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

CRA-S-5006-SB-2015 (O&M)
Reserved on : May 13, 2019
Date of Decision: July 10, 2019

Ravinder Sharma ...Appellant

Versus

State of Punjab ...Respondent

2. CRA-AD-44-2016 (O&M)

State Chandigarh Administration ...Appellant

Versus

Sushil Kumar ...Respondent

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. Anmol Rattan Sidhu, Senior Advocate assisted by Mr.Pratham Sethi, Advocate for the appellant in CRA-S-5006-SB of 2015.

Mr.Rajeev Sharma, Advocate for the appellant in CRA-AD-44 of 2016 and for the respondent in CRA-S-5006-SB-2015.

Mr.Rohan Garg, Advocate - Legal Aid Counsel for respondent Sushil Kumar in CRA-AD-44 of 2016.

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HARINDER SINGH SIDHU, J.

Since common questions of law and facts are involved in the aforesaid appeals these are taken up together and disposed off by a common judgment.

2. Criminal Appeal No.CRA-S-5006-SB-2015 has been filed by

appellant Ravinder Sharma against his conviction and sentence vide judgment and order dated 12.10.2015 of the learned Special Judge, Chandigarh in PC Act case No.16 of 2014 whereby he was charged with and tried for offences punishable under Sections 420, 467, 468, 471 read with Section 120-B of the Indian Penal Code (in short 'IPC') and the offence under Section 13(1)(d) punishable under Section 13(2) of the Prevention of Corruption Act, 1988 (for short “the Act”) along with Sushil Kumar. Ravinder Sharma was convicted for the offence under Section 13(1)(c) of the Act and sentenced to undergo rigorous imprisonment for a period of two months and fifteen days. Sushil Kumar was acquitted of the charges.

3. Criminal Appeal No.CRA-AD-44 of 2016 has been filed by the Union Territory Chandigarh challenging the acquittal of Sushil Kumar.

4. The case of the prosecution in a nutshell is that on 16.02.2010 a complaint dated Nil made by Punjab Chemical and Corporation Ltd. (PCPL) was received in the office of OSD Vigilance through post. It stated that on 11.1.2010 the complainant had gone to the office of State Transport Authority, Chandigarh to verify the counter signature fee of vehicle No.PB-11Z-6698. Complainant was told by Ravinder Sharma Sr. Assistant that the fee would be Rs.25,000/- which was deposited vide receipt No.1171/61 dated 11.1.2010. The original receipt was not given saying that it would be enclosed with the original file of the vehicle. When complainant again visited the office of the STA on 12.1.2010 the original receipt was found enclosed in the office file. Another receipt No.1173/48 dated 11.1.2010 for Rs.470/- was issued. It was alleged that Rs.24530/- had been misappropriated by Ravinder Sharma Sr. Assistant. Inquiry was conducted

whereafter the case aforesaid was registered against accused Ravinder Sharma Sr. Assistant and Sushil Kumar Cashier, office of State Transport Authority, Chandigarh. The appellant Ravinder Sharma was convicted and sentenced as referred to above. Accused Sushil Kumar was acquitted.

5. The prosecution examined number of witnesses in its support. The statement of the accused under Section 313 Cr.P.C. was recorded. They denied the allegations levelled against them and pleaded false implication. Accused Ravinder Sharma stated that PW4 D.R.Guleria had requested him to issue a receipt of Rs.25,000/-. After receiving Rs.25,000/- from D.R.Guleria he had issued receipt Ex.P-11/A. The amount of Rs.25,000/- was immediately handed over to Sushil Kumar on his return to the office on 11.01.2010 itself. He stated that it was a practice in the department that in case the cashier is not available due to some reason, other officials can officiate in his absence, so that the public is not harassed. Sushil Kumar however denied having received Rs.25,000/- from Ravinder Sharma. He stated that he was not aware of the payment of Rs.25,000/- by Ravinder Sharma. He had only been informed that the receipt Ex.P-11/A had been wrongly filled. As per practice he had cancelled the same. Ravinder Sharma had given him Rs.470/- against which he issued receipt Ex.P-12/A. Both the receipts where duly reflected in the cash book register Ex.P-14. He had deposited Rs.470/- received by him against receipt Ex.P-12/A in the treasury along with other amount collected against various receipts of that day. Accused examined four witnesses in their defence.

6. We have heard learned counsel for the parties and have gone through the judgment and record.

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7. PW1 Surinder Singh, Superintendent Home-III, UT Secretariat, Chandigarh proved the order Ex.P-1 according sanction for the prosecution of accused Ravinder Sharma.

8. PW2 Mohinder Singh, Superintendent Home-II, UT Secretariat, Chandigarh proved order Ex.P3 according prosecution sanction of accused Sushil Kumar.

9. PW3 Ravinder Chadha Vice President, Human Resource and Administration in the Office of Punjab Chemicals and Crop Protection Ltd. (PCPL) stated that office of the company is situated at SCO No.183, Sector 26, Madhya Marg, Chandigarh. In the year 2012, he was working as General Manager in the said company. He had written a letter Ex.P5 dated 16.3.2012 to Inspector/SHO, PS Vigilance, Chandigarh in response to the letter dated 9.3.2012 of Vigilance asking for supply of information and the record relating to payment of counter signatures fee of Bus No.PB-11Z-6698. In Ex.P5 he mentioned details of the fee paid and entry in the records of the company regarding the fee. He had supplied the copies of the ledger signed by K.K. Srinivasan, Manager Accounts Ex.P6 and Ex.P7 alongwith letter Ex.P5. The amount of Rs.25,000/- was withdrawn by the company and handed over to Desh Raj Guleria. This amount was withdrawn by two vouchers dated 11.01.2010 of Rs.19,000/- and voucher dated 12.01.2010 of Rs.6,000/- for making the payment of STA, Chandigarh against staff bus No.PB-11Z-6698. On 19.11.2010 vide voucher an entry of Rs.24,500/- was made regarding deposit of Rs.24,500/- which were received from Des Raj Guleria against excess permit fee of the bus. Ravinder

Sharma-accused employee of the STA delivered a sum of Rs.24,500/- to D.R. Guleria on 9.4.2010. He also handed over the receipt of Rs.470/- to Des Raj Guleria on 16.11.2010. On both occasions he had come to the office alongwith two other persons.

10. In cross examination by counsel for accused Ravinder Sharma he admitted that he had not met the officials of STA personally when they had come to return Rs.24,500/- and that he did not know anything about the visit of the STA officials as he had not met them personally. He also did not know as to whom they had met in the office. He stated that he had not made any compaint to any authority in this regard.

11. PW4 Des Raj Guleria Senior Admn. Officer, Punjab Chemical and Crop Protection Ltd., stated that the registered office of the company was situated in SCO No.417-418, Sector-35C, Chandigarh. The factory was at Dera Bassi, District Mohali. The company had a bus No.PB-11-Z-6698 for carrying the employees from Chandigarh to the factory. As the bus was registered with the Registration Authority, Punjab it's permit was required to be countersigned from State Transport Authority, Chandigarh. For this purpose he used to visit the office of State Transport Authority, Chandigarh. In this regard a letter was issued by the DTO Patiala in the year 2010 for getting the permit counter signatures from the Chandigarh STA. He visited the office of STA for getting the permit countersigned. There he met accused- Ravinder Sharma STA employee, and paid him a sum of Rs.25,000/- as fee of countersigning the permit. Ravinder Sharma issued receipt No.61 book No.1171 of Rs.25,000/- and delivered him photocopy of the same. Ravinder Sharma attached the original receipt of Rs.25,000/-

alongwith original permit, photo copy of the RC and original letter issued by the DTO Patiala in favour of STA Chandigarh for countersigning. After 3-4 days he again visited office of STA Chandigarh and met Mr. Ravinder Sharma accused who told him that the permit was not ready. On 18.01.2010 he again visited the office of STA and Ravinder Kumar Sharma gave him the permit duly countersigned from the Authority.

12. On 9.4.2010 Ravinder Sharma accused visited the PCCPL office in Sector 35, Chandigarh and informed him that receipt of Rs.25,000/- was issued wrongly as the actual fee of the countersigning of the permit was Rs.470/-. Ravinder Sharma returned him Rs.24,500/- and stated that receipt of Rs.470/- will be given shortly. On 16.11.2010 the accused Ravinder Sharma again visited the office alongwith two persons and handed over receipt No.48 book No.1173 of Rs.470/- to Mr. Vijay Kumar Sagar, Manager (Admn.) of the company.

13. He stated that he had withdrawn the amount of Rs.25,000/- from the company regarding which there was an entry in the ledger. Rs.10,000/- were withdrawn on 30.12.2009 and Rs.18,000/- were withdrawn on 5.1.2010. He stated that neither he nor the company had lodged any complaint in this regard to Vigilance Office, Chandigarh. He had also not identified the signatures on complaint Mark-A allegedly written by Punjab Chemical and Corporation Ltd. to Vigilance Office UT Chandigarh.

14. He proved photocopy of the original permit supplied by him to the Vigilance Ex.P8, the photocopy of receipt No.61 book No.1171 Ex.P9.

15. In cross examination he stated that he was not a regular visitor to the STA office. On 11.1.2010 he had taken along Rs.30,000/- from the

company. When he went there Ravinder Sharma was sitting on his seat. He requested Ravinder Sharma to issue a receipt of Rs.25,000/-. He did not remember the date when he had visited the STA office before 11.1.2010. He admitted that accused Ravinder Sharma never met him in his office. He also admitted that he had not filed any complaint at any point of time to any authority or even to his seniors.

16. PW5 Inderbir Singh stated that from 2008 to 2011 he had worked on deputation in the office of STA, Chandigarh. Accused Ravinder Sharma and Shushil Kumar were also working in the office of STA. In the year 2010 he was called to the office of Vigilance U.T. Chandigarh for producing the record of Office of STA, Chandigarh. He produced receipt book No.1171 Ex.P-11 and receipt book No.1173 Ex.P12. Receipt No.61 dated 11.01.2010 for Rs.25,000/- regarding bus No.PB-11-Z-6698 for counter signature on permit was issued by Ravinder Sharma which was cancelled on 11.01.2010. The original receipt No.61 was Ex.P11-A and its carbon copy was Ex.P11/B. The same were written and issued by Ravinder Sharma. They were cancelled by Sushil Kumar. He identified their signatures on the receipts as he had seen them signing and writing. The receipt No.48 for Rs.470/- from receipt book Ex.P12 was also issued regarding countersign of permit of bus no.PB11Z-6698. This receipt Ex.P-12/A was issued by Sushil Kumar, Cashier. He identified the writing and signatures of Sushil Kumar on this receipt also.

17. PW-6 Maninder Singh, Junior Assistant, Office of STA stated that on 10.02.2012 he produced original cash book Ex.P-14, counter signed register Ex.P-15, original request of Ravinder Sharma Ex.P-16 and

photocopy of report of the cashier Sushil Kumar Ex P-18, the letters No.3892 and 3893 dated 26.07.2010 written to Ravinder Sharma signed by Sh. Ashok Kumar Sharma, CPIO Ex.P-19 & Ex.P-20. He identified the signature of Ravinder Sharma, Ashok Sharma and Sushil Kumar as he had seen them signing and writing in their official capacity. He also identified accused Sushil Kumar and Ravinder Sharma in Court.

18. In cross-examination by counsel for accused Ravinder Sharma he stated that he was the dealing official for issuing permits of trucks. All the officials of STA Chandigarh sit in a big hall on adjoining chairs. There was no partition in the hall. If for any reason some official is not present on his seat, other officials do his work as a time gap arrangement. He stated he was present in the office when Des Raj Guleria had come there. Des Raj Guleria had got his receipt of Rs.25,000/- cancelled from cashier Sushil Kumar who returned the amount of Rs.25,000/- to Des Raj Guleria on the spot.

19. In cross-examination by the Public Prosecutor he stated that he knew Des Raj Guleria who had come to the office for depositing the amount for counter signing the permit. He denied the suggestion that Sushil had not returned the amount of Rs.25,000/- to Des Raj Guleria on the spot.

20. PW8 T. Joshi Scientist B, Assistant GEQD, CFSL, Sector 36, Chandigarh stated that he had more than 24 years of experience in the field of forensic Document Examination. He proved his report with reasons Ex.P-31 and P-32.

21. PW10 Promil Sharma Senior Assistant office of STA, Chandigarh stated that the office of STA, Chandigarh maintained register of

Commercial vehicles for Punjab State for making the entry as and when the request is received for signing the permit of the said vehicles. She stated that in register Ex.P15 the entry regarding vehicle No.PB-11Z-6698 had been made by her on 13.01.2010 at Sr.No.359 which is Ex.P15/A. She made the entry in the Register on the same day when the file of the vehicle for counter signature was received. She also signed the permit.

22. In cross examination by counsel for accused Ravinder Sharma she stated that in January 2010 accused Sushil Kumar was working as cashier. It was his duty to issue receipts and make the corresponding entries in the cash book. On 11.01.2010 Ravinder Sharma issued receipt Ex.P-11/A for a sum of Rs.25,000/-. She stated that Ravinder Sharma was the dealing official of establishment branch. The person who had come from PCPL requested Ravinder Sharma that he had been waiting for the cashier since long. It was for this reason that Ravinder Sharma issued the receipt. Sushil Kumar had reached the office just after Ravinder Sharma had issued the receipt. Ravinder Sharma immidiately handed over the receipt to Sushil Kumar. The official of PCPL came to her just after taking the receipt. He brought along with him the letter of DTS, the original receipt of Rs.25,000/-, copy of RC and original permit. She checked the documents and stated that the receipt got issued by him was for higher amount and that he was required to depost only Rs.470/-. Thereafter he took his original documents and went away. He did not come to her again that day.

23. PW11 Inspector Daleep Rattan Security Wing, Chandigarh stated that on 09.02.2012 he was working as Inspector Vigilance, U.T. Chandigarh. Order dated 03.02.2012 Ex.P-73 was received from the office

of Advisor to the Administrator, CVO Chandigarh to SP, Vigilance Cell, Chandigarh for registration of case against Ravinder Sharma, Senior Assistant and Sushil Kumar, Cashier, Office of State Transport Authority, Chandigarh. He registered FIR Ex.P74. Same day, Des Raj Goleria produced the receipt Ex.P9 and permit Ex.P8. which were taken into possession vide memo Ex.P10. Same day the record of the inquiry Ex.P-17 was produced before him by MHC Joginder Singh. On 10.02.2012 he took into possession the record of the office of STA vide memo Ex.P-21. He asked for the record from PCPL. PW3 Ravinder Chadda produced the record Ex.P6 & Ex.P7. He also supplied information vide letter Ex.P-5. On 02.04.2012 accused Ravinder Sharma was arrested. He was produced before the Court of learned CJM on 03.04.2012 for getting his specimen writing. His specimen writing was taken by the court of learned CJM on sheets Ex.P24 to Ex.P30. Sushil Kumar was arrested and produced before the court on 04.04.2012 for getting his specimen writing. His specimen writing was taken by the Court of learned CJM on sheets Ex.P-18 to Ex.P-

The questioned documents and the specimen writing were sent to document expert for examination through C. Om Parkash. Further investigation of the case was entrusted to Inspector Gurjit Kaur, the then Inspector SHO Police Station Vigilance.

24. In cross examination by counsel for accused Sushil he stated that the FIR was registered on the basis of inquiry conducted by him on the basis of an anonymous complaint and that he was the complainant in the case. He stated that he had not seen the original of Ex.P-18 and the same was not sent to Government Examiner for Questioned Documents (GEQD)

to verify the signatures over Ex.P-18. Ex.P-18 is not addressed to any officer nor is it in response to any letter of a Senior Officer. It does not bear any office/memo number or date.

25. In cross-examination by counsel for accused Ravinder Sharma, PW11 Inspector Daleep Rattan admitted that PCPL did not complain about the transaction in question in any manner even during the course of his inquiry and investigation. He admitted that the receipt of Rs.25,000/- received by Ravinder Sharma was duly issued and shown in the receipt book in proper manner. He also admitted that during the course of his inquiry/ investigation he did not get any complaint or representation filed by Sushil Kumar to any authority complaining that he did not receive sum of Rs.25,000/- from accused Ravinder Sharma.

26. PW12 Priyanka Steno-typist office of STA, Chandigarh stated that receipt Ex.P12/A in receipt book Ex.P12 had been filled by her on the asking of Ravinder Sharma, Senior Assistant. At that time accused-Sushil Kumar who was working as cashier in the office was not present in the office. Sushil Kumar, Cashier signed the receipt Ex.P12/A. She stated that in her presence Ravinder Sharma had not delivered any amount against the said receipt to Sushil Kumar, Cashier.

27. PW13 Vandana Disodia, HCS Additional Transport Commissioner stated that she remained posted as Secretary, State Transport Authority, Chandigarh from 06.02.2007 to 05.08.2010. On 11.01.2010 she was present in the office. On that day receipt No.61 from book No.1171 amounting to Rs.25,000/- regarding vehicle No.PB11Z-6698 was issued. The said receipt was not put up before her nor was she intimated orally by

any official regarding cancellation of said receipt Ex.P11/A from book Ex.P11. The said receipt was also not shown to her. Similarly on 12.01.2010 she was also present in the office. On the said day receipt Ex.P12/A from book Ex.P12 was issued amounting to Rs.470/-. Sushil Kumar did not disclose about the cancellation of receipt Ex.P11/A and issuance of receipt Ex. P-12/A.

28. In cross examination by counsel for accused Sushil she stated that before cancellation of the receipt it must be brought to the knowledge of head of the office and prior permission of the head of the office is to be taken. However she was not able to point out to any rule or regulation regarding the same. She also admitted that in receipt book Ex.P-11, receipts No.7 and 13 had been cancelled. She was shown receipt No.49 in receipt book Ex.P-12 which had been cancelled. Similarly she was shown a number of entries where receipts had been cancelled.

29. DW1 Sohan Lal, Clerk, State Transport Authority produced the original summoned record regarding the proceedings undertaken by the office with regard to news item "Transport Authority Per Vigilance Ka Chhapa". The second page of the notings of the proceedings Ex.D1 contains signatures of Sanjiv Kumar at point A, Ashok Kumar Sharma, the then Superintendent at point B, J.P. Nain, the then Addl. Secretary at point C and Ms. Vandana Disodia, the then Secretary, STA at point D. He identified their signatures as he had worked with them and seen them writing and signing. The document containing 26 pages which is concerned with the matter is Ex.D-2 (document objected to on the ground of mode of proof and admissibility thereof). He identified the signatures of Sushil Kumar on

Ex.D-2 (already exhibited as Ex.P-18) at point A at page 4 (original seen and returned), as he had seen him writing and signing.

30. DW2 Ashwani Kumar, Clerk, State Transport Authority brought the original summoned record i.e. Cash register in original pertaining to the period 05.12.2008 to 22.09.2009. There are various entries of Rs.25,000/- in this cash register. The copies of the entries of Rs.25,000/- mentioned in the pages of cash register are Ex.D-3 to Ex.D-14.

31. He stated that he was working as Clerk in the office of STA, UT, Chandigarh on 11.01.2010. On that date, one person was creating hue and cry that the cashier was not available and he wanted to get the receipt for depositing the amount. He was approaching the other officials to help him. In the meanwhile, the officials told him to request Ravinder Sharma. On the request of that person Ravinder Sharma issued the receipt. The said person had asked to get issued the receipt of Rs.25,000/-. The original receipt was taken by the said person from Ravinder Sharma. Meanwhile, Sushil Kumar, Cashier came to the office. Ravinder Sharma delivered the receipt book alongwith cash to him.

32. DW3 Ranjit Singh, Clerk, Office of State Transport Authority brought the summoned record i.e. Cash book and treasury challan dated 11.01.2010, 11.01.2010, 12.01.2010 and 13.01.2010 regarding deposit of cash with State Bank of India Treasury branch.

33. DW4 Sudhir Kumar, Sr. Assistant, Printing & Stationery Department, UT Chandigarh stated that he remained posted in the office of State Transport Authority, Sector 18 Chandigarh on deputation from August 2008 to March 2010 approximately. During that period there was a shed

adjoining the STA building and the payments and permits used to be taken from the public through window system. The officials used to sit in their office inside the building and the public used to be under the shed adjoining the building and make payment through the windows in the wall of the building. The general public was not allowed to enter the office or the building of the STA and had to approach the officials through windows only.

34. Ravinder Sharma has been acquitted of the charges under Sections 420, 467, 468, 471 read with 120-B IPC. He has only been convicted for the offence under Section 13(1)(c) of the Prevention of Corruption Act for having retained/ misappropriated the amount of Rs.24,530/- for a period of about three and half months i.e. from 11.1.2010 when it was received by him to 20.04.2010 when the amount was returned by him to PW4 D.R.Guleria.

35. The question is whether on the evidence on record the above offence is proved against the accused Ravinder Sharma ?

36. The receipt of Rs.25,000/- by him against receipt Ex.P-11/A has not been denied by Ravinder Sharma. His case is that the amount was handed over by him to Sushil Kumar cashier on 11.1.2010 itself who in turn returned it to PW4 D.R. Guleria on the spot. Whereas the case of the prosecution is that the amount was returned to DR Guleria on 20.04.2010 in the office of PCPL

37. As per PW4 Des Raj Guleria he visited the office of STA for getting the permit of the bus countersigned. There he met accused-Ravinder Sharma and paid him a sum of Rs.25,000/- as fee of countersigning the permit. Ravinder Sharma issued receipt No.61 book

No.1171 of Rs.25,000/- and delivered him photocopy of the same. Ravinder Sharma attached the original receipt of Rs.25,000/- alongwith original permit, photo copy of the RC and original letter issued by the DTO Patiala in favour of STA Chandigarh for countersigning. After 3-4 days he again visited office of STA Chandigarh and met Ravinder Sharma accused who told him that the permit was not ready. On 18.01.2010 he again visited the office of STA and Ravinder Sharma gave him the permit duly countersigned from the authority. On 9.4.2010 Ravinder Sharma - accused visited the PCPL office in Sector 35, Chandigarh and informed him that receipt of Rs.25,000/- was issued wrongly as the actual fee for countersigning the permit was Rs.470/-. Ravinder Sharma returned him Rs.24,500/- and stated that receipt of Rs.470/- will be given shortly. On 16.11.2010 accused Ravinder Sharma again visited the office alongwith two persons and handed over receipt No.48 book No.1173 of Rs.470/- to Mr. Vijay Kumar Sagar, Manager (Admn.) of the company.

38. He however categorically stated that neither he nor the company had lodged any complaint in this regard to Vigilance Office Chandigarh. He also did not identify the signatures on complaint Mark 'A' allegedly written by Punjab Chemical and Corporation Ltd. to Vigilance Office UT Chandigarh.

39. In cross examination he stated that when he went to the office of STA on 11.1.2010 Ravinder Sharma was sitting on his seat. He requested Ravinder Sharma to issue a receipt of Rs.25,000/-. He admitted that accused Ravinder Sharma never met him in his office.

40. The version of PW4 D.R.Guleria that it was only on 20.4.2010

that he became aware of the cancellation of the receipt Ex.P-11/A when accused Ravinder Sharma visted the office of PCPL to return the amount of Rs.24500/- is belied by the evidence of PW10 Promil Sharma, Senior Assistant office of STA, Chandigarh, PW6 Maninder Singh, Junior Assistant, Office of STA and DW2 Ashwani Kumar, Clerk, State Transport Authority.

41. PW10 Promil Sharma, Senior Assistant office of STA stated that the office of STA, Chandigarh maintained register of Commercial vehicles for Punjab State for making the entry as and when the request is received for signing the permit of the said vehicles. She stated that in register Ex.P15 the entry regarding vehicle No.PB-11Z-6698 had been made by her on 13.01.2010 at Sr.No.359 which is Ex.P15/A. She made the entry in the register on the same day when the file of the vehicle for counter signature was received. She also signed the permit.

42. In cross examination she stated that Sushil Kumar had reached the office just after Ravinder Sharma had issued the receipt. Ravinder Sharma immediately handed over the receipt to Sushil Kumar. The official of PCPL came to her just after taking the receipt. He brought along with him the letter of DTO, the original receipt of Rs.25,000/-, copy of RC and original permit. She checked the documents and informed him that the receipt got issued by him was for higher amount and that he was required to depost only Rs.470/-. Thereafter, he took his original documents and went away. He did not come to her again that day.

43. PW6 Maninder Singh, Junior Assistant, Office of STA in his cross examination stated that he was the dealing official for issuing permits

of trucks. All the officials of STA Chandigarh sit in a big hall on adjoining chairs. There was no partition in the hall. If for any reason some official is not present on his seat, other officials do his work as a time-gap arrangement. He stated he was present in the office when Des Raj Guleria had come there. Des Raj Guleria had got his receipt of Rs.25,000/- cancelled from cashier Sushil Kumar who returned the amount of Rs.25,000/- to Des Raj Guleria on the spot.

44. DW2 Ashwani Kumar, Clerk, State Transport Authority stated that he was working as Clerk in the office of STA, UT, Chandigarh on 11.01.2010. On that date, one person was creating hue and cry that the cashier was not available and he wanted to get the receipt for depositing the amount. He was approaching the other officials to help him. In the meanwhile, the officials told him to request Ravinder Sharma. On the request of that person Ravinder Sharma issued the receipt. The said person had asked to issue the receipt of Rs.25,000/-. The original receipt was taken by the said person from Ravinder Sharma. Meanwhile Sushil Kumar, Cashier came to the office. Ravinder Sharma delivered the receipt book alongwith cash to him.

45. PW3 Ravinder Chadha Vice President, Human Resource and Administration in the Office of Punjab Chemicals and Crop Protection who supported the version of PW4 D.R.Guleria that Ravinder Sharma -accused delivered a sum of Rs.24,500/- to D.R.Guleria on 9.4.2010 and that he handed over the receipt of Rs.470/- to Des Raj Guleria on 16.11.2010, admitted in his cross examination by counsel for accused Ravinder Sharma that he had not met the officials of STA personally when they had come to

return Rs.24,500/- and that he did not know anything about the visit of the STA officials as he had not met them personally. He also did not know as to whom they had met in the office. In view of this admission of PW3 Ravinder Chadha that he did not know anything about the visit of STA officials to the office of the Company, his evidence does not further the cause of the prosecution on the issue that accused Ravinder Sharma had gone to the office of STA on 20.4.2010 and handed over Rs. 24,530/- to PW 4 DR Guleria.

46. It is significant that both PW3 and PW4 categorically stated that no complaint was made by them to any authority in this regard. PW4 stated that he did not make any complaint even to his superiors. He even refused to identify the original complaint on the basis of which the inquiry was conducted which led to the registration of the case. If the amount had not been received by PW4 D.R. Guleria on the spot, then it is inexplicable why he would not make any complaint about its being retained by Ravinder Sharma, particualrly, when as per the evidence of PW10 Promil Sharma referred to above he had been informed that he had paid a higher amount and was liable to pay only Rs.470/-.

47. It is also significant that Vijay Kumar Sagar, Manager (Admn.) of the Company to whom the accused Ravinder Sharma is alleged to have handed over the receipt No.48 book No.1173 of Rs.470/ on 16.11.2010 in the office of PCPL has not been examined to endorse the version of PW 4.

48. PW11 Inspector Daleep Rattan Security Wing, Chandigarh who conducted the inquiry and investigation in cross examination by counsel for accused Ravinder Sharma admitted that PCPL did not complain about the

transaction in question in any manner even during the course of his inquiry and investigation. He admitted that the receipt of Rs.25,000/- received by Ravinder Sharma was duly issued and shown in the receipt book in proper manner. He also admitted that during the course of his inquiry/ investigation he did not get any complaint or representation filed by Sushil Kumar to any authority complaining that he did not receive sum of Rs.25,000/- from accused Ravinder Sharma.

49. Thus it has to be held that the prosecution has not been able to prove the case against appellant Ravinder Sharma. Accordingly, the appeal (CRA-S-5006-SB-2015) is allowed. The judgment and order dated 12.10.2015 are set aside qua appellant Ravinder Sharma. He is on bail. His bail bonds and surety bonds are discharged.

50. The Union Territory, Chandigarh has filed criminal appeal bearing No.CRA-AD-44-2016 against acquittal of accused Sushil Kumar. In view of the decision aforesaid there is no merit in the appeal bearing No.CRA-AD-44-2016 and the same is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

July 10, 2019
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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No