

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-A-388 of 2020 (O&M)

Date of Decision: 15th December, 2022

State of Haryana

Applicant

Versus

Dr. Sucha Singh

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr.Gurmeet Singh, AAG, Haryana.

AVNEESH JHINGAN, J (Oral):

1. The application for grant of leave to appeal against the judgement acquitting Dr. Sucha Singh (respondent) in FIR No. 27 dated 19.5.2015, under Sections 7 and 13(1)(a) of the Prevention of Corruption Act, 1988 (for short, 'the Act') registered at Police Station State Vigilance Bureau, Rohtak is accompanied by an application for condoning delay of 100 days in filing thereof.

2. The relevant facts are that on 19.5.2015, complainant-Radhey Shyam presented a complaint to the Vigilance Bureau. He alleged that he had instituted a criminal case against Baldev Rana, Randhir Singh and others for causing injuries to him in an incident that occurred on 1.10.2011. The complainant was medically examined by the respondent in General Hospital, Karnal and a medico-legal report was prepared. The respondent when summoned for deposition in the court of Judicial Magistrate 1st Class, Karnal, demanded illegal gratification of Rs.5500/-. On the complaint trap was laid, eleven currency notes of the denomination of Rs.500/- each were laced with Phenolphthalein Powder. Harinder Singh was the shadow

witness. 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. The laced currency notes were recovered from the left hand of the respondent. In hand wash test, the colour of Sodium Carbonate solution turned pink.

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

4. In statement under Section 313 Cr.P.C., the respondent pleaded false implication and a tool to pressurize him to depose in complaint case under Section 307 IPC in which he had medically examined the complainant.

5. The trial court concluded that the prosecution failed to prove charges under Sections 7 and 13(1)(a) of the Act and acquitted the respondent vide judgment date 30.7.2019.

6. Learned counsel for the State contends that the trial court erred in acquitting the respondent. The complainant had supported the case of prosecution in entirety and the official witnesses substantiated the recovery of the tainted currency from the respondent. It is further argued that no explanation was put forth by the respondent for possessing the tainted currency.

7. Heard learned counsel for the State.

8. 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.

9. As per prosecution the Investigating Officer along with the complainant and other witnesses had gone to the office of District Magistrate, Karnal for appointment of Duty Magistrate, he was not available and then they went to the Camp Office, where he appointed Naresh Kumar, BDPO as Duty Magistrate. The version was at variance with the deposition of shadow witness-Harinder Singh-PW1. He stated that on 19.5.2015 he along with Naresh Kumar BDPO had gone to the Camp Office of District Magistrate, Karnal who appointed the BDPO as Duty Magistrate for the trap. The variation created a doubt in the story of prosecution, as per

the Investigating Officer and the complainant they were not aware while reaching the Camp Office of District Magistrate as to who would be appointed as Duty Magistrate.

10. The story put forth by the prosecution was considered from another angle. The Vigilance Inspector and BDPO in their depositions consistently stated that on 19.5.2015 they came to know that the respondent was transferred from Government Hospital, Karnal to Government Hospital, Mandi Khera District Mewat. The deposition was falsified by the document Ex.P11 i.e. the summons issued by Judicial Magistrate 1st Class, Karnal to the respondent at Government Hospital, Mandi Khera, District Mewat to give evidence on 19.5.2015 in the criminal case instituted by the respondent. The trial court took into account that as per cross-examination of the complainant he had a telephonic conversation on 19.5.2015 with the respondent, but neither this fact was mentioned in the complaint nor the details of conversation were collected during investigation.

11. The shadow witness while facing cross-examination stated that he had not heard the conversation between the complainant and the respondent. Further that he had not heard the respondent demanding bribe from the complainant.

12. Naresh Kumar BDPO-Duty Magistrate in his cross-examination stated that there were number of persons available at the spot but the Investigating Officer had made no attempt to join an independent witness. Further that he could not comment on the purpose for which the money was given to the respondent. The Investigating Officer in his cross-examination stated that as the complainant had moved a complaint and he presumed that money handed over to the respondent was illegal gratification.

13. The contention raised by learned counsel for the State lacks merit. The possession of tainted currency in itself would not be enough for conviction under Sections 7 and 13(1)(a) of the Act.

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.

16. Since the application for grant of leave to appeal is dismissed, the application for condonation of delay is also dismissed.

15th December, 2022

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[AVNEESH JHINGAN]
JUDGE

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No