

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

CRA-S-1526-SB of 2005

Date of Decision: 6th December, 2022

Parkash Chand

Appellant

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Karminder Singh and Mr. Prabhsher Singh Walia,
Advocates for the appellant.
Mr. Arun Luthra, DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. Aggrieved of conviction in FIR No.44 dated 11.6.1998, under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 (for short, 'the Act'), Parkash Chand (appellant) is in appeal.
2. The facts as set up by the prosecution are that on complaint of Om Parkash, a Press Reporter, FIR was registered. On 27.10.1997, he filed an application in M.A. Branch of the office of Deputy Commissioner, Ferozepur for the title of the newspaper. The appellant had to complete the formalities and forward the application with his recommendations. On 9.6.1998, the appellant demanded bribe of Rs.1,000/- for doing the needful, the deal was struck for Rs.500/- and the complainant was told to come on 11.6.1998. On complaint, a trap was laid. Five currency notes of the denomination of Rs.100/- each were laced with Phenolphthalein Powder. Mahesh Kumar was the shadow witness and Sudhish Kumar, Junior Engineer the official witness. After giving instructions to the shadow

witness and the complainant, raiding party reached the office of the appellant. The complainant and the shadow witness went towards the office while the remaining members of the raiding party were standing at a distance waiting for the signal from the shadow witness. The appellant enquired about the bribe, the complainant answered in affirmative and handed over the laced currency which was kept in the front pocket of the shirt by the appellant. On signal from the shadow witness, the raiding party apprehended the appellant. In hand wash test, colour of Sodium Carbonate solution turned pink and the tainted amount was recovered from the front pocket of the shirt of the appellant. On washing of the pocket of the shirt with Sodium Carbonate solution, the colour turned pink.

3. The prosecution to prove its case examined seven witnesses.

4. In statement under Section 313 Cr.P.C., the appellant claimed innocence. It was stated that he had no connection with the issuance of title of newspaper and it was duty of Parkash Singh Miscellaneous Clerk-I. The complainant forcibly tried to thrust the notes in his pocket and when he resisted, the notes fell down on the ground and in the meantime, Vigilance staff came and implicated him in a false case.

5. The trial court considered that the complainant, shadow witness and the official witness have supported the prosecution story to prove the demand and acceptance. It was noted that in hand wash test, the colour of solution turned pink. The appellant was convicted under Sections 7 and 13(2) of the Act vide judgment dated 17.8.2005 and vide order of even date was sentenced as under:

thereafter, the hands of Parkash Chand were dipped in that water and the colour of that water turned pink.

xx

xx

xx

Thereafter, the currency notes were taken from the pocket of the accused. The serial numbers of the currency notes tallied with their serial numbers mentioned in the memo Ex.P2.

xx

xx

xx

However, when the pocket was washed in that water, its colour again changed to pink.”

Testimony of PW5-Mahesh Kumar shadow witness

I alongwith Om Parkash had gone to the office of accused. Accused was present in the office. Accused present in court enquired about money from Om Parkash. Then Om Parkash had handed over marked currency notes to accused and currency notes were kept by the accused in the left pocket of his shirt.

xx

xx

xx

Then accused was directed to wash his hands in the same water, then colour of water was changed to light pink.

xx

xx

xx

After that shirt of the accused was got removed and portion of the pocket was washed in glass of water summoned again to which powder was added. Colour of water had change and the coloured water was transferred in a nip..

xx

xx

xx

Number of the notes were tallied with the numbers already noted by the DSP and the currency notes were taken into possession vide memo Ex.P4..”

10. The recovery of tainted currency from the appellant is not in dispute. It was duly substantiated by the deposition of the complainant, shadow witness, official witness and the Investigating Officer. Though in statement under Section 313 Cr.P.C., it was stated that the complainant

forcibly tried to give the amount and on resistance the notes fell down. From the testimonies of the prosecution witnesses and the exhibits, the prosecution has proved that the tainted currency notes were recovered from the pocket of the shirt of the appellant. There is no challenge to the fact that on washing the hands and pocket of the shirt of the appellant with Sodium Carbonate solution, the colour turned pink. In other words, demand, acceptance and recovery of the amount has been duly proved.

11. Now adverting to the contention raised that it was a case of false implication and the appellant was not having the official capacity to deal with the title of the newspaper lacks merit. Reliance placed on duty list Ex. D4 is of no help. The exhibited document is neither numbered nor dated. It is not forthcoming from the document as to when this working roster was implemented.

12. There is another aspect to be considered that the Investigating Officer took into possession the file of the complainant for the title of newspaper containing nineteen leaves and other file containing two leaves which were lying on the table of the appellant.

13. The contention raised needs to be dealt with from another angle that no explanation was put forth by the appellant explaining the possession of tainted currency. In the absence of challenge to the demand, acceptance and recovery of bribe, the presumption under Section 20 of the Act for the purpose of Section 7 of the Act is to be drawn against the appellant. The presumption under Section 20 of the Act is rebuttable but no explanation was given by the appellant for rebutting it.

14. The prosecution successfully proved demand, acceptance and

recovery and in the absence of rebuttal to presumption invoked under Section 20 of the Act, the conviction and sentence of the appellant is upheld.

15. The appeal is dismissed.

[AVNEESH JHINGAN]
JUDGE

6th December, 2022
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |