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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 456/2011**
STATE

..... Appellant
Through Mr.Kewal Singh Ahuja, APP for the
State

versus

CHANDER PAL

..... Respondent
Through None.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **10.01.2018**

This appeal has been filed by the State against the acquittal order qua the role of second co-accused namely Chander Pal. The State is aggrieved by the fact that the Court had acquitted Chander Pal. Respondent Chander Pal is on bail.

Record shows that the charge-sheet had been filed by the appellant under Section 7 read with Section 13 (1)(d) and 13 (2) of the Prevention of Corruption Act, 1988. Section 120-B of the IPC had also been invoked. Charges were framed against two accused namely Mahender Singh and Chander Pal. The charge was that the accused person had entered into criminal conspiracy to accept bribe from the complainant Malkhan Singh and in pursuance of the said conspiracy, Chander Pal had demanded and accepted a sum of ₹700/- from the aforementioned complainant. This was for marking the presence of the complainant as a safai karamchari for a full year in the attendance

register whereas the said complainant had remained absent for the said period of time.

What had weighed in the mind of the Trial Court was the statement of the complainant who had been examined as PW-1. In his cross-examination, PW-1 admitted that Chander Pal who was present on 13.06.2003 (date of attendance) did not demand any money from him as he was also a safai karamchari and it was accused Malkhan Singh who had said 'paise do'. PW-1 had further stated that accused Chander Pal had earlier sought a loan from him as he was unable to extend money and he would take a loan from one Satan or Mahender Singh, co-accused. The complainant had taken out the GC notes and extended it to Mahender Singh but Mahender Singh asked Chander Pal to accept money. Chander Pal initially refused to accept money but on the insistence of Mahender Singh, Chander Pal kept the money in his right pocket of the trouser. The Trial Court had examined the question of conspiracy qua the role of Chander Pal. The Court was of the view that the only person available to testify in this regard was PW-1. However the fact that Chander Pal had not received money from the complainant as acceptance of bribe except for the fact that he had earlier sought a loan from Chander Pal (testified by PW-1) and the testimony of the panch witness (PW-5) also being to the effect that Chander Pal was reluctant in accepting the money and it was only on the direction of Mahender Singh that he did so, the Trial Court had attributed no role of conspiracy to Chander Pal. The Trial Court had also noted that Chander Pal has himself come into the witness box as D2W-1 and had stated that he went to borrow money from the

complainant who had showed his inability to pay but Mahender Singh tapped for it. Moreover Mahender Singh used to lend money to others. Chander Pal had merely accepted this amount on behalf of Mahender Singh; there appear to be no meeting of minds between Chander Pal and Mahender Singh and nothing could be attributed to Chander Pal having the knowledge that the amount accepted by him was not a loan but it was a bribe. Benefit of doubt had been granted to Chander Pal.

This Court is of the view that this judgment as delivered by the Trial Court was on an appreciation of the entire gamut of evidence which has been produced by the prosecution. Benefit of doubt granted to Chander Pal was a fair discretion exercised by the Trial Court. The impugned judgment calls for no interference.

Appeal is without any merit. Dismissed.

INDERMEET KAUR, J

JANUARY 10, 2018

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