

SURAIN SINGH
v.
STATE OF PUNJAB
(Criminal Appeal No. 156 of 2009)

JANUARY 27, 2009

**[DR. ARIJIT PASAYAT AND ASOK KUMAR
GANGULY, JJ.]**

Prevention of Corruption Act, 1988 – s.13(2) – Demand of illegal gratification of Rs.300/- by Patwari for recording entry in mutation register – Conviction and sentence of rigorous imprisonment for two years – Upheld by High Court – Conviction challenged by taking plea of animosity between the parties – Held: High Court analysed the evidence in great detail to show that the alleged animosity was not established – Two witnesses referred to the factual scenario in detail – Nothing discrepant was brought on record to cast any doubt on the credibility of their evidence – However, on facts, custodial sentence of one year, which is minimum prescribed, would meet the ends of justice – Sentence/Sentencing.

According to the prosecution, the appellant while working as a Patwari demanded illegal gratification of Rs.300/- for recording entry in the mutation register. The Trial Court convicted the appellant u/s.13(2) of the Prevention of Corruption Act, 1988 and sentenced him to undergo rigorous imprisonment for two years. High Court upheld the conviction.

Before this Court, the appellant challenged his conviction by taking the plea of alleged animosity between the parties. He contended that he had not accepted any money and that the complainant had a grudge against him. The appellant also submitted that the occurrence took place in the year 1990, and more than

A 19 years have passed since then, therefore, the sentence needed to be appropriately reduced. ★

Partly allowing the appeal, the Court

B HELD: 1. The High Court analysed in great detail the evidence to show that the alleged animosity was not established. Two witnesses PWs 2 and 3 in detail had referred to the factual scenario and nothing discrepant has been brought on record to cast any doubt on the credibility of their evidence. [Para 6] [648-B] ★

C 2. Day in and day out the gigantic problem of corruption in the public service is on the increase. Large scale corruption retards the nation- building activities and everyone has to suffer on that count. Corruption is D corroding like cancerous lymph nodes, the vital veins of the body politics, social fabric of efficiency in the public service and demoralizing the honest officers. The E efficiency in public service would improve only when the public servant devotes his sincere attention and does the duty diligently, truthfully, honestly and devotes himself assiduously to the performance of the duties of his post. [Para 7] [648-C-E] ★

F *Swatantar Singh v. State of Haryana (1997) 4 SCC 14 and State of M.P. v. Shambhu Dayal Nagar (2002) 1 SCC 1,* relied on. ★

G 3. Considering the peculiar facts of the case, the custodial sentence of one year, which is minimum prescribed, would meet the ends of justice. [Para 8] [648-F] ★

Case Law Reference: ★

(1997) 4 SCC 14 relied on Para 7

(2002) 1 SCC 1 relied on Para 7

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal A
No. 156 of 2009.

From the Judgment and Order dated 11.9.2007 of the High Court of Punjab and Haryana at Chandigarh in Crl. Appeal No. 416-SB/1996. B

Manoj Prasad for the Appellant.

Kuldip Singh, R.K. Pandey, T.P. Mishra and H.S. Sandhu for the Respondent.

The Judgment of the Court was delivered by C

DR. ARIJIT PASAYAT, J.1. Leave granted.

2. Challenge in this appeal is to the judgment of a learned Single Judge of Punjab and Haryana High Court upholding the conviction of the appellant for offence punishable under Section 13(2) of the Prevention of Corruption Act, 1988 (in short the 'Act'). According to the prosecution version the appellant while working as a Patwari of Circle Gudher Dhandi had demanded illegal gratification of Rs.300/- for entering the mutation on the basis of a sale deed. Learned Special Judge, Ferozepur, by judgment dated 28.5.1996 had found him guilty and sentenced him to undergo rigorous imprisonment for two years and to pay a fine of Rs.1,000/- with default stipulation. D E

3. Prosecution version in a nutshell is as follows: F

On 17.12.1990, Kehar Singh complainant approached the accused in his office situated near Baghi Hospital, Ferozepur, for entering the mutation in the names of his sons namely Wasakha Singh and Darshan Singh, on the basis of the sale deed relating to 4 kanals land purchased by them from one Ahama Ram son of Mohna Ram resident of Village Gudhar Dhandi for a consideration of Rs.10,000/-. The accused demanded a sum of Rs.400/- as illegal gratification for entering the mutation from the complainant, but the bargain was settled G H

A at Rs.300/-. As the complainant was not willing to pay the money, he approached Sohan Singh (a shadow witness) and both of them approached the Vigilance Bureau, Ferozpur, where Babu Singh, Inspector Vigilance Department recorded his statement Ex.PF and took into possession three currency notes of the denomination of Rs.100/- each and after applying pehnophsthalene powder and after conducting the personal search of the complainant, handed over to him the said currency notes. Thereafter, he completed the formalities. Sohan Singh was deployed as shadow witness and he was directed to indicate after the accused accepts the illegal gratification. Babu Singh Inspector Vigilance Department, made his endorsement Ex.PF/ 1 on his statement Ex.PF and sent the same to the police station, on the basis of which FIR Ex.PR was registered at police Station City, Ferozpur. On their way to the office of the accused, Hari Singh, a Government employee was also joined as a witness. When the complainant reached the office of the accused, then the accused enquired from the complainant about the bribe money, which was demanded on the previous day. The complainant responded in positive and handed over the aforesaid three currency notes to the accused. After the accused put the same into his pocket, Sohan Singh, the shadow witness gave signal after going out of the office and the police apprehended the accused red handed. Inspector Babu Singh after giving his identity arranged a glass tumbler and put clean water in the same and mixed sodium carbonate and made its solution. He got washed the hands of Han Singh in the said water but the colour of the water did not change. Thereafter, when the accused washed his hands, then the colour of the water turned pinkish. Thereafter, Inspector Babu Singh transferred the said mixture into an empty nip and prepared its parcel, sealed it and took the same into possession vide memo Ex.PH. Thereafter, Inspector Babu Singh searched the accused and recovered three currency notes Ex.P1 to Ex.P3 from the front pocket of the shirt worn by him. After comparing the numbers of the currency notes with the numbers recorded in the memo Ex.PG, possession vide memo Ex.PJ of the same

was taken. Personal search of the accused was conducted. Documents recovered from him were taken into possession vide memo Ex.PK. He completed the other formalities; after recording the statements of the witnesses; got the sanction for prosecution of the accused; collected report of the Chemical Examiner Ex.PT and challaned the accused. The prosecution established its case by examining Jait Kumar, Naib Sadar Kanungo (PW1), Kehar Singh complainant (PW2), Sohan Singh (PW3), Inspector Babu Singh (PW4). After tendering into evidence report of the Chemical Examiner Ex. PT, the prosecution closed its evidence.

The accused took the plea that he had not accepted any money and had not recorded any entry in the mutation register and that the complainant had a grudge against him.

The trial Court found the prosecution version to be cogent and credible and as noted above convicted him. In appeal, the stand taken was relating to alleged animosity. The High Court did not find any substance in the plea. It was noted that DDR 137 dated 23.11.1989 Ex. DA recorded by the accused had no relevance. The demarcation had taken place on 23.11.1989 whereas occurrence took place one year after the incident. In any event, demarcation of the land is not the final verdict regarding surrender of land. It was also noted that so far as DDR 158 dated 8.12.1990 Ex. DB is concerned, the accused never gave any complaint to his higher officers regarding alleged threat given by the complainant. DDR has been recorded by the accused himself. There was nothing to show that the entry was made on 8.12.1990. During investigation there was reference to it. For the first time it was brought to light at the time of recording of evidence. Accordingly, the High Court dismissed the appeal.

4. In support of the appeal, learned counsel for the appellants re-iterated the alleged animosity between the parties. It was also submitted that the occurrence took place in the year 1990, and more than 19 years have passed, therefore, the

A sentence needs to be appropriately reduced.

5. Learned counsel for the respondent-State supported the judgment.

B 6. The High Court has analysed in great detail the evidence to show that the alleged animosity has not been established. Two witnesses PWs 2 and 3 in detail had referred to the factual scenario and nothing discrepant has been brought on record to cast any doubt on the credibility of their evidence.

C 7. Day in and day out the gigantic problem of corruption in the public servants is on the increase. Large scale corruption retards the nation- building activities and everyone has to suffer on that count. Corruption is corroding like cancerous lymph nodes, the vital veins of the body politics, social fabric of efficiency in the public service and demoralizing the honest officers. The efficiency in public service would improve only when the public servant devotes his sincere attention and does the duty diligently, truthfully, honestly and devotes himself assiduously to the performance of the duties of his post. (See: *Swatantar Singh v. State of Haryana* (1997 (4) SCC 14) and *State of M.P. v. Shambhu Dayal Nagar* (2002 (1) SCC 1).

D 8. Considering the peculiar facts of the case, we are of the view that the custodial sentence of one year, which is minimum prescribed, would meet the ends of justice.

F 9. The appeal is allowed to the aforesaid extent.

B.B.B.

Appeal partly allowed.