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

324 CRA-S-1110-SB-2004(O&M)
Date of Decision : 04.02.2019

Sucha Ram ...... Appellant

Versus

State of Punjab ...... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr.H.P.S.Ghuman, Advocate
for the appellant.

Mr. Pawan Sharda, Sr.DAG, Punjab.

***

AJAY TEWARI, J. (ORAL)

This appeal has been filed against the conviction of the appellant under Section 7 of the Prevention of Corruption Act, 1988 (for short, 'PC Act'). The allegations against the appellant were that while posted as District Manager, Scheduled Caste Land Development Bank, Patiala, he was seeking and getting illegal gratification for giving the benefit of loans to eligible persons. The prime mover was PW4 Mukhtiar Singh, who alleged that the appellant had taken a sum of Rs.20,000/- from him to clear his loan case amounting to Rs.1 lakh. It was his further case that loan cases of 8/9 other persons were approved by the appellant and he had passed on Rs.50,000/- to the appellant as illegal gratification for getting the loans of those 8/9 applicants sanctioned and disbursed. The trial Court disbelieved that part of his testimony wherein he had claimed that he paid Rs.20,000/-

for getting his loan sanctioned. Even as regards the remaining amount of Rs.50,000/-, the trial Court held that only an amount of Rs.10,000/- was in fact paid by PW4 as bribe for clearing three loan cases and consequently, convicted the appellant. Hence the present appeal.

The first argument of learned counsel is that once the main case of the complainant Mukhtiar Singh was disbelieved, the trial Court erred in holding the charge to have been established. He further contended that once the specific case of the prosecution was that PW4 had collected Rs.50,000/- from 8/9 loan applicants and had handed them over to the appellant, then it was the duty of the prosecution to prove the payment of Rs.50,000/-. As per him once the prosecution failed to bring home the charge of making payment of Rs.50,000/- there was no occasion for the Court to have held that even though the charge of paying Rs.50,000/- was not proved yet the charge of paying Rs.10,000/- from three loan applicants stood proved. As per the learned counsel, the prosecution has derived unjustified benefit from the fact that one or two of the persons had corroborated the demands made to them and the payment made by them. Learned counsel has argued that if it had been the case that a sum of Rs.50,000/-was collected and paid at different times, it may have been open to the trial Court to hear and then come to the conclusion that some of the transactions were proved and some were not proved but once the case of the prosecution was that the amount of Rs.50,000/- was collected from 8/9 applicants and paid in one go to the appellant, the prosecution could not succeed by proving payment of a lesser amount because then the bottom of the story fell through. He further pointed out that some of the reasons which weighed with the Court for disbelieving the version of payment of Rs.50,000/- would apply with equal force to the allegation of payment of Rs.10,000/- also. He has pointed out that in the first complaint made by the complainant there was no mention of any specific amount and that was one of the reasons for the trial Court to disbelieve the version for payment of Rs.50,000/-. But this ground applied equally to the demand or payment of Rs.10,000/- also and the trial Court erred in not even noticing the fact of the omission in the first complaint with regard to the allegation that Rs.50,000/-was paid as bribe for 8/9 applicants.

Learned Deputy Advocate General has tried to defend the judgement by stating that PW11 had unequivocally stated about the payment of Rs.10,000/- in his presence.

Be that as it may, in my considered opinion the appeal must succeed. It cannot be lost sight of that the primary ground with Mukhtiar Singh was that the appellant had taken a bribe from him to clear his loan case and the other cases were mentioned by him only as a corroborative piece of evidence. Once the allegation that money was demanded or taken from him for his own loan case was disbelieved, it would become difficult for any Court to believe his supporting statement regarding payment of bribe money for other persons also. It cannot also be lost sight of that this was not a trap case but a case where the complaint was made after the alleged crime. In the circumstances, there was no spot recovery. This also makes the task of the prosecution more onerous.

Resultantly, the appeal is allowed. The appellant is acquitted of the charges levelled against him. Personal bond/surety, if any, stands discharged.

Since the main case has been decided, the pending CMs, if any, also stand disposed of.

February 04, 2019 (AJAY TEWARI)
anju JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No