IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

327 **Criminal Appeal No. 1425-SB-2004**
Date of Decision : 29.1.2019

Maninder Singh **....Appellant**

vs.

State of Punjab **....Respondent**

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.P.S.Ahluwalia, Advocate
for the appellant.

Mr. Pawan Sharda, Senior DAG, Punjab.

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AJAY TEWARI, J. (Oral)

This appeal has been filed against the conviction of the appellant in case FIR No. 33 dated 25.7.2000 under Section 13 (2) of the Prevention of Corruption Act, 1988 Vigilance Bureau, Ferozepor Range, Ferozepor.

The allegations of the complainant was that he applied and got sanctioned a loan of Rs.63000/- odd. The first installment had been released to him but when he requested the appellant for release of second tranche the accused/appellant demanded Rs.3000/- as a bribe. Since the complainant did not want to pay the bribe amount he went to shadow witness and they both approached the office of Vigilance Bureau, Faridkot where the preparation for raid was made. Ultimately the raid was conducted and the appellant was apprehended with the tainted currency notes.

The case of the appellant on the other hand was that he had demanded Rs.3000/- but that was for the marginal money which the complainant had to deposit before he was eligible to get second installment. Counsel for the appellant has stated that the shadow witness turned hostile. Ultimately, the appellant having been convicted, the present appeal has been filed.

Learned counsel for the appellant has argued that bare perusal of the evidence of the complainant is enough to demolish the case of the prosecution. In his examination-in-chief he has stated as follows :-

> *"....That thereafter around 23rd/24th day of July, 2000 at the time when I handed over the documents to the accused, I asked him for the release of my second instalment of Rs.30,500/-, who demanded Rs.3000/- but I cannot say for what he demanded this amount, but I presumed that he had for illegal gratification."*

Thereafter, in his cross-examination he stated as follows :-

> *It is correct that when I handed over Rs.3000/- to the Manager, he started filling up credit voucher. The Manager asked me about my account number which I gave as 6634. Ex.DA is the voucher which was being filled up by manager-accused. Afterwards I came to know this amount of Rs.3000/- was taken by the accused as marginal money. It is correct that it was the accused who used to fill in the relevant documents pertaining to the advance of the loan and this was being done in the same very office.*

As per the learned counsel for the appellant this fact, coupled with the fact that the shadow witness is turned hostile and in view of these circumstances appellant deserves to be acquitted.

Learned Senior DAG has defended the judgment. As per him, the recovery was made from the appellant.

In my opinion, the appeal has to succeed. The testimony of the complainant reveals:-

1. that the demand was made but he presumed that it was bribe but could well have been marginal money.

2. that merely on receiving the money, the appellant filled the credit voucher in which half name and account number of the complainant was mentioned (because at that time raid was conducted), and the fact of this recovery from the spot has been admitted by the Investigating officer. Learned Senior DAG has not denied these factual assertions.

Once that is so, in my opinion it creates a reasonable doubt on the story of the prosecution. Consequently, the appeal is allowed and the appellant is acquitted. Bail bonds/surety bonds, if any, stand discharge.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

29.1.2019
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No