



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

949

CRA-S-4525-SB-2013 (O&M)
Date of decision: 10.01.2025

Ran Vijay SinghAppellant

Versus

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ish Puneet Singh, Advocate
for the appellant.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant appeal is directed against judgment of conviction and order of sentence both dated 11.12.2013 passed by learned Special Judge, Ludhiana, in case FIR No.04 dated 03.02.2009, under Sections 7, 13(2), 88 of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'PC Act') registered at Police Station Vigilance Bureau, Ludhiana, whereby the appellant was convicted under Sections 7 and 13(2) of the PC Act, for demanding and accepting bribe of Rs.1,500/- for processing an application for enhancement of electricity load. The appellant was sentenced as follows:-

Offence(s) under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
7 of the PC Act	RI for 2 ½ years	Rs.3,000/-	RI for 02 months
13(2) of the PC Act	RI for 2 ½ years	Rs.3,000/-	RI for 02 months



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1A. Both the sentences were ordered to run concurrently.

2. Aggrieved by the conviction and sentence, the appellant is now before this Court by way of the instant appeal challenging the findings of the learned Trial Court.

3. As per the case of the prosecution, the appellant, who was working as a Work Charge Employee in the Punjab State Electricity Board (PSEB), demanded a bribe from Udhey Bhan Singh (complainant) for processing an application related to the enhancement of electricity load at the complainant's residence. On 02.01.2009, the complainant paid the Government fee of Rs.1,390/- for the load enhancement application and subsequently approached the appellant at the PSEB at Focal Point, Ludhiana. The complainant alleged that the appellant demanded Rs.3,000/- for processing the application, which was later reduced to Rs.1,500/- upon negotiations. The appellant directed the complainant to bring the demanded amount to the PSEB office on 03.02.2009.

4. In response to this demand, the complainant approached the Vigilance Bureau and reported the matter to DSP Naginder Singh Rana. The DSP initiated a trap operation comprising of the complainant, shadow witness and other individuals, wherein the complainant provided Rs.1,500/- in currency notes, which were treated with phenolphthalein powder to facilitate detection. A pre-arranged signal was agreed upon, and when the appellant was apprehended, the tainted currency notes were found in his possession, thus confirming the acceptance of the bribe. Further scientific tests, including



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phenolphthalein test indicated that the appellant had handled the tainted currency notes, corroborating the allegation of bribery. On the basis of the evidence led, the learned Trial Court convicted the appellant and sentenced him as already detailed in the earlier part of this order.

5. It has been argued by the learned counsel for the appellant that the learned Trial Court failed to appreciate the evidence on record; the appellant was falsely implicated in the present case due to prior enmity with the complainant; there was a personal vendetta stemming from earlier proceedings under Sections 107 and 151 of the Cr.P.C., involving the cousin of the complainant. Learned counsel further argued that the learned Trial Court did not properly consider the possibility of fabrication of evidence by the complainant. Learned counsel still further disputed the status of the appellant as a public servant under the PC Act. He asserted that as a Work Charge Employee, since his was not permanent appointment and he had no jurisdiction over the area in question, the appellant could not be categorized as a public servant within the meaning of the statute.

6. Furthermore, it was argued by learned counsel for the appellant that the prosecution failed to prove the essential elements of the offences alleged. The complainant, who appeared as PW2 and shadow witness Sher Bahadur, PW3 were declared hostile during trial, and thus, their testimonies could not be relied upon. Learned counsel contended that the only evidence presented was the recovery of the bribe money, which, as per the learned counsel was insufficient to establish the guilt of the appellant. The learned counsel still further



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highlighted the inconsistencies in the testimonies of the witnesses and discrepancies in the recovery of the bribe money, such as whether it was taken from the trouser pocket of the appellant or his jacket. Learned counsel asserted that these inconsistencies rendered the case of the prosecution unreliable. Lastly, it was argued that since the appellant was found not guilty in a departmental enquiry and was reinstated in service, the learned Trial Court gravely erred in not considering the said fact while passing the impugned judgment.

7. Per contra, learned counsel for the State while opposing the submissions made by learned counsel for the appellant, submitted that the evidence presented during the trial proved beyond any reasonable doubt that the appellant demanded and accepted the bribe. The testimony of the complainant PW2, Udhey Bhan Singh, though partially hostile, corroborated the case particularly the fact that the appellant reduced the bribe demand from Rs.3,000/- to Rs.1,500/-. The recovery of the tainted currency notes from the appellant, coupled with the positive results of the phenolphthalein test, conclusively proved the involvement of the appellant in the offence in question.

8. Learned State counsel further argued that the minor discrepancies referred to by the learned counsel for the appellant in the testimonies of the prosecution witnesses, including the location from where the tainted money was recovered, are insignificant and do not detract from the overall strength of the case of the prosecution. Moreover, the claim of the appellant of false implication due to enmity was clearly an afterthought and not supported by any credible evidence.



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

10. The contention of the learned counsel for the appellant that he was not a public servant under the PC Act, is meritless. The term 'public servant' under the PC Act is broadly defined, and it includes not only regular employees but also Work Charge employees performing duties akin to public officials. The appellant, though a work charge employee, was engaged in the discharge of public functions and had the authority to handle applications concerning electricity load enhancements. Therefore, the appellant was a public servant under the PC Act and the charge of bribery against him stood.

11. Furthermore, the prosecution successfully proved the demand and acceptance of the bribe by the appellant beyond reasonable doubt. The testimony of the complainant PW2, Udhey Bhan Singh, though partially hostile, provides a consistent account of the events leading to the demand for the bribe, the reduction in the amount bribe, and the subsequent agreement to meet the appellant for the payment. The shadow witness, PW3 Sher Bahadur, despite being declared hostile, confirmed that the appellant accepted the bribe amount from the complainant. Furthermore, the recovery of the tainted currency notes from the possession of the appellant corroborated by the positive phenolphthalein test, firmly established the fact that the appellant accepted the bribe. The recovery of the tainted money, combined with scientific evidence, leaves no room for doubt regarding the culpability of the appellant.



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12. The minor discrepancies in the testimonies of the complainant and the shadow witness, regarding the exact location of the recovery of the bribe money are insignificant. The law does not require the prosecution to provide flawless or unblemished testimony from every witness. What is required is that the prosecution establishes the essential elements of the offence, which it has successfully done in this case. The positive phenolphthalein test results and the recovery of the bribe money from the possession of the appellant unequivocally point to the involvement of the appellant in the crime.

13. The claim of false implication of the appellant due to prior enmity with the complainant deserves to be rejected as an afterthought. No evidence was produced by the defence to substantiate the claim of enmity, and no such suggestion was made during the cross examination of the complainant or any other witness. The attempt by the appellant to introduce this theory, without any basis, is an attempt to cloud the solid evidence led by the prosecution before the learned Trial Court.

14. The outcome of the departmental enquiry, where the appellant was found not guilty, does not effect the criminal proceedings in this case. The standards of proof in a departmental enquiry are different from those in a criminal trial, and an acquittal in the former does not automatically exonerate the appellant in the latter. The conviction in this case is based on clear and compelling evidence, including the direct recovery of the bribe money and scientific tests that linked the appellant to the offence.

15. In the light of the above discussion, this Court has no



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hesitation in observing that the prosecution successfully proved beyond reasonable doubt that the appellant demanded and accepted bribe while acting in his capacity as a public servant. The evidence, including the testimonies of the complainant and the shadow witness, the recovery of the tainted money and the results of the phenolphthalein tests, collectively point to the guilt of the appellant. The defence of the appellant, which hinges on inconsistencies in the testimonies of the witnesses and allegations of false implication, has failed to dislodge the strong case presented by the prosecution. This Court, therefore, finds no reason to interfere with the findings recorded by the learned Trial Court. Accordingly, the instant appeal stand dismissed.

16. Pending applications, if any, stand disposed of.

10.01.2025

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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