfer plot No.30. He sent the file to Audit Branch. Then on, 16.11.2000, the file was again processed by him and sent it to SDO(Survey). The file was again received by him for taking possession and he sent it for physical possession on 24.11.2000 and he did not give this file to Hira Singh Mann. PW-4 Manjeet Singh Mann, Asstt. Director Consolidation deposed that on 24.11.2000, he was posted as DRO, Faridabad. Raiding party along with Viresh Kumar, complainant, came to him on the directions of Deputy Commissioner, Faridabad and Viresh Kumar presented five currency notes of denomination of ₹500/- each. He affixed his signatures on all the five currency notes. Thereafter, powder was pasted on the currency notes and the same were handed over to Viresh Kumar. Then he came to HUDA office at Sector-12, Faridabad. This witness further deposed that Head Constable Ram Kishan was deputed as shadow witness. After receiving signal, he along with Inspector Murari Lal reached the spot and accused Jagdish was apprehended. During his search, currency notes of ₹2,500/-, which were initialed by him were recovered from the pocket of shirt of the accused. The recovered currency notes, which were signed by him, Viresh Kumar and HC Ram Kishan, were taken into possession vide recovery memo Ex.PD. He also deposed that sodium carbonate was mixed in the water and hands of Jagdish Chander were washed in it. The colour of the water turned pinkish, which was taken into possession vide memo Ex.PG. The shirt of the accused was also washed in the water and colour of water turned pinkish and it was also taken into police possession. PW-5 Manoj

Singh Mann, Assistant mainly deposed regarding taking of the documents into police possession which were handed over by him. PW-7 MHC Surender Kumar deposed regarding recording of formal FIR Ex.PB/1. PW-8 S.K.Sharma mainly brought the original file and proved the sanction order, Ex.PK. PW-9 Head Constable Ram Kishan deposed that on 24.11.2000, he was posted in SVB, Gurgaon. On that day, he was joined in the raiding party by DSP Murari Lal. At 2.00 p.m., he along with raiding party proceeded to Faridabad in the camp office of Deputy Commissioner, Faridabad, where DSP Murari Lal moved an application for appointing some gazetted officer in the raiding party. On the application, the Deputy Commissioner appointed Sh.Manjeet Singh, DRO. Then they went to the office of DRO where DSP told the facts of application to Manjeet Singh DRO. Thereafter, complainant produced five currency notes of ₹500/- each in their presence and on those notes, DRO and DSP had put their initials. He also stated that he was appointed as shadow witness. This witness further deposed that when the complainant went to the seat of accused Jagdish Chander, he demanded bribe and then complainant handed over the tainted notes to the accused. After handing over the tainted money to the accused, he gave signal to the raiding party. Then the raiding party reached in the office of accused and asked him about the tainted currency notes. Jagdish then took out those notes from the front pocket of his shirt and put the same on the table. DSP and DRO compared their initials thereupon after seeing them and both of them identified their initials on the tainted currency notes recovered from the possession of the accused. Then the hands of the accused were got washed in the water containing sodium carbonate, memos

were prepared etc. PW-10 DSP Murari Lal, Investigating Officer mainly

deposed regarding investigation conducted by him in the present case.

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. He denied the correctness of the evidence and pleaded himself as innocent. He also pleaded that he was not the dealing hand of Sector-45 on 24.11.2000. There was no occasion for him to provide any advantage to the transferee. Nothing was recovered from his possession on account of illegal gratification or bribe. The complainant knew him since long and as he was serving in railway department in Delhi and was staying there, it was not possible for complainant to visit HUDA office to verify dues and other things. It was further pleaded that complainant Viresh Kumar had given the amount of ₹2,500/- towards incidental charges or for recovery to be incurred for transfer process to HUDA and this fact was told by him to DSP and Manjit Singh Mann, DRO, at the time of recovery. In defence, accused examined DW-1 Satpal Singh, who mainly deposed that he as working as Assistant in the office of HUDA, Sector-12, Faridabad. Jagdish was working as Clerk under him. He and Jagdish were entrusted files relating to Sectors-30 and 31 and they had nothing to do with Sector-45. The file of Sector-45 is not to be processed through them. He further deposed that Viresh Kumar had come to their office to see Jagdish. He told Jagdish that as he was working with Railway Department at Delhi, so he could not come to HUDA Office. Said Viresh Kumar used to visit HUDA office in connection with transfer file of Sector-45, Faridabad. As there was outstanding dues towards transfer fees, Viresh Kumar had given ₹2,500/- towards transfer fee and other incidental charges in the currency notes of

reported to their office and they forcibly pasted some powder on the clothes and on the hands of Jagdish. Then he left the office and later on came to know that police had falsely implicated Jagdish in a criminal case.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellant as stated above.

At the time of arguments, learned counsel for the appellant argued that in the present case demand and acceptance of the bribe has not been proved as the complainant has turned hostile. He further argued that demand and acceptance has not been proved, therefore, accused-appellant has been wrongly convicted and sentenced. He next argued that on the day of occurrence, the accused was not dealing with cases of Sector 45, which has been duly proved on record, therefore, he was not dealing with the case in question and question of taking bribe does not arise. The accused-appellant has been falsely implicated and shadow witness is a police official. The prosecution has failed to prove its case beyond reasonable doubt. 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 in the present case, demand and acceptance of bribe has been duly proved. Though, complainant has turned hostile but from the evidence on record, case of the prosecution has been duly proved. No evidence has been produced by the accused to rebut the presumption under Section 20 of the Prevention of Corruption Act. Learned State counsel, therefore, argued that there being no merit in the appeal, the same should be dismissed.

After hearing learned counsel for the appellant as well as

learned State counsel and after going through the record minutely and carefully, firstly, I find that FIR was registered on the statement of Viresh Kumar, who turned hostile and has not supported the prosecution version. He stated that accused never demanded any bribe from him. The perusal of the cross-examination of the complainant shows that he admitted his signatures on the documents but gave explanation that his signatures were obtained by the police on blank papers. If the signatures of the complainant were obtained on blank papers, then why he has not reported the matter to the higher officers or by filing complaint etc. regarding the same. Furthermore, it is in the cross-examination conducted by accused that PW-1 Viresh Kumar, complainant has given an amount of ₹2,500/- of his own towards incidental charges to be incurred for the transfer process in HUDA, which means that complainant, indirectly, admits his presence at the time of raid and further regarding giving of ₹2,500/- to the accused. If the accused is not dealing with the file in question regarding Sector-45, then why he received ₹2,500/- from the complainant. Moreover, DW-1 Satpal Singh examined by the accused, though, states that he and accused were not dealing with the files of Sector-45, Faridabad but he admits that complainant had come to the accused and gave ₹2,500/- to him towards transfer fee and other incidental charges in the denomination of currency notes of ₹500/-. This witness DW-1 Satpal Singh also corroborates, to some extent, the prosecution version. If Jagdish Chander was not dealing with the file in question, then why the money was given to him as transfer fee and incidental charges. This witness, rather admits that currency notes have been given in the denomination of ₹500/- each and total amount was

proceedings were conducted, though, this witness states that police forcibly pasted some powder on the clothes and on the hands of Jagdish Chander. The perusal of the statement of the accused under Section 313 Cr.P.C. shows that it is nowhere mentioned by the accused that police forcibly pasted some powder on his hands or his clothes. Even, the accused has admitted that complainant Viresh Kumar had given an amount of ₹2,500/- for incidental charges or transfer fee etc. for HUDA. All this supports and corroborates the prosecution version that the accused was apprehended while accepting ₹2,500/- from the complainant at the time of raid.

The shadow witness Head Constable Ram Kishan has specifically deposed that when the complainant went to the seat of accused Jagdish Chander, accused demanded bribe and then complainant handed over the tainted notes to the accused. Thereafter, he gave signal to the raiding party and raiding party got recovered those currency notes from the pocket of shirt of the accused. This witness has duly proved the demand and acceptance of bribe. Furthermore, official recovery witness PW-4 Manjeet Singh Mann, Assistant Director Consolidation has also supported and corroborated the prosecution version and deposed regarding raid conducted after receiving signal from the shadow witness and also deposed regarding recovery of the currency notes, which were also initialed by him and Investigating Officer. The process of washing hands, shirt etc. was consistently deposed by this witness. The Investigating Officer has also deposed regarding investigation conducted by him in the present case and also regarding recovery of currency notes.

Keeping in view the evidence on record, I find that prosecution

has duly proved that accused has demanded the bribe from the complainant,

which was paid to him and he accepted the same, which was recovered from him. Now, as the prosecution has proved the demand and acceptance, therefore, accused is to rebut the presumption under Section 20 of PC Act but no cogent evidence has been produced by the accused to rebut the presumption. There is no enmity or motive of the witnesses to deposed against the accused. The complainant, though, has not supported the prosecution version but signatures on the documents, FIR and other facts, which are admitted by him, also support and corroborate the prosecution version. It looks that complainant, due to some compromise/pressure, has resiled from his statement but even then, cogent evidence has been produced by the prosecution on record to prove its case.

In view of the above discussion, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgment of conviction dated 09.10.2003 and order of sentence dated 10.10.2003 passed by learned Special Judge, Faridabad, are correct, as per law and does not require any interference from this Court.

Therefore, finding no merit in the present appeal, the same is dismissed.

Since appellant Jagdish Chander is on bail, his bail bonds stand annulled and he is directed to surrender himself before the jail authorities immediately for completing remainder of sentence, failing which the concerned authority/court shall proceed against him in accordance with law.

**October 17, 2018**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

**Yes**  
**No**