

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-A-241 of 2021 (O&M)

Date of Decision: 8th December, 2022

State of Haryana

Applicant

Versus

Parvinder Singh

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 for grant of leave to appeal against the judgment acquitting Parvinder Singh (respondent) in FIR No. 435 dated 19.12.2016, under Sections 7 and 13 of the Prevention of Corruption Act, 1988 (for short, 'the Act') registered at Police Station Baldev Nagar, Ambala City.

2. The facts as set up by the prosecution are that Malkeet Singh-complainant moved a complaint with regard to his matrimonial dispute. As per the allegations, the respondent demanded Rs.25,000/- bribe for taking action on the complaint. On 12.11.2016, Rs.10,000/- was paid to the respondent by encashing cheque in Axis Bank. Rs.5,000/-, Rs.2,000/- and Rs.500/- were thereafter paid on different dates. Neither the matter was got settled nor the amount was refunded by the respondent.

3. During investigation, six currency notes of the denomination of

Rs.1,000/- each were got recovered at the instance of the respondent from the double bed in his house. The complainant identified the recovered notes. After receipt of sanction, charges were framed.

4. The prosecution to support its case examined fifteen witnesses.
5. In statement under Section 313 Cr.P.C., the respondent pleaded false implication.
6. In defence, the respondent examined two witnesses.
7. The trial court concluded that the prosecution failed to prove that the respondent was the official dealing with the complaint made by the complainant; amount was paid to him; recovery of Rs.6,000/- was not connected with the payment made. The trial court also noted the fact that though there are CCTV cameras installed in the office of S.P., Ambala camera installed in the bank, no footage was collected during investigation to support the case of prosecution with regard to the presence of the respondent when the complainant made the complaint and the respondent made a demand for illegal gratification. The trial court by giving benefit of doubt, acquitted the respondent.
8. Heard learned counsel for the applicant and perused the record.
9. The deposition of PW8- Inspector Seema Singh was to the effect that she had dealt with the complaint Ex.P11 made by the complainant and the respondent had no concern with the complaint. PW10- ASI Rakesh Kumar was the official before whom the complaint was moved. He stated that the complainant never met him and it was marked by Superintendent of Police, Ambala. The occasion with the respondent to demand illegal gratification was not proved.

10. The main reliance of the prosecution was on the fact that the complainant had given a cheque of Rs.10,000/- drawn on Axis Bank to the respondent for payment of illegal gratification and he was present in the bank when the cheque was encashed. Shailesh Gupta, Branch Head, Axis Bank Ltd. appeared as PW3. He stated that on the back side of the cheque of withdrawal, signatures of the complainant were there and not of the respondent. It was further proved from the deposition of DW1-Abhinav Sharma, Assistant Manager, Axis Bank, Ambala City that the respondent and his mother had a bank account in the said branch.

11. There is another aspect of the matter that recovery of Rs.6,000/- in the denomination of Rs.1,000/-each was made at the instance of the respondent and it was claimed that the complainant had identified the currency. As per the record of the Axis Bank the amount of Rs.10,000/- drawn by way of cheque issued by the complainant was in the denomination of Rs.100/- each. In other words, the recovery was not connected to the payment made.

12. The scope of interference in case of acquittal is well settled. Reference can be made to the decision of the Supreme Court in **Mrinal Das and others v. The State of Tripura**, 2011(9) SCC 479 and Division Bench judgment of this court in **State of Punjab v. Hansa Singh**, 2001(1) RCR (Criminal)775.

13. The prosecution failed to prove the basic ingredients for conviction under Section 7 of the Act for demand and acceptance of bribe. 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

8th December, 2022
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |