

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

**CRM-A No.904-MA of 2012 (O&M)  
Decided on: 26.02.2020**

Central Bureau of Investigation

....Applicant/Appellant

Versus

Sarat Ram

....Respondent

**CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN**

**Present :** Mr. Sumeet Goel, Advocate  
for the applicant/appellant.

Mr. P.S. Ahluwalia, Advocate  
for the respondent.

**ARVIND SINGH SANGWAN, J. (Oral)**

Prayer in this appeal is for setting-aside the judgment of acquittal dated 23.12.2011 passed by the Special Judge, CBI Court, Chandigarh, vide which the respondent – Sarat Ram was acquitted of the charge framed against him under Sections 7, 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter to be referred as ‘the PC Act’).

Brief facts of the case are that FIR No.RCCHG2010A0003 dated 17.02.2010 under Sections 7 and 13(2) read with Section 13(1)(d) of the PC Act was registered against the respondent – Sarat Ram on the basis of a written complaint dated 17.02.2010 given by Jai Pal wherein it is alleged that the respondent – Sarat Ram Head Constable, was posted in Police Post, Sector 61, Chandigarh and he demanded bribe of

Rs.2,000/- from the complainant on 16.02.2010 for not implicating his son namely Anil Kumar in a matter of theft of a mobile phone. It is further stated in the complaint that HC Sarat Ram has given his mobile number to the complainant and directed him to make a phone call on 17.02.2010, after making arrangement of bribe so that he can inform the complainant about the time and place where the amount is to be paid. Thereafter, pre-trap proceedings were initiated. Jai Pal was asked to make a phone call to HC Sarat Ram, which he did by keeping his mobile phone on speaker mode in the presence of an independent witness and in the said conversation, the accused – Sarat Ram asked the complainant to pay Rs.2,000/- in the Police Post and accordingly, a trap was laid and HC Sarat Ram was caught red handed while accepting the bribe of Rs.2,000/-.

Thereafter, on presentation of challan, charges was framed against the accused/respondent – HC Sarat Ram on 07.09.2010 under Sections 7, 13(2) read with 13(1)(d) of the PC Act.

Thereafter, the trial Court recorded the prosecution evidence.

PW-1 HS Doon, SP (Security & Traffic), UT Chandigarh, who proved the sanction order dated Ex.PW1/1 granted under Section 19 of the Act.

PW2 – Sunil Kumar, Inspector, Office of Commissioner, Central Excise Commissionerate, Chandigarh-I, who was a shadow witness stated on the line of the prosecution about the trap proceedings.

PW3 – Inspector Ravish Kush, CBI, ACB, Chandigarh was the Trap Laying Officer and he has also deposed on the line of the

investigation conducted by him.

PW4 – Sunil Kumar, Inspector, Central Excise & Custom, Headquarter, Sector 17, Chandigarh, is also a witness of trap.

PW5 – Jai Pal is the complainant and this witness did not support the prosecution version and he was cross-examined by the Public Prosecutor of CBI regarding the demand and payment of bribe of Rs.2,000/- by HC Sarat Ram and recovery effected from which in which he did not support the prosecution version.

PW6 – Amit Kumar, Assistant Nodal Officer, Vodafone, Punjab Circle, Mohali proved the call details of Sarat Ram of his mobile No.9888376906 as Ex.PW6/1 to Ex.PW6/4.

PW7 – MC Joshi, Deputy GEQD, CFSL, Chandigarh, has given an opinion about the writing of the accused Sarat Ram as Ex.PW7/1 to Ex.PW7/3.

PW8 – SI Maninder Singh, Incharge PP, Sector 61, Chandigarh has submitted a photocopy of the challan in FIR No.19 dated 28.01.2010, Police Station Sector 36, Chandigarh, regarding the involvement of Amit @ Sunny and Sachin @ Patel.

PW9 – Pardeep Kumar, Sub-Inspector, OSI Branch, Police Headquarter, Sector 9, Chandigarh, proved the appointment/posting order of Sarat Ram as Ex.PW9/A and Ex.PW9/2. He also tendered on record the letter of SSP Srivastava, Chandigarh as Ex.PW9/3.

Some of the formal witnesses i.e. PW10 – HC Harbans Singh, PW11 – Inspector Anokh Singh, IRB (Admn.), Chandigarh Police, PW12 – Inspector Kuldeep Singh, CBI, ACB, Chandigarh and PW13 – Debo Chakrabarty, Nodal Officer, Bharti Airtel Limited, C-25,

Phase II, Industrial Area, Mohali, have produced on record the documents, which have come during the investigation of the case as well as the call details of the complainant – Jai Pal.

Thereafter, the statement of the accused was recorded under Section 313 of the Code of Criminal Procedure and the evidence, which has come against him, on record was put to him in which he pleaded his false involvement and has set up a defence that in March, 2008, he has issued a traffic challan to a CBI personnel namely Constable Jang Bahadur, when he was posted in Traffic Police. Upon this, Inspector M.K. Puri arrived at the scene and misbehaved with him and Incharge SPS Sondhi and threatened them to teach a lesson and involve them in a false case. On a complaint given by Inspector M.K. Puri, HC Sarat Ram was transferred from Traffic Police and this news was also covered in newspaper 'Dainik Bhaskar'.

The respondent – Sarat Ram in his defence examined DW1 – Vikas Sharma, Executive of the Dainik Bhaskar, who produced the news item Ex.DW1/1 and Ex.DW1/2.

DW2 – Constable Jasbir Singh, produced on record a request made by one Baljeet Singh regarding the information supplied by the department.

DW3 – Constable Dhanvir Singh produced on record the statement of Dr. Armandeep Singh, DSP, CBI as Ex.DW2/1-A.

DW4 – HC Surinder Kumar has proved that a challan book was issued to Sarat Ram and on 26.03.2008 Sarat Ram has issued a traffic challan to Jang Bahadur in Form No.46 of the challan book No.9504 as Ex.DW4/2.

DW5 – SI Hari Om, Incharge Police Post Sukhna Lake, Chandigarh stated that Sarat Ram was posted with him in Police Post in Sector 61 and he apprehended one accused in case of robbery on 28.01.2010 and when he reached at the spot, he found Amit @ Sunny and Constable Prem were present there. He proved on record the proceedings initiated in the said proceedings including the memo of arrest. He also stated that he had seen a person from CBI giving slap to Sarat Ram.

DW6 – Jatinder Singh, Nodal Officer, Bharti Airtel Limited, IT Park, Chandigarh proved on record certain information.

DW7 – Constable Satyawan produced on record certain information supplied under the RTI Act.

DW8 – Sanjeev Mahajan, Principal Correspondent, Dainik Bhaskar, Sector 25, Chandigarh also produced on record certain news articles.

DW9 – Constable Ajay Singh, tended on record the enquiry report as Ex.DW9/1.

DW10 – KIP Singh (Retired DSP, Chandigarh Police), who conducted an enquiry relating to a complaint of Constable Jang Bahadur, stated that in the enquiry he recorded the statement of Inspector M.K. Puri, the respondent – HC Sarat Ram, Constable Jang Bahadur and other police officials. DW11 – Tejinder Singh, Ahlmad of the Court of Additional Sessions Judge, Chandigarh has also produced on record the statement of Armandeep Singh.

The trial Court, thereafter, acquitted the respondent/accused – HC Sarat Ram by finding the defence version

more plausible wherein the respondent has proved that on account of issuance of a traffic challan to CBI personnel i.e. Constable Jang Bahadur, Inspector M.K. Puri, came at the spot and threatened him as well as Inspector SPS Sondhi of Chandigarh Police and on a complaint given by them, both of them were transferred from the Traffic Police line. The trial Court has also recorded a finding that it has come in the defence evidence that Inspector M.K. Puri gave a slap to the respondent – HC Sarat Ram and has further threatened him to involve him in some false case and as an outcome of the same, the respondent was involved in the present FIR. The trial Court, thus, has recorded the following finding:-

*“83. In order to show that the has been falsely implicated by CBI officials on account of previous grudge borned by CBI official for a wrangle with Inspector MK Puri, CBI on challan of Constable Jang Bahadur, CBI under Motor Vehicle Act by the accused. The accused examined DW-1, the official of Dainik Bhaskar, who tendered on record the news item dated 12.04.2008 Ex.DW-1/1 and Ex.DW-1/2 published in their daily newspaper namely ‘Chandigarh Bhaskar’. DW-8, the correspondent, who had prepared the news item Ex.DW-1/1 and Ex.DW-1/2 was also examined by the accused. He stated that he had prepared the said news item after having talked with all the concerned persons connected with the news item.*

*84. Perusal of Ex.DW-1/1 and Ex.DW-1/2 speaks about the incident of issuing the challan to Jang Bahadur, CBI constable by accused Sarat Ram under Motor Vehicle Act and arrival of Inspector MK Puri at the spot and issuing of the threats by him to SPS Sondhi, Inspector and accused Sarat Ram for implicating them in criminal cases*

*and also misbehaved with them. It also speaks of the transfer of SPS Sondhi from his post of a Traffic Inspector.*

*85. DW-4 has proved that accused was issued challan book. He also tendered on record the copy of the challan Ex.DW-4/2 issued by the accused in the name of Jang Bahadur for having failed to lower the beam of his motor cycle in Sector 30, Chandigarh on 09.03.2008.*

*86. DW-10 KIP Singh stated that he had conducted inquiry into the complaints of constable Jang Bahadur of CBI and SPS Sondhi, Inspector of Chandigarh Police Ex.DW-3-10/1 and Ex.DW-10/2 respectively and also recorded the statement of the witnesses and tendered the report Ex.DW-10/10. From the testimonial account of DW-10 and documentary evidence tendered by him, which has remained unopposed, it is made out that SPS Sondhi, Inspector Traffic, UT, Chandigarh on 10.03.2008, filed the complaint against Constable Jang Bahadur of CBI and Inspector MK Puri, CBI for misbehaving and for threatening him by booking him in a criminal case for having challaned Jang Bahadur under Motor Vehicle Act. The aforesaid evidence has also established that challan was issued by Sarat Ram, the accused, in the present case, and Inspector SPS Sondhi was Traffic Inspector of the area and Inspector MK Puri had come at the spot and had threatened accused Sarat Ram for having challaned his constable Jang Bahadur. When SPS Sondhi tried to pacify, he, too, was threatened by Inspector MK Puri. The evidence also shows that Jang Bahadur had also filed a complaint against SPS Sondhi alleging that he had misbehaved with him and got him challaned wrongly through Head Constable Sarat Ram, the accused, under Motor Vehicle Act. DW-10, after taking the statement of both the complainant, Inspector MK Puri, Traffic Marshall Suraj Parkash and others, observed that the*

*incident of issuing the challan of constable Jang Bahadur by Sarat Ram (the accused in the present case) under Motor Vehicle Act had taken place on 09.03.2008 at about 8:50 p.m. in Sector 30 Wine Shop, Chandigarh. He also observed that Sarat Ram correctly challned Constable Jang Bahadur by performing his duty. Constable Jang Bahdur, CBI, in order to save his skin, filed the complaint. DW-10 also relied upon statement of Traffic Marshall Suraj Parkash, who was present at the spot, and supported the allegation of issuing of the threat by CBI personnel to the traffic police for implicating them in criminal cases by putting their mobile under observation. DW-10 also observed that the traffic police personnel did their duties and did not misbehave with CBI personnel. DW-10 also gave the final observation that some exchange of uncomfortable words took place between CBI personnel and traffic police at the spot and also observed that heat generated at the spot cooled. He recommended no action against anyone. Thus, the statement of Traffic Marshall Suraj Parkash, as relied upon by DW-10, while giving his report Ex.DW-10/10, clearly shows that Inspector MK Puri had arrived at the spot and threatened the accused as well as SPS Sondhi for having challaned his constable. From the statement of DW-8 and news item Ex.DW-1/1 and Ex.DW-1/2, it is again made out that SPS Sondhi was transferred after the incident.*

*87. Here, in the present case, the conduct of the TLO had also not remained above board. He joined Inspector MK Puri in the trap team. Furthermore, he was asked to prepare the site plan by the TLO. Inspector MK Puri also used his car for taking the complainant etc. to the spot. It shows that he played pro-active role in the trap. PW-3, the TLO, on the contrary, when confronted with the fact of the episode of Jang Bahadur, filing of the*

*complaints by Inspector MK Puri and SPS Sondhi and transfer of SPS Sondhi thereafter, PW-3 pleaded ignorance. However, he admitted that there were 15-20 constables posted in CBI in the year 2008 (when the incident of challan of Jang Bahadur took place). It is highly improbable that the witness of the stature of PW-3 did not know that a complaint was filed by their official or that a complaint was filed against his colleague, and an inquiry was conducted in said regard. Furthermore, it is equally strange that MK Puri, Inspector was taken in the trap team constituted against the accused. He participated in the pre-trap proceedings and must have come to know about the identity of the accused against whom the trap was being contemplated. He did not bother to withdraw himself from the same. It is equally improbable that he had not disclosed the fact to the TLO or SP, CBI that complaint was filed against him regarding the episode, in which accused was main person involved. This material circumstance, rather, has gone a long way to cast doubt about the bona fides of the trap laid by CBI and conversely has gone long way to probablise the defence version that he has been falsely implicated, in the present case, on account of grudge entertained by CBI official against him, as he was one, who was left so far untouched, after the transfer of SPS Sondhi, after the said incident.*

88. *It has come in the statement of the accused that he was manhandled and slapped by Inspector MK Puri at the spot and Inspector MK Puri had claimed to him for having taught a lesson for challaning his official and also thrusting the money in his pocket. As far as the fact of slapping the accused by Inspector MK Puri is concerned, same is also stated by DW-5, whose presence is also stated at the spot by the accused and admitted by the complainant. Complainant, though, has not named any*

*official of CBI, but also stated that the official of CBI had slapped the accused. However, at the same time, he denied that Inspector MK Puri had thrust the notes into the pocket of the accused and that he wrongly stated of having put the notes in the pocket of the accused. DW-5 also admitted that DW-5 was made to raise his hands and not to interfere in the proceedings. This piece of evidence has probalised the defence version that Inspector MK Puri, slapped the accused. This action of Inspector MK Puri, thus, substantiated the version of the accused that he has been falsely implicated, in the present case, on account of previous episode that happened for challaning CBI Constable Jang Bahadur, wherein Inspector MK Puri had threatened them to involve them in criminal case. It has also come on record that accused did not run from the spot. None of the witness stated that accused did not cooperate with the CBI officials at the time of trap. So, there was no reason or occasion to slap the accused. This reflects that Inspector MK Puri was nursing the grudge against the accused. It, thereby substantiated the plea of the accused. Joining of Inspector MK Puri in trap proceedings, thus, has cast cloud about the genuineness of the trap and the entire subsequent proceedings.*

*89. Accused had taken the stand that Inspector MK Purti had thrust the notes in the pocket of his jacket, but no evidence has appeared on record to said respect. Contrary, complainant stated that he had put money in the pocket of the accused and denied the suggestion that same was put by Inspector MK Puri. Yet, this failure, on the part of the accused, to probalise his version, as such, cannot be taken as adverse to him; for this does not make the presence of the notes as culpable circumstance proving acceptance of the same on his part.*

*90. In the process, when complainant put the*

*treated notes in the pocket of jacket of the accused, despite his denial. Possibility of the notes coming in contact of the right hand of the accused cannot be ruled out. Yet, on the other hand, complainant/PW-5 again made contradictory statement as how the accused was nabbed by CBI officials. At one point of time, he stated that CBI official held the accused by putting their fingers in the fingers of the accused. But when was asked by learned PP in the cross-examination, PW-5 stated that the CBI official held the accused from his wrists and in a court question to clarify his both the statement, he again stated that accused was held from the wrists and in a confusion he deposed that he was held from the fingers. Furthermore, he also gave contradictory statement regarding p. powder. In examination-in-chief, he testified that p.powder was also taken to the spot by TLO in his investigating kit. In the cross-examination by learned PP, he changed his stand and stated that same was left in CBI office, but in next breath, he pleaded no-remeberance. On the other hand, other PWs stated p. powder was left in CBI office and accused was caught by wrists. Thus, a to and fro stand of the complainant, further being contradictory to the other PWs on the aforesaid facts, has again made the prosecution version doubtful regarding handling of treated currency notes by the accused willingly and consciously towards accepting them as bribe. It, thus, would not be prudent to read the evidence of the presence of p.powder on the right hand wash of the accused against him.*

*91. The complainant, in such cases, is a very material and significant witness of the prosecution. In fact, he is the one, who sets the wheel of the law into motion, on certain allegations against the accused constituting the commission of the offences under the law. His default is, certainly, a big jolt to the case of the prosecution and has*

*a ripple effect on the whole case of the prosecution. Here, in the present case, in an attempt to woo both the sides, the complainant oscillated his stand to his convenience; sometimes he spoke in favour of the accused and sometimes took the side of the prosecution. In this manner, he made himself unworthy of reliance as well as caused serious dent in the authenticity of the prosecution allegations against the accused. From his statement, it is made out that he purposely fudged his statement before the investigating agency as well as before this Court. He admitted that he made false allegations in the complaint against the accused. He intentionally did not speak the truth and made false statement before the court and fabricated the evidence. He needs to be prosecuted for the same.*

92. *Law is settled that when in corruption cases, the evidence of the prosecute is not clear and reliable and creates doubt, the doubt has to be resolved in favour of the accused as the order of the conviction on such tainted evidence would not only be unjust for a public servant but would also demoralize him and would affect the efficiency of public administration.*

93. *There is an order of learned CJM dated 18.02.2010 passed under Section 17 of the Act, whereby he permitted the SI to investigate the case in hand. Thus, the investigation conducted by Kuldeep Singh, SI (PW-12) has the backing of the law.*

94. *Law does not mandate that before prosecution is launched or trap is contemplated, preliminary inquiry has to be conducted. To have the preliminary inquiry is the personal satisfaction of the Investigating Officer.*

95. *In the present case, the accused admitted that currency notes were recovered from him, though he stated*

*that same were thrust by MK Puri in his jacket's pocket and on the other hand, complainant admitted that he put the same in the jacket of the accused. In these circumstances, non-offering of the personal search by the IO or PW-4, the recovery witness to the accused cannot be taken as fatal.*

96. *As upshot of my discussion made afore, it is held that prosecution failed to establish its case against the accused beyond the shadow of reasonable doubts by bringing clear, cogent and reliable evidence; namely (i) The complainant turned hostile and resiled from his statement. He did not support the fact of demand of bribe and acceptance of bribe by the accused. He failed to substantiate the basic ingredients of Section 7, 13(1)(d) of the Act; (ii) the evidence of the shadow witness (PW-2) became doubtful on the point of hearing the conversation between complainant and the accused and failed to prove the demand of bribe and acceptance of bribe by the accused from the complainant. Complainant stated he met accused alone. His version qua the spot of transaction also became doubtful; (iii) PW-4 recovery witness stated that he did not see the transaction between the accused and complainant, as the spot of the transaction was not visible to him. He shifted the spot of transaction. This made the version of TLO (PW-3) also doubtful; (iv) accused has been able to probabilise his defence version. The joining of Inspector MK Puri by the TLO in the trap made the proceedings doubtful.*

97. *The rulings, as relied by the prosecution, have, thus, not been able to advance the case of the prosecution, being distinguishable.*

98. *Resultantly, I extend the benefit of doubt to the accused and acquit him of the charges framed against him. His bail bonds stand discharged. All the un-exhibited*

*documents, except the case property, be returned to the concerned quarters against proper receipt. The case property be dealt, according to the rules. File be consigned to the record room*

*99. Before parting with the judgment, it is observed that it is a fit case, where in the larger interest of justice, complainant Jai Pal, PW-5, needs to be dealt under Section 344 Cr.P.C. Let, notice be issued to him.”*

Counsel for the appellant has argued that though the complainant has not supported the prosecution version and was declared hostile, however, the shadow witness has proved the case against the respondent. Counsel for the appellant has further submitted that the trial Court has failed to maintain an equilibrium between the prosecution version and the defence version by giving more weightage to the defence version as the prosecution has proved that there was a demand of bribe by the respondent – HC Sarat Ram, which was met by the complainant – Jai Pal and the pre-trap proceedings were initiated and thereafter, a trap was laid in which, the respondent – HC Sarat Ram was caught red handed.

In reply, counsel for the respondent has argued that the trial Court has recorded a well-reasoned finding based on the statement of the defence evidence wherein, when an incident of issuing traffic challan to Constable Jang Bahadur, CBI personnel, by HC Sarat Ram of Traffic Police, Chandigarh has occurred. The issue was taken up by another CBI personnel i.e. Inspector M.K. Puri, who came at the spot and threatened the respondent – HC Sarat Ram as well as Inspector SPS Sondhi and even gave a slap to the respondent – HC Sarat Ram.

Counsel for the respondent has further argued that it has

come on record that Inspector M.K. Puri has given threats to the respondent – HC Sarat Ram that he will be involved in some false case and both of them were transferred from the Traffic Police line. It is further argued that as per the order of the Court, an enquiry was duly conducted by DW10 – KIP Singh, in which it was found that HC Sarat Ram has issued a traffic challan for violation of the Motor Vehicles Act against Constable Jang Bahadur of CBI.

Counsel for the respondent has also submitted that the entire proceedings against the respondent – HC Sarat Ram were *mala fide* and with an intention to involve him in a false case by putting pressure on the complainant, who later on, did not support the prosecution version. It is, lastly, argued by counsel for the respondent that it is well settled principle of law as it has been held by the Hon'ble Supreme Court that a judgment of acquittal should not be set-aside unless there is a patent illegality or perversity in total misreading of the prosecution evidence and therefore, the appeal be dismissed.

After hearing the counsel for the parties, I find no merit in the present appeal. The trial Court has recorded a categorical finding that the complainant has not supported the prosecution version. On a previous occasion, the accused HC Sarat Ram while posted in Traffic Police Line has issued a traffic challan to Constable Jang Bahadur, who has called Inspector M.K. Puri of CBI at the spot and he has threatened the accused – HC Sarat Ram and his senior officer i.e. Inspector SPS Sondhi and later on, they were transferred. The trial Court has also recorded a finding that an enquiry was conducted with regard to the said incident by DW10 – K.I. Singh and the factum of issuance of

traffic challan was proved. It has also come on record that the said Inspector M.K. Puri, remain associated with the investigation of the present case, which raised suspicion about the authenticity of the prosecution evidence.

Accordingly, finding no illegality or perversity in the judgment of acquittal dated 23.12.2011 passed by the Special Judge, CBI Court, Chandigarh, the present appeal is hereby dismissed.

26.02.2020

yakub

(ARVIND SINGH SANGWAN)  
JUDGE

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