

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRA-S-1478-SB-2007 (O&M)

Date of decision : September 26th, 2022

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State of Punjab

.....Appellant

vs.

Pargat Singh

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Argued by: Mr. G.S. Dhillon, Assistant Advocate General,
Punjab - for the appellant.

Mr. Gaurav Kalsi, Advocate for the respondent.

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H. S. Madaan, J.

1. Accused – Pargat Singh son of Suba Singh, aged 61 years, an agriculturist, resident of village Bhagwanpura, Tehsil Patti, District Amritsar, faced trial by Chief Judicial Magistrate, Amritsar, in case FIR No. 56 dated 13.10.2000, for an offence under Section 420 IPC, registered at Police Station Vigilance Bureau, Jalandhar. However, vide judgment dated 21.3.2006, he was acquitted of the charge framed against him.

2. Briefly stated, facts of the case, as per the prosecution story are that, Pargat Singh, an accused in this case had lodged FIR No. 8 dated 23.1.1998, for offences under Sections 7, 13 (2) of the Prevention of Corruption Act, at Police Station Vigilance Bureau, Jalandhar, against one Kulwant Singh, Junior Engineer (JE) of Punjab State Electricity Board, for allegedly demanding and receiving illegal gratification of Rs.1,000/- from him. For the reason of getting a corrupt public servant trapped, Pargat Singh had received a reward of Rs.25,000/- from Government of Punjab.

3. However, when trial against Kulwant Singh, JE in FIR No. 8 dated 23.1.1998, proceeded and statement of complainant Pargat Singh was recorded, he did not support the prosecution case and resiled from the statement made by him earlier to the police on the basis of which FIR No. 8 dated 23.1.1998, had been recorded. Resultantly, Kulwant Singh, JE, was acquitted, after completion of the trial. As such FIR No. 56 dated 13.10.2000 was registered against Pargat Singh, for cheating the State Government by dishonestly receiving an amount of Rs.25,000/- from it. After registration of the FIR, the accused was arrested in this case.

4. After completion of the investigation and other formalities, challan against the accused was prepared and filed in the Court.

5. On presentation of the challan in the Court, copies of documents relied upon therein, were supplied to the accused free of costs as provided under Section 207 Cr.P.C. Then finding a prima

facie case, charge for offence under Section 420 IPC was framed against the accused, to which he pleaded not guilty and claimed trial.

6. During the course of prosecution evidence, the prosecution examined the following witnesses:-

PW-1 Gurmej Singh, DSP (Vigilance), proved copy of statement made by Pargat Singh to the Police as Exhibit PA, on the basis of which FIR No. 8 dated 23.1.1998, had been registered against Kulwant Singh, JE. This witness further proved his endorsement on such statement by Pargat Singh as Exhibit PA/1; copy of FIR registered in that case as Exhibit PA/2 and photocopies of various memos. This witness had stated that on the basis of FIR lodged by the present accused – Pargat Singh against Kulwant Singh, a raid was conducted; Kulwant Singh was arrested; bribe amount of Rs.1,000/- was recovered from him and he was challaned.

PW-2 Ranbir Singh, DSP, who had carried out the investigation in this case, had got his examination-in-chief recorded in part on 16.9.2003 and his remaining examination-in-chief was deferred. Subsequently, he did not appear for getting his remaining statement recorded.

PW-3 SI Partap Singh, had brought the summoned record stating that a draft of Rs.25,000/- had been handed over to Pargat Singh in presence of DSP Vigilance. He proved photocopy of receipt as Exhibit PW 3/A.

PW-4 ASI Kamalpreet Singh, stated that on 13.10.2000, while he was posted in Vigilance Bureau, Punjab at Amritsar, on that

day HC Jhirmal Singh, had produced the file of FIR No. 8 dated 23.1.1998, under Section 7, 13(2) of the Prevention of Corruption Act, against Kulwant Singh, alongwith decision of the Court, before DSP Ranbir Singh, which had been taken into possession vide recovery memo Exhibit PW 4/A. On the same day, HC Partap Singh had produced a photocopy of the receipt Exhibit PW 2/A before DSP Ranbir Singh, which was taken into possession vide recovery memo Exhibit PW 4/B . He further stated that on 19.10.2000 Sh. S.D. Bhatia, Manager of Punjab National Bank, Algon Kothi, produced bank account opening form of Pargat Singh, bank account statement and voucher and the same were taken into possession vide recovery memo Exhibit PW 4/C. He proved account opening form as Exhibit PW 4/D; accounts statement as Exhibit PW 4/E and voucher as Exhibit PW 4/F.

PW-4 Ajay Kumar, (wrongly numbered) Ahlmad of the Court of Sh. Daljit Singh Ralhan, JMIC Amritsar, proved on record certified copy of judgment Exhibit PW 4/1, certified copy of statement of Pargat Singh Exhibit PW 4/2.

As the prosecution, failed to conclude its evidence despite availing of several opportunities, the same was closed by order of the Court.

7. Statements of the accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against the accused in the prosecution evidence, were put to him, but he denied the allegations contending that he was innocent and had been falsely involved in this case. Accused did not lead any evidence

in defence.

8. After hearing the arguments, the trial Court, vide impugned judgment dated 21.3.2006, had acquitted the accused of the charge framed against him.

9. Feeling aggrieved by the judgment of acquittal, the State of Punjab had approached this Court by way of filing an application under Section 378 (3) Cr.P.C., seeking permission to file an appeal, which was taken up by a Division Bench of this Court and vide order dated 19.10.2006, notice of motion was issued to the respondent to show cause as to how leave to appeal be not granted. The respondent-accused had put in appearance through counsel.

10. Subsequently, the case was put up before the Single Bench and vide order dated 24.7.2007, the application was accepted and leave sought for, was granted to the State of Punjab to file the appeal. The main appeal was admitted. Now it has matured for final hearing.

11. I have heard, learned State counsel for Punjab, learned counsel for the respondent, besides going through the record.

12. A perusal of the impugned judgment goes to show that the factors which weighed on the mind of the court in returning the verdict of acquittal, were as follows :-

- (i) No credible evidence could be produced by the prosecution to prove that the accused had given any false statement , in as much as, any such statement of accused was proved on file. Therefore, it could not

be said that the accused had resiled from his earlier statement. PW-1 Sh. Gurmej Singh, DSP Vigilance, in his cross examination had stated that he has not seen the original statement of accused Pargat Singh and in his cross examination he admitted that Exhibit PA was photocopy of statement of accused Pargat Singh. This witness had further conceded in his cross examination that Pargat Singh had not made any statement before him. Under the circumstances, the essential ingredients of Section 420 IPC, are not proved.

(ii) PW-2 Ranbir Singh, DSP, whose examination-in-chief had been recorded in part, did not appear in the Court subsequently, for completion of his statement. Under the circumstances, the accused was seriously prejudiced, in as much as, he could not get any chance to test the veracity of the statement of the witness by way of his cross examination. Therefore, testimony of this witness could not be taken into consideration. Resultantly, a serious blow was dealt to the prosecution case.

(iii) No cogent and convincing evidence was there that the accused had in fact received a sum of Rs.25,000/- as award money for getting the FIR registered against Kulwant Singh, JE, under the Prevention of Corruption Act. Though, PW-3 SI

Partap Singh, was examined by the prosecution in that regard, but his cross-examination had been deferred and he did not appear in the Court to face cross-examination. Therefore, his statement is incomplete and could not be taken into consideration.

(iv) The material documents placed on record by the prosecution were in the form of photostat copies, which were not sufficient to prove on record the allegations against the accused.

13. After considering the rival contentions by learned State counsel and learned counsel for the respondent, I do not find any reason to set aside the impugned judgment. The trial Court has given detailed reasons for coming to the conclusion that guilt of the accused was not established on record. The judgment can certainly be not termed as perverse or result of erroneous or arbitrary approach. The law is well settled that judgment of acquittal should not be interfered merely for the reason that another view in the matter is possible. It can certainly be not said that the impugned judgment has resulted in grave miscarriage of justice or the same is manifestly unjust and unreasonable. There is nothing to show that the trial Court has misread the evidence or wrongly interpreted the law in the process arriving at a wrong conclusion. Therefore, no reason is found to be there for upsetting the impugned judgment by way of acceptance of appeal.

14. The appeal is found to be without any merit and the same stands dismissed.

September 26th, 2022
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(H.S. Madaan)
Judge

Whether speaking / reasoned

Yes / No

Whether reportable

Yes / No