

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

344

CRA-S-2465-SB-2004

Date of Decision : 19.3.2019

Jaspal Singh

....Appellant

vs.

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. R.K.Girdhar, Advocate
for the appellant.

Mr. Pawan Sharda, Senior DAG, Punjab.

AJAY TEWARI, J. (Oral)

1. This appeal has been filed against the conviction of the appellant under Section 7, 13 (2) of the Prevention of Corruption Act, 1988. sentencing him to undergo rigorous imprisonment of one year and to pay a fine of Rs.1000/- in default of payment of fine, further rigorous imprisonment for a period of two months.

2. As per the FIR, the complainant wanted to get a copy of the jamabandi of his land and had been repeatedly approaching the appellant for the same. The appellant was demanding an amount of Rs.1000/-. Since the complainant did not want to give a bribe he approached the Vigilance Department on 18.4.2001. Necessary preparation were made for conducting the raid which was conducted on 19.4.2001. During the raid the complainant and the shadow witness went to the room of the appellant where the appellant asked them to sit down and further enquired whether

they had brought his fees. When the complainant gave an affirmative answer the shadow witness gave a signal, whereupon the raiding party came and arrested the appellant and recovered the jamabandi (for which he had demanded the bribe). Having been convicted, he has filed the present appeal.

3. Learned counsel for the appellant has argued that this was a case where the recovery of money has been foisted upon him. As per him, the same complainant had got the jamabandi of the land on 11.4.2001 and had again obtained the copy of the khasra girdawri and jamabandi on 12.4.2001. As per the appellant, the complainant had a dispute regarding mutation with one Albel Singh and he was under the misapprehension that the appellant was helping Albel Singh in that matter. He has further argued that as per the Register of the jamabandis which was produced on the record, it was proved that Karnail Singh-the complainant had obtained jamabandi on 11.4.2001 and 12.4.2001. Even the roznamcha was produced as Ex. D-2 which also reflected the preparation and delivery of jamabandi on 11.4.2001 and 12.4.2001. As regards the jamabandi which was recovered from the spot, it is his case that for the third time application was made by Karnail Singh only for the purpose of implicating the appellant and in the roznamcha on that jamabandi it is clear that jamabandi was issued on 18.4.2001 but in the jamabandi the date has been changed to 19.4.2001. The witness who produced this record was also from the department who had further stated that that Register had been checked by the Kanoongo on 19.3.2001 and found an order and a copy of that report is which is Ex.-D3.

4. The learned Senior Deputy Advocate General points out that in

Ex.-D-1 there is overwriting on the date but he is not in a position to deny that there is no overwriting in Ex.D-2 and in Ex.-D2 all the three documents are reflected in the correct order. He has argued that a suggestion was given to DW-1 that all these documents had been prepared afterwards.

5. In my opinion, though the defence may sometimes succeed in eroding the credibility of a prosecution witness by giving him a suggestion yet if it was a case of the prosecution that in fact the documents Ex.D-1 and D-2 were prepared later on (only to help the appellant), this was an even more serious offence and this allegation could not be proved merely by putting a suggestion to the defence witness and it would have been incumbent upon the prosecution to lead positive evidence to show that the documents Exs.D-1 to D-3 were actually subsequently prepared.

6. Looked at it from any angle, it has to be held that prosecution had not been able to bring home guilt of the appellant beyond all reasonable doubts.

7. Consequently, the appeal is allowed and the judgment and order dated 3.12.2004 convicting the appellant is set aside. The surety/bail bonds, if any, stands discharged.

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

19.3.2019
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No