IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-1598-MA-2017 (O&M)
Date of Decision: 13th December, 2022

State of Haryana

Applicant

Versus

Inder Ram

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gurmeet Singh, AAG, Haryana.
Mr. Samrat Malik, Advocate for the respondent.

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AVNEESH JHINGAN, J (Oral):

1. This is an application for grant of leave to appeal against the judgement acquitting Inder Ram (respondent) in FIR No. 10 dated 4.12.2014, under Sections 7, 13(2) read with Section 13(1)(d) and 1 and 2 of the Prevention of Corruption Act, 1988 (for short, 'the Act'), registered at Police Station Vigilance Bureau, Ambala.

2. The facts as set up by the prosecution are that on 4.12.2014, Darshan Singh approached the police officials alleging that the respondent had demanded illegal gratification of Rs.15,000/- for submitting the report with regard to completion certificate to be issued to the complainant for his godown. The complainant filed an application on 17.1.2014 for issuance of completion certificate. The respondent in his report had pointed out defects

and same were to be removed. It was stated that the respondent built up pressure on the complainant to pay Rs.15,000/-, otherwise his file would not be sent to the head office. On the basis of the complaint, trap was laid, fifteen currency notes of the denomination of Rs.1,000/- each were laced with Phenolphthalein Powder. Roshan Lal-Tehsildar was appointed as Duty Magistrate and his Reader-Mahi Pal as the shadow witness. The raiding party after instructing the complainant and the shadow witness reached Padma Mall. On a signal received from the shadow witness, the respondent was apprehended and laced currency notes were recovered from the pocket of his pant. On washing hand and pocket of the pant of the respondent, the colour of Sodium Carbonate solution turned pink.

3. The prosecution to support its case examined fifteen witnesses.

4. In statement under Section 313 Cr.P.C., the respondent pleaded false implication and denied recovery.

5. During his deposition, the complainant turned hostile. The trial court doubted the version of the shadow witness. It was considered that the respondent had already submitted the report and forwarded the file, there was no occasion for him to demand illegal gratification. The respondent was acquitted vide judgment dated 28.2.2017.

6. Learned counsel for the State submits that the trial court erred in acquitting the respondent in spite of the fact that tainted currency was recovered from him and there was no explanation put forth for possessing the laced currency.

7. Mr. Samrat Malik, Advocate appears on behalf of the respondent and defends the impugned judgment. He submits that it was a

case of false implication, the respondent was targeted as he had given report against the complainant. He further submits that the shadow witness was Reader of the Officer who was appointed as Duty Magistrate hence, he was an interested witness.

8. Heard learned counsel for the parties and perused the record.

9. The scope of interference in judgment of acquittal is well settled. Reference can be made to the judgment of Supreme Court in **Mrinal Das and others v. The State of Tripura, 2011 (9) SCC 479** and judgment of Division Bench of this Court in **State of Punjab v. Hansa Singh, 2001(1) RCR (Criminal) 775.**

10. Complainant-Darshan Singh turned hostile and stated that Vigilance Inspector completed the formalities by obtaining his signatures on blank papers. PW7-Mehar Singh, Clerk in the office of District Town Planner stated that the respondent had submitted his report on 3.12.2014 and this report was signed by DTP and sent to STP, Panchkula on the same day. He further stated that there was nothing left with the respondent to demand illegal gratification. The trial court doubted the version put forth by shadow witness PW1-Mahi Pal. It was noted that he was standing at a distance of 40-45 paces from the shop where the complainant was present in a Mall and as such could not have heard the conversation between the complainant and the respondent. It was further taken into account that the raid was conducted in a Mall yet none was joined as an independent witness. Moreover the CCTV footage of the mall was not produced by the prosecution to support its case.

11. The contention raised by learned counsel for the State lacks

merit. The presumption under Section 20 of the Act has to be invoked once demand of illegal gratification is proved. Reference can be made to the decision of the Supreme Court in **N. Sunkanna v. State of Andhra Pradesh, 2015(4) RCR (Criminal) 797.** It would not be out of place to mention that presumption under Section 20 of the Act cannot be drawn under Section 13(1)(d) of the Act.

12. In the facts of the present case, as presumption under Section 20 of the Act could not be invoked and there was no occasion for the respondent to rebut the presumption.

13. It is settled that for conviction under Section 7 of the Act for proving demand and acceptance is *sine qua non*. There is no dispute on the proposition that mere recovery of the tainted currency from the accused will not prove the acceptance of demand especially when the prosecution failed to prove demand and acceptance.

14. There is no factual or legal error, much less perversity, in the impugned judgment. The view taken by the trial court is plausible one. No case is made out for interference in the judgment of acquittal.

15. The application for grant of leave to appeal is dismissed.

[AVNEESH JHINGAN]
JUDGE

13th December, 2022
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1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No