



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

485

CRA-S-990-SB-2008(O&M)
Date of decision: 17.01.2025

Amrish Pal

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr.Subham Kaushik, Advocate, for the appellant.

Mr.Amit Rana, Sr.DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant appeal has been preferred by the accused (hereinafter referred to as Appellant), challenging the judgment dated 13.05.2008 passed by the Special Judge, Bathinda whereby the appellant was convicted and sentenced as follows:-

“to undergo rigorous imprisonment for two years and fine of Rs.6,000/-, in default thereof R.I. for six months under Section 7 of the Prevention of Corruption Act, 1988.”

2. The case of the prosecution in a nutshell revolves around the allegation that on 8th of March, 2005, the appellant, who was serving as Patwari, demanded and accepted an illegal gratification of Rs. 600/- from the complainant, Jagsir Singh, for entering the mutation of redemption of mortgage in the revenue records.



3. The complainant, Jagsir Singh, had previously mortgaged his land measuring 23 Kanals and 6 Marlas to secure a loan from the bank. Upon repayment of the loan on 22nd of February, 2005, the bank issued “No Objection Certificates” (Exhibit PN and Exhibit PO). When the complainant approached the appellant to record the mutation of redemption, the appellant initially delayed the process and, on 07.03.2005, demanded Rs. 1000/- as a bribe, which was later negotiated to Rs.600/-.

4. Unwilling to pay the bribe, the complainant approached the Vigilance Bureau, leading to a trap being laid on 08.03.2005, under the supervision of DSP Ashutosh (PW-11). A trap team was constituted, and the currency notes treated with phenolphthalein powder (hereinafter referred to as ‘powder’) were recovered from the right pocket of the coat worn by the appellant, during the raid.

5. On the basis of the material on record and after obtaining the requisite sanction Exhibit P-M from the District Collector, Bathinda, challan was presented in the Court. The appellant was charged for offence under Section 7 read with Section 13 (2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as ‘PC Act’) to which he pleaded not guilty and claimed trial. In support, the prosecution examined 11 witnesses including the complainant, who was examined as PW-9, Jaspal Singh shadow witness appeared as PW-10 and Investigating Officer DSP Ashutosh as PW-11.

6. In his statement recorded under Section 313 of the Cr.P.C., the appellant denied the allegations of demand and acceptance of bribe. He



contended that the recovered money from him constituted Government fees for preparing copies of Jamabandies and Khasra Girdwaries. He further claimed discrepancies in the 'No Due Certificates' (Exhibits PN and PO) given by the bank, which prevented him from completing the mutation. To support his defence, the appellant examined DW-1, Gurjant Singh, Revenue Patwari Halqa Tungwali, who testified about the alleged discrepancies and the fees receipt entries in the register (Exhibit DE).

7. The learned trial Court, on the basis of the material on record and evidence led, passed the impugned judgment of conviction and order of sentence which already stands reproduced in the earlier part of this order.

8. Learned counsel for the appellant has argued that :

- (i) the prosecution failed to reconcile the discrepancies between Exhibit-PN Exhibit-PO and the revenue records;
- (ii) Rs. 600 recovered from the appellant was not a bribe but Government fees for preparing the requested documents, which were duly recorded in the fees register Exhibit DE; and
- (iii) the learned trial Court erred in interpreting the evidence, ignoring key inconsistencies and procedural lapses in the case of the prosecution.

9. Learned State counsel, on the other hand, argued that the conviction of the appellant was supported by cogent evidence, including the demand and acceptance as also recovery of bribe money, corroborated by the phenolphthalein test. The absence of prior enmity between the



complainant and the appellant further supported the case of the prosecution.

10. I have heard learned counsel for the parties and have perused the relevant material placed on record.

11. The demand for a bride is a *sine qua non* for proving an offence under Sections 7 and 13(1) B of the PC Act. In the case at hand, the complainant, Jagsir Singh PW-9, provided a consistent and detailed account of the demand made by the appellant for Rs.600/- as bribe. His testimony was corroborated by PW-10 Jaspal Singh, shadow witness, who confirmed hearing the appellant demanding the bribe and seeing the complainant hand over the tainted money. The recovery of tainted currency notes from the conscious possession of the appellant and the positive results of the phenolphthalein test lend further credence to the case of the prosecution.

12. Further, the claim of the appellant that the Rs.600/- recovered from him was a legitimate fee is contradicted by the absence of any contemporaneous entry in the fees register Exhibit DE or the issuance of a receipt. Furthermore, the defence failed to produce the alleged Jamabandies or Khasra Girdawaries during the trial. Furthermore, the phenolphthalein test conclusively proved the handling of the tainted money by the appellant, and the recovery was documented through unimpeachable recovery memos Exhibit PB and Exhibit PC. The recovery of the tainted currency notes from the coat pocket of the appellant were sufficiently proved through the testimonies of DSP Ashutosh PW-11, shadow witness Jaspal Singh PW-10



and the independent witnesses PW-1 Dr. Bharat Bhushan and PW-2 Vikramjit Singh, who also were part of the raiding party. The emphasis by the learned counsel for the appellant that the recovered money was a legitimate fees is clearly undermined by the absence of any documentary evidence linking the Rs. 600/- to official revenue records. Still further, the minor discrepancies referred to by the learned counsel for the appellant in Exhibits PN and PO would not come to the rescue of the appellant and create any significant dent in the case of the prosecution. These two documents/certificates clearly indicate that the mortgage was redeemed, and there was no legal justification for demanding additional payments from the complainant. It also needs to be pointed out that the fees register Exhibit-DE lacks authenticity as it does not even bear the signature of the complainant; no entry regarding the issuance of Jamabandies or Khasra Girdawaries was found in the Daily Diary Register, as also admitted by DW-1 Gurjant Singh. Pertinently, the alleged documents were neither found at the office of the appellant at the time of the raid nor produced during the trial.

13. The testimony of DW-1-Gurjant Singh, also lacks credibility as it failed to explain the absence of receipts or valid entries in the fees register. The alleged procedural lapses highlighted by the learned counsel for the appellant in the investigation of the Vigilance Bureau is insufficient to rebut the direct and corroborated evidence of demand, acceptance and recovery of the bribe. Rather DW-1-Gurjant Singh, admitted that discrepancies in revenue records required rectification by higher

authorities, and not the appellant. This further weakens the defence put forth by the appellant.

14. The prosecution, therefore in the light of the above discussion, was successful in establishing beyond reasonable doubt the case put up against the appellant. The impugned judgment and order dated 13.05.2008, in the circumstances, does not warrant any interference and is upheld.

15. The instant appeal is accordingly dismissed.

January 17, 2025

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(MANJARI NEHRU KAUL)

JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No