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

**CRM-A-1014-MA-2015 (O&M)
Date of Decision: 5th December, 2022**

State of Punjab

Applicant

Versus

Ram Niwas

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Madhur Sharma, Advocate for the applicant.

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AVNEESH JHINGAN, J (Oral):

1. This is an application for grant of leave to appeal against the judgment acquitting Ram Niwas (respondent) in FIR no. 7 dated 22.7.2011, under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 registered at Police Station Vigilance Bureau, Ludhiana.

2. The facts as set up by the prosecution are that on 21.7.2011, the respondent posted as Chief Manager, Punjab National Bank, G.T. Road, Khanna demanded illegal gratification of Rs.1,50,000/- from Baldev Singh. The loan of Rs.1,35,00,000/- was sanctioned to the complainant, Rs.64,00,000/- was released and for disbursing the remaining amount the deal was struck for Rs.1,00,000/- which was to be paid in two installments. On 22.7.2011, the complainant was asked to reach the house of the respondent with a sum of Rs.50,000/-. On complaint, trap was laid, fifty currency notes of the denomination of Rs.1,000/- each were laced with

Phenolphthalein Powder. Nirmal Singh ADO and Ashok Kumar Senior Planning Draftsman were official witnesses and Shingara Singh, who accompanied the complainant to the Vigilance Bureau was made the shadow witness. After giving instructions, the shadow witness and the complainant were sent to the house of the respondent and raiding party waited outside the house. On signal from shadow witness the raiding party went in and on demand by the Deputy Superintendent of Police (DSP), the respondent produced the laced currency which were kept underneath the sofa. In hand wash test of the respondent, colour of the solution turned pink.

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

4. In statement under Section 313 Cr.P.C., the respondent stated it to be the case of false implication.

5. The trial court considering that the prosecution failed to prove demand and there were variations in the depositions of the prosecution witnesses, acquitted the respondent vide judgment dated 21.2.2015.

6. Learned counsel for the State submits that the trial court erred in acquitting the respondent. He further submits that the variations in the statements of the prosecution witnesses were minor.

7. Heard learned counsel for the State and perused the record.

8. The scope of interference in case of acquittal is well settled.

9. In **Mrinal Das & others v. The State of Tripura, 2011 (9) Supreme Court Cases 479**, the Supreme Court after considering various judgments laid down parameters, in which interference can be made in a judgment of acquittal, by observing as under:

> *"8) It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate court, being the final court of fact, is fully competent to reappreciate, reconsider and review the evidence and take its own decision. In other words, law does not prescribe any limitation, restriction or condition on exercise of such power and the appellate court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person is presumed to be innocent unless he is proved guilty by the competent court. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the findings of acquittal. There is no limitation on the part of the appellate court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate court can also review the conclusion arrived at by the trial Court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the State, it is the duty of the appellate court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal is to be interfered with only when there are "compelling and substantial reasons", for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference. When the trial Court has ignored the evidence or misread the material evidence or has ignored material documents like dying declaration/report of ballistic experts etc., the appellate court is competent to reverse the decision of the trial Court depending on the materials placed."*

10. A Division Bench of this Court in **State of Punjab v. Hansa**

Singh, 2001 (1) RCR (Criminal) 775, while dealing with an appeal against acquittal, has opined:

> *"We are of the opinion that the matter would have to be examined in the light of the observations of the Hon'ble Supreme Court in Ashok Kumar v. State of Rajasthan, 1991(1) SCC 166, which are that interference in an appeal against acquittal would be called for only if the judgment under appeal were perverse or based on a mis-reading of the evidence and merely because the appellate Court was inclined to take a different view, could not be a reason calling for interference."*

11. PW1- Baldev Singh in his cross-examination admitted that he had defaulted payment qua the interest amount of Rs.58,000/-. The default amount was not paid till the date of deposition. The allegations were that the demand of bribe was made on 21.7.2011. As per the complainant, he went to the house of the respondent at 6.30 PM when the demand was made. The testimony of the complainant was at variance with the depositions of Vinod Kumar PW-5 who stated that the respondent was present in the bank in a meeting held under the Chairmanship of Senior Manager, Representative Circle Office, Ludhiana and meeting continued till 8.30 PM. Further, PW2-Shingara Singh (shadow witness) deposed that the complainant met the respondent in the after-noon. It was concluded by the trial court that the prosecution failed to prove the demand of bribe.

12. The variations in the statements of the prosecution witnesses with regard to place of recovery of the laced currency was also taken into account. Official witness PW4-Nirmal Singh stated that recovery was effected underneath the sofa, whereas as per PW7-Gurcharan Singh Investigating Officer, recovery was made from the side of the sofa. The

credentials of the official witness was doubted as he was a stock witness. Further, as per him he received a telephonic call at 6.45 AM on 22.7.2011 whereas according to the complainant and the shadow witness, they reached the office of the Vigilance Bureau at 7.00/7.15 AM. Further the landlord of the respondent was present at the spot, he was neither joined for conducting the raid nor his signatures were obtained on the memo. The story of the prosecution was found to be doubtful

13. No case is made out for factual or legal error, much less perversity in the impugned judgment. The view taken by the trial court is plausible one.

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

[AVNEESH JHINGAN]
JUDGE

5th December, 2022
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1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No