

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

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Criminal Appeal NO. 2495-SB-2004

Date of Decision : 29.1.2019

Shiv Charan

....Appellant

vs.

State of Haryana

....Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Kanwaljit Singh, Senior Advocate with
Mr. Ashish Soi, Advocate and
Mr. Sandeep Sharma, Advocate
for the appellant.

Mr. Gaurav Bansal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the conviction of the appellant in case FIR No. 160 dated 19.3.2002 under Sections 7/13 of Prevention of Corruption Act, 1988.

The allegations against the appellant was that the complainant was co-employee with him and from the salary of complainant a sum of Rs.1000/- was deducted per month as GPF. For some reasons the complainant wanted to reduce the GPF and requested the appellant to reduce his deduction from Rs.1000/- to 500/- per month and the appellant demanded a bribe of Rs.300/- for this work. Since he did not wish to pay the bribe he approached DSP, Rohtak and after necessary preparation a raid was conducted and the appellant was apprehended with the marked currency. Having been convicted the present appeal has been filed.

Learned Senior counsel for the appellant has argued that in his

complaint the complainant had stated that the bribe was demanded by the appellant but in his testimony he changed track and claimed that the bribe was actually demanded by one Gupta Ji and the money was handed over to the appellant to be further handed over to said Gupta Ji. He has further argued that shadow witness turned hostile and as per him in view of these circumstances, the appellant deserves to be acquitted.

Learned AAG however has argued that the recovery was made from the appellant and this went a long way in proving his guilt.

In my considered opinion, the appeal must succeed. Once the the complainant himself was not sure who demanded the money, it casts a reasonable doubt on the entire story. There is no explanation by the complainant of the fact that firstly he named the appellant as a solitary accused in his written complaint and later on, in his deposition he named one Gupta Ji who had asked him for the bribe. In fact, he further even denied having made complaint altogether to the police.

The stand of the complainant and the fact that official witness has turned hostile 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 discharged.

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

29.1.2019
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No