

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

**CRM-40702-2019 in/and CRM-A-2898-2019
Date of Decision: 30th May, 2022**

State of Haryana

... Applicant

Versus

Om Parkash and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Ms. Geeta Sharma, DAG, Haryana for the applicant.

AVNEESH JHINGAN , J.(Oral)

This is an application for grant of leave to file appeal against acquittal of respondents-Om Parkash, Suresh Kumar and Balwan Singh in case of FIR No. 33 dated 02.08.2016 registered under Sections 7 and 13 of Prevention of Corruption Act, 1988 at P.S. State Vigilance Bureau, Hisar. The application is accompanied by the application for condoning the delay of 125 days.

Brief facts of the case are that the complainants-Pawan Kumar along with Shiv Kumar made a complaint that the police officials had installed a barrier near Police Post, Grain Market, Bhiwani and they were illegally charging entry fee of Rs. 500/- per vehicle. On the basis of the complaint, a trap was set up. Two notes each of denomination of Rs. 500/- signed by Investigating Officer and Duty Magistrate and laced with Phenolphthalein were given to Kuldeep and Pawan Kumar for handing over the same to police officials at barriers. Kuldeep himself was driving his truck whereas the truck of Pawan Kumar was driven by Surender. One

currency note each was returned to the Vigilance team. It was claimed that Kuldeep and Surender handed over two initialled currency notes at the barrier. The amount was accepted by Om Parkash and the other two accused were standing at the distance of 20 feet from the barrier. The Special Police Officers reached the spot and found that Om Parkash had thrown both the currency notes on the ground. On comparison currency notes were found to be same which were handed over to Kuldeep and Pawan.

The prosecution failed to examine Kuldeep and Surender who allegedly handed over the laced currency notes to Om Parkash. The shadow witness Shiv Kumar stated that on 1.8.2016 he was sitting in one of the truck with complainant Pawan Kumar and Pawan Kumar handed over the currency note to Om Parkash. The Trial Court considering that as per the case set up Surender and Kuldeep handed over the marked currency notes to Om Parkash but both were not examined by the prosecution. Further, that the deposition of shadow witness was not in consonance with the case set up by the prosecution. The accused were acquitted, as the guilt was not proved beyond the reasonable doubt.

Learned State Counsel submits that Trial Court erred in acquitting the accused. It was not disputed that the marked currency notes were thrown by Om Parkash on seeing the Vigilance officials and on comparison, currency notes were matching with the one handed over to Pawan Kumar and Kuldeep.

The conclusion arrived at by the Trial Court is plausible. There was no evidence produced against Suresh Kumar and Balwan Singh of making demand for illegal gratification or receiving it. As per the case

examine the drivers Surender and Kuldeep from whom the allegedly demand was made and money accepted.

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

The application is dismissed.

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

(AVNEESH JHINGAN)
JUDGE

30th May, 2022
anuradha

Whether reasoned/speaking	Yes
Whether reportable	Yes