

210 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-1295-MA-2015

Date of Decision: 2nd September, 2022

State of Haryana

... Applicant

Versus

Munshi Ram

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Gurmeet Singh, Assistant Advocate General, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. This is an application under Section 378(3) Cr.P.C. for grant of leave to appeal against judgment of acquittal dated 16.10.2014 passed by the Special Judge, Kaithal in case of FIR No. 04 dated 22.6.2013 under Sections 7/13 of Prevention of Corruption Act registered at P.S. SVB, Ambala.

2. The brief facts are that on 22nd June, 2013, Sandeep Kumar, complainant filed a complaint. It was alleged that on 8th February, 2013, he had applied for issuance of Home Guard Certificate (meant for issuing Arms Act) in Home-Guard Office, Kaithal. He had given his particulars, along with his mobile number and deposited the fee.

3. On 19th June, 2013, Munshi Ram (Respondent) made a telephonic call from a landline on the mobile number of complainant and demanded Rs.3000/- bribe for delivering the certificates. On receiving a complaint, trap was laid. Three currency notes of the denomination of Rs. 1000/- each were laced with Phenolphthalein powder and initialled. Jai

conducting the raid and Anil Kumar was made the shadow witness. The laced currency was given to the complainant for handing it to the respondent, on his demand. The shadow witness was instructed to remain present along with the complainant, hear the conversation and give signal on acceptance of the bribe.

4. The raiding party apprehended the respondent and recovered the tainted currency from the left pocket of the lower worn by the respondent. The hands and the pocket of the lower of the respondent were washed with Sodium Carbonate and the colour of solution turned pink.

5. The prosecution to support his case examined seventeen witnesses.

6. In the statement under Section 313 Cr.P.C. respondent denied the allegations. In his defence, he examined Kishore Chand Bansal, Senior Supervisor, Telephone as DW-1.

7. As per the statements of Pw-6 and Pw-7 complainant and shadow witness, on 19.6.2013 anonymous telephone call was received by the complainant demanding Rs. 3000/- for delivering the Home Guard Certificate. The respondent was not identified by the complainant and shadow witness during the proceedings. The shadow witness was found to be an interested witness as he was friend of the complainant.

8. The complainant stated that he along with his friend Anil Kumar (shadow witness) were taken to the Home Guard Office and asking of unknown persons and an amount of Rs.3000/- was handed over. The complainant did not support the case of the prosecution that the bribe was demanded or accepted by respondent. The case of prosecution was found to be doubtful as independent witness was not joined *inspite* of fact that as

thickly populated area.

9. According to shadow witness Anil Kumar-PW-7 the complainant told him about receiving of anonymous call and then they reported the matter to the Vigilance Department. From the evidence produced, it revealed that the respondent only had to counter-sign the certificate whereas the file was being dealt by another official of the Home Guard Department. As per Rajinder Kumar-Clerk in the Office of Home Guard, the record with regard to the issuance of Home Guard Certificate was maintained in other office and not at the place where the raid was conducted.

11. On failure of the prosecution to prove demand and acceptance, the respondent was acquitted.

12. Learned State counsel submits that the Trial Court erred in acquitting the respondent *inspite* of fact that investigating officer and other official witnesses had supported the case of the prosecution.

13. It is a trite law that for conviction under Section 7 of the Prevention of Corruption Act, 1988, the prosecution has to prove demand and acceptance of the illegal gratification. Recovery of the tainted currency cannot be the sole ground for conviction.

14. Heard learned State counsel and perused the record.

15. Neither the complainant nor the shadow witness supported the case of the prosecution that the bribe was demanded and accepted by respondent. They deposed that when they were taken to Home Guard office, the laced currency notes were handed over on asking of unknown person. Further that an anonymous call was received by complainant demanding Rs. 3000/- for delivering of certificate. In other words neither

identified by PW-6 and PW-7 during trial.

16. No case is made out for grant of leave, as no legal or factual error, much less perversity has been pointed out in the impugned judgment.

The conclusion arrived at by the trial court is plausible reason.

17. The application is dismissed.

(AVNEESH JHINGAN)
JUDGE

2nd September, 2022
Parveen Sharma

Whether reasoned/speaking	Yes
Whether reportable	Yes