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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.A. 1241/2015

C B SINGH

.....Appellant

Through: Mr. Yash Kadyan (through
VC), Mr. D.S. Kohli, Mr.
Digvijay Singh Rawat,
Ms. Mannat Kohli & Mr.
Raghav Kaushik, Advs.
with appellant in person

versus

STATE (THROUGH A.C.B)

.....Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State
SI Naresh Kumar, PS-
Anti-Corruption Branch
Mr. Farman Ali, SPC with
Ms. Usha Jamnal, Adv.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

26.09.2024

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1. The present appeal is filed challenging the judgment on conviction dated 29.10.2015 and order on sentence dated 02.11.2015, in CC No. 04/2012, passed by the learned Trial Court.

2. By the judgment dated 29.10.2015, the appellant and accused Pankaj were convicted for the offences under Section 120B of the Indian Penal Code, 1860 ('**IPC**'), Section 420 read with Section 120B of the IPC and Section 13(1)(d) of the Prevention of Corruption Act, 1988 ('**PC Act**') punishable under Section 13 (2) of the PC Act read with Section 120B of the IPC.

3. By order on sentence dated 02.11.2015, the accused persons were sentenced as under:



“9.I am of the view that the interest of justice shall be met, if both convicts Pankaj Goel and C.B. Singh are sentenced to undergo RI for 2 years each with fine of Rs.5,000/- each for the offence u/s 120B IPC. In default of payment of fine, they shall undergo SI for three months each.

10. Both the convicts are also sentenced to undergo RI for 2 years each with fine of Rs. 10,000/- for the offence u/s. 420 IPC read with section 120-B IPC. In default of payment of fine, they shall undergo SI for three months each.

11. Both the Convicts C.B. Singh and Pankaj Goel are also sentenced to undergo RI for two years each with fine of Rs.5000/- each for offence u/s.13(1)(d) read with section 13(2) of POC Act read with section 120 B IPC. In default of payment of fine, they shall undergo SI for three months each.

12. All the sentences of the convicts shall run concurrently....”

4. It is undisputed that this Court, by judgment dated 15.04.2024, in CrI.A.1202/2015, has allowed the appeal filed by the co-accused Pankaj and held that the learned Trial Court was not justified in convicting the co-accused, Pankaj Goel. The co-accused Pankaj Goel was, thus, acquitted.

5. As noted above, the appellant and the co-accused Pankaj Goel were convicted by the common judgment dated 29.10.2015.

6. The appellant and the co-accused Pankaj Goel were respectively serving as Executive Engineer and Junior Engineer in the MCD at the relevant time.

7. It was alleged that they entered into a criminal conspiracy with one M/s Aruna Builders and Suppliers through its proprietor Arun Kumar Bansal (since expired) and accused Naresh Gupta (who committed suicide during investigation) to cheat MCD by passing bills and releasing payments to the contractor resulting in a pecuniary gain of ₹6.8 lakhs on the strength of forged invoices.

8. This Court, after going through the record, held that the contractor as per the terms and conditions of work order was



responsible for procuring bitumen from authorised Government agencies and the responsibility for its procurement could not have been attributed on the Officers of MCD.

9. The prosecution also could not prove the existence of conspiracy between the accused Contractor and the accused persons who were merely officials of the MCD.

10. This Court further held that the allegation that the appellant and the co-accused Pankaj Goel had verified the invoices along with bills is not sufficient to hold them guilty under Section 13(1)(d) read with Section 13(2) of the PC Act.

11. It is undisputed that the appellant would be entitled to the benefit of the judgment dated 15.04.2024, passed by this Court, as his role was similar to that attributed to the co-accused Pankaj.

12. The judgment dated 15.04.2024 has not been challenged and has attained finality.

13. The appellant is, therefore, entitled to acquittal on the ground of parity.

14. In view of the above, the present appeal is allowed and the appellant is acquitted in the present case.

AMIT MAHAJAN, J

SEPTEMBER 26, 2024

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