

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Appeal No.S-63-SB of 2001 (O & M)

Date of Decision: February 26, 2019

K.C. Maini

..... APPELLANT

VERSUS

State of Punjab

..... RESPONDENT(S)

...

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

...

PRESENT: - Ms. Tanu Bedi, Advocate, for the appellant.

Mr. Pawan Sharda, Senior Deputy Advocate General,
Punjab.

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Ajay Tewari, J (Oral)

1. This appeal has been filed against conviction of appellant in case FIR No.29 dated 16.03.1995 under Sections 7, 13(2) of the Prevention of Corruption Act, 1988 (for short, 'Act'), registered at Police Station, Mohali, wherein, vide judgment dated 05.01.2001 passed by the Special Judge, Ropar, the appellant has been convicted and sentenced to undergo Rigorous Imprisonment for a period of six months alongwith fine of ₹ 5,000/- and in default of payment of fine, to further undergo Rigorous Imprisonment for two months under Section 7 of the Act; and to undergo Rigorous Imprisonment for a period of three years alongwith fine of ₹ 50,000/- and in default of payment of fine, to further undergo Rigorous Imprisonment for one year.

2. As per the allegations, Ajit Singh Sandhu and Anil Chhatwal had been granted the contract for different works to be executed in Sant Longowal Institute by main contractor i.e. National Building Construction Corporation Limited. Certain bills of those contracts were pending. On 15.03.1995, PW-7 G.S. Ruppal, who was General Manager of NBCC at Chandigarh, went to the office of the appellant and requested him to make the payment of the pending bills. The appellant is stated to have asked him that he wanted to talk to the two contractors, upon which, G.S. Ruppal made him talk to Ajit Singh Sandhu, whereupon, appellant expressed his desire to meet the two contractors and G.S. Ruppal drove him in his car to the house of Ajit Singh Sandhu (where Anil Chhatwal was also present). On reaching the house of Ajit Singh Sandhu, contractors again requested him to clear the bills, upon which he demanded a bribe of ₹ 1 lac each from both of them and Mr. Ruppal is stated to have objected to the demand. It is further stated that appellant was adamant and directed the two contractors to pay a sum of ₹ 2 lac to Mr. Ruppal (for onward transmission to him). Even at that stage, Mr. Ruppal stated that since the appellant knew the contractors, there was no need for him to be intermediary and whatever money he wanted to take, should be taken by him directly but the appellant did not agree. After that, it is stated that Mr. Ruppal and the appellant went away. Later, the two contractors came to the house of Mr. Ruppal and told him that they want to make a complaint to the police. They went to the Vigilance office and made a complaint. All preparations for raid were made and raid was conducted. When they went there, Mr. Ruppal was designated to go to the house and make the payment and Anil Chhatwal was the shadow witness. As per the statement of Mr. Ruppal, Anil Chhatwal remained

outside while he went inside. When he went inside the house, appellant demanded the money which was handed over to him, which he put in an almirah. In the meantime, Anil Chhatwal gave a signal and raiding party entered. The hands of accused – appellant were dipped into water and it were found to turn pink. The money was also recovered and the prosecution lodged. The trial court believed the prosecution evidence and convicted the appellant and sentenced as detailed above, and hence the present appeal.

3. The first argument of learned counsel for the appellant is centered around the unnatural conduct of two main protagonists i.e. K.C. Maini (appellant) and Mr. Ruppall. She argued that in a case where government servant is seeking bribe, the only person he will confide in would be a co-beneficiary. In the present case, it was very strange that the appellant was demanding the money in front of Mr. Ruppall. As per her, there is no explanation why Mr. Ruppall went so far out on a limb that he took the appellant in his own car. As per her it is also very strange that during the alleged transaction, twice Mr. Ruppall objected to the demand of bribe and yet the appellant insisted that bribe should be given to Mr. Ruppall alone and to nobody else. As per her, even if the entire story is taken to be correct, yet the shadow witness remained outside and neither saw nor heard the appellant reiterating his demand or accepting the money.

4. Learned Deputy Advocate General has tried to defend the judgment by stating that since Mr. Ruppall was an employee of the principal contractor i.e. NBCC, he was very interested that the work should be completed on schedule and as per budget. In my opinion, this argument will not suffice.

5. For the appellant to have confided in Mr. Ruppal in the above circumstances is strange and unnatural. Had it been a case where Mr. Ruppal had been a co-accused, I could have understood that he and appellant were in collusion with each other but in the present case, this is not so. Mr. Ruppal is portrayed as the honest man who wanted to do his duty. Once Mr. Ruppal has stated in his testimony that he objected to the demand of bribe and also to be used as an intermediary, there was no occasion for him to first meet the appellant who talked to Ajit Singh Sandhu and then take him to the house of Ajit Singh Sandhu in his own car, and thereafter drop him back in his car. Not only that, even after this whole transaction, it was not Mr. Ruppal who made a complaint. He was apparently satisfied with what had happened because as per him, the two contractors came to his house and requested him to help in the case against the appellant. Moreover, the only witness of the subsequent demand and acceptance is the solitary testimony of Mr. Ruppal.

6. In a catena of judgments viz. **P. Sathyanarayana Murthy vs. The Dist. Inspector of Police and another, 2015(4) Recent Apex Judgments (R.A.J.) 625** and **G.V. Nanjundiah vs. State (Delhi Admn.), 1987 Supp SCC 266**, the Supreme court has held that the subsequent demand and acceptance has to be proved satisfactorily. To my mind, the sequence of events raise a reasonable doubt on the story of prosecution. In these circumstances, the appeal is allowed and appellant is acquitted. Surety/bail bonds, if any, shall be discharged.

7. Since the main appeal is decided, pending application, if any, shall stand disposed of.

February 26, 2019
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(Ajay Tewari)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No