

331 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1812-SB-2004 (O&M)

Date of Decision : 07.02.2019

Surjit Singh since deceased
through his LRs

..... Appellants

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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

Mr. Pawan Sharda, Sr. DAG, Punjab.

AJAY TEWARI, J. (Oral)

1. This appeal has been filed against the conviction of the appellant under Sections 7/13 (2) of the Prevention of Corruption Act, 1988 (for short the P.C. Act) in FIR No.42 dated 28.08.2000 registered at Police Station Vigilance Bureau, Ferozepur.

2. The sentence awarded to the appellant is as under:-

Under Section 7 of P.C. Act : To undergo R.I. for a period of four years and to pay a fine of Rs.5,000/- and in default of payment of fine to further undergo R.I. for 6 months.

Under Section 13 (2) of P.C. Act : To undergo R.I. for a period of four years and to pay a fine of Rs.5,000/- and in default of payment of fine to further undergo R.I. for 6 months.

Both the sentences were ordered to run concurrently.

3. The brief facts of the case are that on 28.08.2000 Amarjit Singh

Vigilance Bureau, Moga and Amarjit Singh recorded his statement that he was hailing from Nidhan Wala and was running a clinic at village Salina for 8 months. Two years earlier, he was running a private clinic at Gobindgarh Basti Moga. At that time, there had been a quarrel with Harjinder Singh @ Raju and a case was lodged in the police station and that case was pending before SDJM, Moga. He forgot the date fixed in the case and warrant of arrest was issued which he came to know from Surjit Singh HC-the appellant. On 24.08.2000, the appellant showed his desire to arrest him otherwise he should pay Rs.500/- as bribe. At that time, Amarjit Singh said that such money was not with him. Thereto, the appellant said that he should come to the police station, City Moga on 28.08.2000 and pay bribe money to him and he would not arrest him. On the basis of such statement of Amarjit Singh, an FIR was lodged and hence, the present appeal.

4. Counsel for the appellant has argued that there are many discrepancies in the case. Firstly the two official witnesses and the shadow witness turned hostile but that fact has been brushed aside by the trial Court in a very cursory and high handed manner by just observing that since their signatures appeared on the various memos it means that they knew what they were signing and were lying. Apart from that he has argued that the whole case of the prosecution was that 4 notes of Rs.100/- were used as the bribe money. However, both the official witnesses and the complainant stated that there were 3 notes of Rs.100/- and 2 notes of Rs.50/-. As per him the exculpation by the three witnesses and the discrepancy in the bribe money raised a reasonable doubt which entitled the appellant to acquittal.

Even PW-9 the shadow witness stated that there were 3 notes of Rs.100/-

and 2 notes of Rs.50/-. Further even PW-10, the DSP mentioned that there were 3 notes of Rs.100/- and 2 notes of Rs.50/-.

5. In my opinion, the crucial determinant in this case is the discrepancy in the description of the bribe money. The case of the prosecution was that 4 notes of Rs.100/- were marked and, when the appellant was apprehended the marked 4 notes of Rs.100 were recovered. Their numbers were also tallied. In the face of the statements by all the prosecution witnesses (hostile and otherwise) that actually 3 notes of Rs.100/- and 2 notes of Rs.50/- were used the entire story of the prosecution is shrouded in doubt.

6. In view of these facts, the appeal is allowed and the appellant is acquitted of the charges. Personal bond/surety, if any, stands discharged.

7. Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

07.02.2019

Pooja sharma-I

Whether speaking/reasoned

Whether Reportable :

**(AJAY TEWARI)
JUDGE**

Yes/No

Yes/No