

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-149-2019
Date of Decision: 18.3.2019

State of Punjab

.....Applicant

Versus

Jaswinder Pal Singh

.....Respondent

**CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. H.S. Grewal, Additional AG, Punjab.

Harnaresh Singh Gill, J.

The State has filed the present application under Section 378(3) Cr.P.C. for grant of leave to appeal against the judgment dated 30.01.2018 passed by the Additional Sessions Judge, Faridkot.

Vide impugned judgment, the trial Court acquitted the respondent-accused of the charges under Sections 420, 465, 467, 468, 471 IPC and Section 13(1)(e) of the Prevention of Corruption Act, 1988.

According to the prosecution, on 2.7.2014, complainant Amarjit Singh moved an application to the SSP Faridkot, for taking action against the accused-respondent with the allegations that the accused-respondent had got a false FIR lodged against the complainant and his family members. While the accused-respondent was posted at Security Branch, Moga, he used to prepare forged passport, after declaring himself as

dead person and after declaring his (complainant's) daughter as widow, he would send his children to America along with his daughter on return ticket. Mehakmeet Kaur and Harmandeep Sandhu, both children of the accused-respondent, returned from America in the year 2009. The accused-respondent got admitted his daughter Mehakmeet Kaur and son Harmandeep Sandhu, after changing their mother's name from the School at Dabwali to Saint Marry School, Faridkot on 20.07.2009. Accused-respondent wrongly got entered the mother's name of the children as Mandeep Kaur, whereas their mother's name was Sarabjit Kaur. Accused-respondent, while being posted at Security Branch, Moga had earned lacs of rupees by preparing forged passports. The complainant had obtained record under the RTI Act, which disclosed that FIR Nos. 135, 138, 127, 133 and 53, were registered against the accused. Accused-respondent also purchased land measuring 56 kanals and 19 marlas in the name of his wife Sarabjit Kaur, where in the documents, the name of Mandeep Kaur was not mentioned as his wife. Accused-respondent had also purchased three plots in the name of his friend Goldy. Earlier, an FIR No. 134 was registered against the accused wherein he was called at CIA Staff, Faridkot. The complainant had handed over to the police the copies of jamabandi and forged papers, prepared by the accused-respondent. Upon this, the accused-respondent got FIR No. 204 dated 25.07.2009 registered against the complainant, his wife Balvir Kaur and their daughters Mandeep Kaur and Manpreet Kaur. Accused-respondent got prepared forged

passports in the names of Mehakmeet Kaur and Harmandeep Singh, wherein he had declared his daughter Mandeep Kaur as his wife Sarabjit Kaur. The accused-respondent had obtained birth certificates of his daughters from Municipal Corporation, Moga, under Registration Nos.717 and 1826, whereas an inquiry from the Municipal Corporation, revealed that the said registration numbers pertained to the birth certificates of Sirpa Agarwal, resident of Dharamkot and Balwinder Singh, resident of Moga, respectively. The accused-respondent sent his both children to America in the year 2008 on fake passports.

Having heard learned State counsel and on going through the impugned judgment of acquittal, this Court finds that despite having examined as many as 27 witnesses, the prosecution has failed to bring home the guilt of the accused. The learned trial Court framed the following four points for determination:-

1. Whether the prosecution has proved that the sanction for prosecution, is legal, correct and proper?
2. Whether the accused Jaswinder Pal Singh has cheated complainant by preparing forged documents for sending his son and daughter abroad?
3. Whether the accused forged birth certificates of his children purported to be a valuable security for the purpose of cheating?
4. Whether the accused being a government servant committed misconduct by abusing his position as a public servant and purchased property and cannot satisfactorily account of the pecuniary resources and

has committed an offence punishable under Section 13(1)(e) of Prevention of Corruption Act, 1988 and whether the prosecution has proved its case beyond reasonable doubt?

Under point No.1, after having examined the evidence, the learned trial Court held that the prosecution had failed to prove on file sanction as per Section 19 of the Prevention of Corruption Act, so as to launch a prosecution against the accused-respondent. Hence, in the absence of such sanction, the very proceedings had been held to be ab-initio void.

While recording its finding under point No.2, it was found by the learned trial Court, that admittedly, litigation inter-se parties i.e. the complainant on the one side and the accused-respondent on the other side, was pending. It was further found that the PW2-Amarjit Singh, complainant, had failed to produce the alleged fake passport(s) and birth certificate(s) before the Investigating Officer. PW-3 Khushwant Singh in his examination-in-chief stated that the accused had sent his children abroad after having prepared fake passports, but during his cross-examination, the said witness stated that he had heard about the same from the neighbours. Thus, the testimony of this witness was found to be a hearsay evidence. PW4-Ranjit Singh, had brought the record of the School and stated that as per the record, on 20.07.2009, accused-respondent came to their school along with his wife Sarabjit Kaur. They had given an affidavit to the School authorities

regarding the change of name of Sarabjit Kaur as Mandeep Kaur Sandhu, by carrying out publication of a notice in the newspapers "Indian Express" and 'Jagariti'. Thus, the testimony of this witness was found to be supporting the case of the defence.

DW1-Anil Kumar, Office Assistant, Regional Passport Office, Chandigarh, proved on record the applications of passports of Mehakmeet Kaur and Harmandeep Sandhu. However, it was found that as per Exhibits D.1 and D.2, these passports had not been applied by the accused-respondent.

As regards the allegations of having purchased the property by illegal means, various witnesses i.e. PW5-Bikkar Singh, Patwari, PW6-Baljinder Singh, Patwari, PW7-Jagmel Singh, Halqa Patwari, Faridkot, PW13-Darbara Singh, Patwari and PW18-Bhupinder Kaur, Patwari Halqa No.4, Faridkot, were examined. All these witnesses had produced the revenue record. It was found that the case of the prosecution is silent about the property, which the accused had possessed before the check period and the property which the accused-respondent had purchased during the check period. It was found that PW26-DSP Vishaljit Singh (Investigating Officer) had not deposed about the check period of the accused-respondent in which disproportion assets was acquired by him by illegal means. Still further, the said witness had nowhere stated as to what was the income and expenditure of the accused during the check period. PW8-SI Hira Singh in his cross-examination stated that the accused had taken loan of Rs.4,65,000/- from his department for

construction of house in the month of August, 2002. PW17-HC Avtar Singh, in his cross-examination categorically stated that the accused-respondent had obtained permission from the Department to purchase the land. Thus, it was found that the prosecution had failed to prove the guilt on the part of the accused by leading cogent and clinching evidence that the accused acquired the disproportionate assets by illegal means during his service. It was further found that the prosecution had failed to prove on record that the accused-respondent had dishonestly induced the complainant and family members and cheated them by preparing forged documents for sending his both children abroad with the daughter of complainant.

We find that the testimony of the prosecution witnesses did not advance the case of the prosecution in any manner to prove the guilt on the part of the accused-respondent. Sanction apart, the other material aspects were also not proved. The prosecution had failed to prove the alleged forgery and preparation of the false documents, inasmuch as, as would appear from the impugned judgment, no documentary proof in respect of the alleged forged documents, was led before the trial Court. Still further, the witnesses of the revenue authorities had proved on record purchase of the landed property by the accused-respondent, but after the permission taken from the Department and further after having raised the loan. All these facts led the learned trial Court to record the finding of acquittal by extending the accused-respondent benefit of doubt.

Unhesitatingly and unequivocally, we do not find any patent illegality or infirmity in the impugned judgment of acquittal, so as to warrant interference by this Court.

Consequently, the application seeking leave to appeal is dismissed. Leave to appeal is declined.

(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

18.03.2019
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No