

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

**CRA-S-316-SB-2004 (O&M)
Date of Decision : 07.02.2019**

Gurjit Singh

..... Appellant

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Ashish Verma, 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.3 dated 27.04.1999 registered at Police Station Vigilance Bureau Flying Squad-I, Punjab Mohali.

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 two years and to pay a fine of Rs.1,000/- and in default of payment of fine to further undergo R.I. for 3 months.

Under Section 13 (2) of P.C. Act : To undergo R.I. for a period of two years and to pay a fine of Rs.1,000/- and in default of payment of fine to further undergo R.I. for 3 months.

Both the sentences were ordered to run concurrently.

3. The allegations against the appellant were that complainant-Guriqbal Singh had alleged that draft of Rs.8,500/- had been prepared in connection with payment of advertisement and for delivery of the same allegedly the appellant had demanded Rs.2,000/- as illegal gratification and hence the present appeal.

4. Learned counsel for the appellant has argued that the story and the timings given by the different prosecution witnesses do not hang together. He pointed out that the shadow witness had stated that they took a bus at 06.00 AM and reached the office of the DSP at 7.30 AM and met the DSP at 8.00 AM. As per him once it was their own case that prior to that date they had no conversation with the DSP, there was no explanation as to why and in what circumstances the DSP was present in his office at 8.00 AM. His second submission is that Inspector Zora Singh was sent to the office of the Punjab Mandi Board with a requisition to depute Gurdeep Singh for the raid. That Inspector could have presented that application only after 9.00 AM when the office opened. That application is on record as Exhibit PM and it shows that it was endorsed to various persons including the Chief Engineer and the Head Draftsman and others. After that letter was processed and the official witness was deputed, he claims that he joined the raid at 09.15 AM. It is the contention of learned counsel for the appellant that this is also extremely far fetched. Thereafter the raiding party first went to the office of the appellant and the complainant and shadow witness went inside but came back after realizing that he was not in the office. Interestingly they did not inquire from anybody in the office as to whether the appellant was on leave but straightway went to his house.

One witness stated that they reached his house at 09.20 AM while the other witness stated that they reached his house at 09.40 AM. As per the learned counsel for the appellant even this timing does not dovetail with the story. He has further argued that the whole case of the appellant was that he was framed by calling him to the DSP office and then planting the notes upon him. As per learned counsel for the appellant these discrepancies in the timing and the story cast a reasonable doubt and consequently the appellant is entitled for acquittal.

5. Learned Senior DAG has sought to explain away these discrepancies by stating that some small differences in timing can come about because of the time lapse between the incident and the testimony.

6. In my considered opinion, even after allowance is made for the time lapse between the incident and the testimony yet the arguments of the learned counsel for the appellant do carry weight. It was strange that the complainant and the shadow witness reached the office of the DSP Vigilance and he just happened to be there at 08.00 AM. No explanation was given by the DSP in his testimony as to why and in what circumstances he was in office at 08.00 AM. Further Gurdeep Singh said with certainty that he was joined the raid at 09.15 AM. The shadow witness stated that they reached the house of the appellant at 09.20 AM. The complainant stated that they reached the house of the appellant at 09.40 AM.

7. In the face of the certainty with which this testimony is delivered it casts a reasonable doubt on the story of the prosecution.

8. Resultantly, the appeal is allowed and the appellant is acquitted of charges. Personal bond/surety, if any, stands discharged.
9. Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

07.02.2019

Pooja sharma-I

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No