

CRR-219-2008 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-219-2008 (O&M)
Date of Decision: 11.05.2023

Jagir Singh

... Petitioner

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ajay Singla, Advocate, as amicus curiae
for the petitioner.

Mr. Harkanwar Jit Singh, AAG, Punjab.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 17.01.2008 passed by the Sessions Judge, Ferozepur whereby the appeal filed against the judgment of conviction and order of sentence dated 08.12.2006 passed by the Chief Judicial Magistrate, Ferozepur, has been affirmed.

2. The brief facts of the case as alleged by the prosecution are that one case FIR No.27 of 7.7.2000 was registered under section 7, of the 13(2) and 88, of the Prevention of Corruption Act against Sushil Kumar, Junior Engineer, Office of D.M. Warehouse, Ferozepur at Police Station Vigilance Bureau. That case was got registered by Jagir Singh-petitioner/accused (hereinafter known as

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‘accused’) son of Khushal Singh Rai Sikh, resident of Village Tiwana Kalan on the ground that Sushil Kumar had demanded Rs. 500/-as illegal gratification for clearance of the bill of Jagir Singh regarding carriage of purchased wheat. Sushil Kumar was caught red-handed by Sukhdev Singh D.S.P. Vigilance Bureau. The challan was presented against Sushil Kumar in the Court of Sh. M.M.S. Bedi, the then Special Judge, Ferozepur. Jagir Singh had obtained Rs. 25,000/- as a reward for getting Sushil Kumar arrested red-handed, As per scheme of the Government, this amount of Rs. 25,000/- was paid vide demand draft No. 618741 dated 11.5.2001 but during the trial of that case Jagir Singh (now accused in this case but complainant in that case) resiled from his previous statement. Consequently, Sushil Kumar was acquitted by the Court. In this way, Jagir Singh complainant had dishonestly received the amount of reward from the Government and thereafter cheated the Government and resiled from his earlier statement. It was found that Jagir Singh-accused had committed the offence under Section 420 I.P.C. On this, case FIR No.87 dated 28.12.2001 was registered at Police Station Vigilance Bureau under Sections 420/193 of the Indian Penal Code against Jagir Singh-accused. During investigation, a copy of FIR No.27 of 2000 and a copy of the letter dated 30.5.1997 regarding giving of reward to persons who got corrupt officials arrested were taken into possession. The copies of the relevant record regarding payment of an amount of Rs. 25,000/- through demand draft to Jagir Singh-accused and a copy of receipt issued by Jagir Singh on 28.5.2001 regarding receipt of that amount were also taken into possession. The copy of the statement of Jagir Singh in case ‘State Versus and Sushil Kumar’ and a copy of

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the judgment passed by Sh. M.M.S. Bedi, the then Sessions Judge Ferozepur were also taken into possession. The accused was arrested. After completion of investigation, accused was challaned under Sections 420/193 of the Indian Penal Code.

3. On presentation of the challan in the Court, copies of documents accompanying the challan were supplied to the accused. Finding a prima-facie case, charge under Section 420 of the Indian Penal Code was framed against the accused Jagir Singh on 10.4.2002 by the then Chief Judicial Magistrate, Ferozepur. It was read over and explained to the accused. He pleaded not guilty and claimed trial.

4. In support of its case, the prosecution examined PW1 HC Ajmer Singh, PW2 Harbhajan Singh Junior Assistant, PW3 Mohinder Pal (Retired) Record Keeper, Sessions Court, Ferozepur, PW4 Dial Singh, Manager Bank of India, PW5 Jagir Lal D.S.P. Vigilance Bureau and placed on the file Ex. P1 copy of FIR No.27 of 2000 P.S. Vigilance Bureau Ferozepur, Ex.P2 copy of letter issued by Additional Secretary (Vigilance) Government of Punjab, Ex.P3 copy of letter dated 18.5.2001 sent by Chief Director Vigilance Bureau Punjab to S.P. Vigilance Bureau, Ferozepur, Ex.P4 copy of the entry regarding giving of amount of Rs. 25,000/- to Jagir Singh, Ex. P5 copy of receipt issued by Jagir Singh regarding Rs. 25,000/-, Ex.P6 copy of letter dated 11.6.2001 sent by S.P. Vigilance to the Chief Director Vigilance Bureau, Punjab, Ex.P7 copy of letter dated 7.6.2001 sent by D.S.P. Vigilance Bureau, Ferozepur to S.P. Vigilance Bureau Ferozepur, Ex.PW3/A copy of statement of Jagir Singh in case State

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Versus Sushil Kumar, Ex.PW3/B copy of judgment dated 2.8.2001 passed by Sh. M.M.S. Bedi, the then Special Judge, Ferozepur in case 'State Versus Sushil Kumar', Ex. PW3/C memo regarding handing over of two currency notes of Rs. 500/- each, Ex. PW3/D memo regarding washing of hands of Jarnail Singh and Jugal Kishore, Ex.PW3/E recovery memo of currency notes from accused Sushil Kumar, Ex. PW3/F personal search memo of Sushil Kumar, Ex.PW3/G memo regarding washing of hands of Sushil Kumar, EX.PW3/H recovery memo of cheque for Rs. 21,135/-, Ex.PW3/J recovery memo of record in case 'State Vs. Sushil Kumar', Ex.PW3/K copy of the site plan of place of recovery in case 'State Versus Sushil Kumar', Ex.PW3/L copy of statement of Jagir Singh recorded on 7.7.2000 by D.S.P. Vigilance Bureau in case 'State Versus Sushil Kumar', EX.PW4/A copy of statement of account of accused at Bank of India, Ex. PW5/A ruqa sent by Jagir Lal D.S.P. for registration of case against the accused, Ex. PW5/B copy of FIR, Ex. PW5/C recovery memo of accused, Ex.PW5/D copy of letter dated 3.12.2001 regarding sanction to prosecute the accused and thereafter, closed evidence.

5. The statement of the accused was recorded under Section 313 Cr.P.C. in which the incriminating evidence led by the prosecution was put to him. He stated that he was innocent. He had been involved falsely in this case because the officials of the Vigilance Bureau kept a grudge against him. They had forcibly got registered the case through him against Sushil Kumar.

6. In defence evidence, the accused examined DW1 Neelam Kumari wife of Sushil Kumar and closed evidence.

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7. Based on the evidence led, the petitioner-accused came to be convicted and sentenced as under:-

Offence under Sections	Sentence RI/SI	Fine	RI/SI in default of payment of fine
420 IPC	(RI) 02 year	Rs.2,000/-	(RI) 03 month

8. The accused-petitioner filed an appeal which came to be dismissed by the Sessions Court vide judgment dated 17.01.2008.

9. The aforementioned judgments are under challenge in the present petition.

10. The learned Amicus Curiae for the petitioner contends that the petitioner has been wrongly convicted for having committed the offence in question. The Lower Courts have failed to appreciate the discrepancies in the statements of the prosecution witnesses on certain material aspects which go to the root of the matter. In fact, the petitioner was forced to resile from his statement as he was a poor and innocent person and had been forced to become a complainant against Sushil Kumar, Junior Engineer, Office of the D.M. Warehouse, Ferozepur. Even otherwise, as the petitioner had already deposited a sum of Rs.25,000/- that had been received by him during the pendency of the present petition, the sentence of the petitioner ought to be reduced to the period already undergone by him, moreso, as the FIR in question was registered in the year 2001 i.e. 22 years ago.

11. The learned counsel for the State, on the other hand, contends that the grounds raised by the petitioner have been dealt with comprehensively not

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only during the course of Trial but also at the appellate stage. Therefore, there was no justifiable reason for the acquittal of the petitioner and the offence had been well-established beyond reasonable doubt. He has, also placed on record the custody certificate dated 11.05.2023, as per which the petitioner has undergone an actual custody period of 03 months and 04 days out of his awarded sentence of 02 years.

12. I have heard the learned counsel for the parties and gone through the record.

13. The Government of Punjab had formulated a scheme in order to check corruption. Under the scheme, incentives were provided to the persons who got corrupt officials arrested and a reward of Rs.25,000/- was to be paid to such persons. In furtherance of the same, the petitioner had got arrested one Sushil Kumar, consequent to which, an FIR No.27 dated 07.07.2000 was registered under Sections 7, 13(2) and 88 of the Prevention of Corruption Act against the said Sushil Kumar. The petitioner-accused received a sum of Rs.25,000/- as a reward as per the Policy of the Government of Punjab. However, during the course of the Trial, the petitioner-accused resiled from his statement, leading to the acquittal of Sushil Kumar. The judgment of acquittal of the said Sushil Kumar would show that the main reason for the acquittal was the fact that the petitioner had resiled from his statement. Thus, it is well-established beyond any doubt whatsoever that the petitioner had cheated the Vigilance Department and dishonestly induced them to pay him Rs.25,000/- as a reward for getting

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Sushil Kumar arrested in a corruption case, consequent to which, he received the amount but subsequently, turned hostile, leading to the acquittal of Sushil Kumar.

14. In view of the above, I find no reason to interfere with the well-reasoned judgments of the Trial Court dated 08.12.2006 as well as the Sessions Court dated 17.01.2008. Therefore, the present petition stands dismissed.

15, As regards the imposition of sentence, it may be pointed out that the FIR pertains to the year 2001, the petitioner has also deposited a sum of Rs.25,000/- as is apparent from an order of this Court dated 17.03.2008. As per the custody certificate dated 11.05.2023, the petitioner-accused has undergone actual custody of 03 months and 04 days out of his substantive sentence of 02 years. Therefore, I deem it appropriate to modify the sentence to the period already undergone by him. However, the sentence of fine and sentence on account of default of payment of fine shall remain intact.

(JASJIT SINGH BEDI)
JUDGE

May 11, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No