

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-A-2477-MA-2018 (O&M)
Date of Decision: 15th December, 2022

State of Punjab

Applicant

Versus

Rajinder Singh

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Arun Luthra, DAG, Punjab.
Mr. R. S. Sidhu, Advocate for the respondent.

AVNEESH JHINGAN, J (Oral):

1. This is an application for grant of leave to appeal against the judgement acquitting Rajinder Singh (respondent) in FIR No. 23 dated 19.9.2016, under Sections 7, 13(2) of the Prevention of Corruption Act, 1988 registered at Police Station Vigilance Bureau, Patiala
2. The facts as put forth by the prosecution are that Alwinder Singh got recorded a statement alleging demand of illegal gratification by the respondent posted as Junior Engineer (JE) in Punjab State Power Corporation Ltd. Demand of Rs.12,000/- was made for release of transformer and other articles for giving the tubewell connection in the name of father of complainant. The deal was struck for Rs.7,000/- and Rs.2000/- was paid, remaining Rs.5,000/- was to be paid on 19.9.2016. On the complaint, trap was laid, ten currency notes of the denomination of Rs.500/- each were laced with Phenolphthalein Powder. Gurinderpal Singh was the shadow witness. Rajinder Singh and Jaskanwal Singh were

appointed as official witnesses. After instructing the complainant and the shadow witness, the raiding party reached the office of the respondent. On signal from the shadow witness the respondent was apprehended. On demand by the Superintendent of Police, the respondent handed over the laced currency notes from the file lying on his table. In hand wash test, the colour of Sodium Carbonate solution turned pink.

3. The prosecution to support its case examined eleven witnesses.
4. In statement under Section 313 Cr.P.C., the respondent pleaded false implication.
5. In defence, the respondent examined three witnesses.
6. The trial court came to the conclusion that the prosecution failed to prove its case beyond reasonable doubt and acquitted the respondent vide judgment dated 25.7.2018.
7. Learned counsel for the State submits that the trial court erred in acquitting the respondent. The contention is that the prosecution witnesses had supported the case. He further submits that laced currency notes were recovered from the file lying on his table.
8. Mr. R. S. Sidhu, Advocate appears on behalf of the respondent. He defends the impugned judgment.
9. Heard learned counsel for the parties.
10. 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.

11. The trial court considering the facts and appreciating the evidence threadbare analysed the issues from three angles. Firstly, as to whether on 15.9.2016 the deal was struck between the complainant and the respondent for Rs.7,000/- and Rs.2,000/- was paid to the respondent; secondly whether the tainted currency recovered from the respondent was the illegal gratification and lastly whether the prosecution was able to prove the guilt?

12. From evidence adduced it revealed that electricity connection of the father of the complainant was to be released from Chairman quota. The respondent had issued release order dated 28.9.2016 to the store and the material was partly released. The transformers were being issued on the basis of seniority and as per the turn, the transformer was to be released to the father of the complainant on 8.10.2016. Further that high tension wires were to be drawn by the consumer by using his own labour but the needful was not done by the father of the complainant.

13. The defence taken by the respondent that the complainant was nursing grudge against him was found probable as the complainant in his deposition admitted that the respondent inspected the spot prior to 19.9.2016 raised objection that neither there was room for the motor nor a bore in the field.

15. As per the case of prosecution, a videography of the trap proceedings was done. The stand was found contrary to the depositions of the complainant, shadow witness and DW3-Head Constable Paramjit Singh. Other aspect considered was that the videography was not produced during the trial.

16. Dent was found in the story of prosecution as at the time of recovery of laced currency from the file, Joginder Singh Consumer Clerk was present at the spot but his statement was not recorded. PW2-Constable Chamkaur Singh in his testimony stated that the raiding party reached the spot at 1.45 PM and directly entered the room. The said statement was in contradiction to the case set up by the prosecution that the raiding party entered the room on receiving signal from the shadow witness. The shadow witness faltered in his cross-examination and stated that no demand was ever raised by the respondent in his presence.

17. To substantiate the hand wash test, Sodium Carbonate solution was sealed in three nips and a cotton swab was used at the time of recovery. Only two nips were sent for chemical examination, neither the cotton swab nor the third nip was sent.

18. To prove the allegation that delay was caused by the respondent in release of the transformer, Hardidar Singh, Additional Superintending Engineer was examined. He simply stated that connection was issued as per the application of the consumer.

19. 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.

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

[AVNEESH JHINGAN]
JUDGE

15th December, 2022
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1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No