

**216 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-16303-2018 in/and
CRM-A-853-MA-2018**

Date of Decision: 22nd August, 2022

State of Haryana

... Applicant

Versus

Satyawan

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Gurmeet Singh, AAG, Haryana.

AVNEESH JHINGAN , J.

This is an application under Section 378(3) Cr.P.C. (as amended upto date) for grant of leave against judgment dated 3.6.2017 acquitting Satyawan (respondent) in case of FIR No. 31 dated 25.11.2014 under Sections 7/13 of Prevention of Corruption Act, 1988 registered at P.S. SVB, Rohtak. There is an accompanying application for condonation of delay of 215 days in filing the application/appeal.

The facts as set up by the prosecution are that on 25.11.2014, Khushi Ram (complainant) submitted a complaint. He stated that there was a matrimonial dispute between his son and daughter-in-law, a dowry case was registered against his son and family members. The matter was compromised. The respondent who was Investigating Officer in the said dowry case, visited the house of the complainant and demanded a bribe of Rs. 35,000/- for cancelling the FIR. The deal was struck for Rs. 10,000/-. On the complaint, a trap was set up. Parmod Chahal, Tehsildar, Jhajjar was appointed as Duty Magistrate and Ramesh Kumar, Reader to Tehsildar,

was deputed as a shadow witness. Laced and initialled currency notes worth Rs. 10,000/- were handed over to the complainant, with an instruction to give the same to the respondent on demand. The raiding party along with complainant, shadow witness and Inspector Satya Parkash left the police station. The complainant made a call to the respondent near Badli, Jhajjar that he had brought the bribe money. The respondent told that he had gone outside and a person named Parveen would meet him at Dhor Chowk, Jhajjar for receiving money. The raiding party reached at Dhor Chowk, Jhajjar and waited there. On receiving signal from shadow witness, the police officials apprehended the person pointed out by the complainant, he disclosed his name Parveen Kumar, Head Constable. The laced currency notes were recovered from him. The hands of Parveen Kumar were got washed with Sodium Carbonate Solution, the colour of the solution turned pink. The respondent was arrested on 16.1.2015. He gave an affidavit stating that he had sent Parveen Kumar to Dhor Chowk, Jhajjar for taking money and Parveen Kumar was not aware that it was bribe money. To similar effect, a disclosure statement was made by the respondent. The representation was given by Parveen Kumar. In reinvestigation, he was found innocent and was discharged by Chief Judicial Magistrate on an application filed by the prosecution.

The prosecution to support its case, examined seventeen witnesses.

In statement under Section 313 Cr.P.C., the respondent claimed that he was innocent and falsely implicated. However, no evidence was led in defence by him.

The Investigating Officer-Satya Parkash (PW-14) in his

testimony, reiterated the facts of receiving complaint, procedure followed for laying the trap and for recovery of the laced currency notes. He stated that the complainant was produced before the Chief Judicial Magistrate, Jhajjar and his statement (Ex.-PW-14/B) was recorded under Section 164 Cr.P.C. On similar lines were the depositions of the shadow witness and the Duty Magistrate.

The complainant (PW-4) did not support the version of the prosecution. He stated that respondent was his relative as he was married with his cousin. In the year 2013, the complainant had taken a loan of Rs. 10,000/- from the respondent and he was being pressurized to repay the loan amount. He shared the said fact with his friend-Ramesh (Sarpanch of the village) who assured him that respondent would be taught a lesson. Ramesh took him to police officials who asked him to contact the respondent telephonically and enquire about his whereabouts. The respondent was contacted telephonically and the complainant told him that he wanted to re-pay the loan. He was asked by the respondent that he would make a call to Head Constable Parveen Kumar and the amount be handed over to him. Thereafter, the police officials apprehended the Head Constable Parveen Kumar and obtained signatures of the complainant on the blank paper. It was stated that the complainant was forced to make a statement before the Judge, as per the wishes of the police officials, he was declared hostile.

The Trial Court appreciating the evidence and considering the fact that prosecution failed to prove the demand of illegal gratification by the respondent, giving the benefit of doubt, acquitted the respondent.

Learned counsel for the State has argued that the Trial Court

erred in acquitting the respondent by not considering the depositions of the shadow witness, Duty Magistrate and the fact that Head Constable Parveen Kumar accepted laced currency notes on asking of respondent.

The conclusion arrived at by the Trial Court is a plausible one. The complainant turned hostile and went to the extent of stating that the statement under Section 164 Cr.P.C. was got recorded under pressure by the police officials and blanks papers were got signed from him. The shadow witness deposed that he was not able to hear the conversation that took place between the complainant and Head Constable Parveen Kumar at Kaka Da Hotel. The Head Constable Parveen Kumar was found innocent and was discharged, as he had not demanded the money. None of the prosecution witnesses had supported the case of prosecution that the demand of bribe was made by the respondent. As per the complainant, the loan amount of Rs. 10,000/- was repaid. The prosecution having failed to prove the guilt to the hilt, hence, no case is made out for grant of leave to appeal.

In absence of any legal or factual error much less perversity, the application is dismissed.

Since the application for grant of leave to appeal is dismissed on merits, the application for condonation of delay is disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

22nd August, 2022
anuradha

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No