SHANTI LAL MEENA

v.

STATE OF NCT OF DELHI, CBI

(Criminal Appeal No. 585 of 2015)

APRIL 07, 2015

**[T. S. THAKUR, KURIAN JOSEPH AND R. BANUMATHI, JJ.]**

*Prevention of Corruption Act, 1988 – ss. 7, 13(2) rw s. 13(1)(d) – Commission of offence under – Quantum of sentence – Determination of – Public servant-Sub Inspector of Police caught red-handed while accepting the bribe in the case at the investigation stage – Conviction for the offences u/s. 7 and 13(2) rw s. 13(1)(d) and sentenced to two years RI for the offence u/s. 7 with a fine and RI for two years with fine u/s. 13(2) rw s. 13(1)(d) – Upheld by the High Court – Issue of quantum of sentence before this Court – Held: While awarding sentence in cases under the PC Act, the court should bear in mind the expectation of the people of its paramount duty to prevent corruption in society by providing prompt conviction and stern sentence – Appellant was the sub-inspector of police entrusted with the task of law enforcement – The keeper had become the poacher – There is no serious scope for reforming the convicted public servant – The moment he is convicted, he loses his job – Thus, interference with the punishment awarded by the courts below not called for.*

**Dismissing the appeal, the Court**

**HELD: 1.1 There is no serious scope for reforming**

A the public servant convicted under PC Act. The moment he is convicted, he loses his job. Hence, there is no significance to the theory of reformation of his conduct in public service. The only relevant object of punishment in such cases is denunciation and deterrence. That is
B the reason the Parliament has restricted the judicial discretion in imposing punishment. [Para 20] [588-F-G]

1.2 Unless the courts award appropriately deterrent punishment taking note of the nature of the
C offence under the Prevention of Corruption Act, 1988 and the status of the public servant at the relevant time, people will lose faith in the justice delivery system and the very object of the legislation on prevention of
D corruption would be defeated. The Court is the conscience of the statute and hence, its judgments should project and promote the policy aims of punishment, lest it should shake the faith of common man in courts. The judgment on sentence shall not shock
E the common man. It should reflect the public abhorrence of the crime. The court has thus, a duty to protect and promote public interest and build up public confidence in efficacy of rule of law. Misplaced sympathy or unwarranted leniency will send a wrong signal to the
F public giving room to suspect the institutional integrity, affecting the credibility of its verdict. Thus, while awarding sentence in cases under the PC Act, the court should bear in mind the expectation of the people of its paramount duty to prevent corruption in society by
G providing prompt conviction and stern sentence. [Para 21] [589-B-F]

1.3 Appellant was the sub-inspector of police entrusted with the task of law enforcement. The keeper
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**had become the poacher. In such circumstances, there is no reason to interfere with the punishment awarded by the trial court and was upheld in appeal. [Para 22] [589-F-G]**

*Madhukar Bhaskarrao Joshi v. State of Maharashtra* **2000 (4) Suppl. SCR 475: 2000 (8) SCC 571**; *Dhananjoy Chatterjee alias Dhana v. State of W.B.* **1994 (1) SCR 37: 1994 (2) SCC 220**; *Ahmed Hussein Vali Mohammed Saiyed and another v. State of Gujarat* **2009 (8) SCR 719: 2009 (7) SCC 254**; *State of Madhya Pradesh v. Bablu* **2014 (9) SCC 281**; *State of Punjab v. Bawa Singh* **2015 (1) SCR 709**; *Mahesh s/o Ram Narain and others v. State of Madhya Pradesh* **1987 (2) SCR 710:1987 (3) SCC 80**; *Ravi alias Ram Chandra v. State of Rajasthan* **1995 (6) Suppl. SCR 195: 1996 (2) SCC 175**; *Shailesh Jasvantbhai and another v. State of Gujarat and others* **2006 (1) SCR 477: 2006 (2) SCC 359**; *Hazara Singh v. Raj Kumar and others* **2013 (5) SCR 979: 2013 (9) SCC 516 – referred to.**

**Case Law Reference**

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|---|---|---|
| **2000 (4) Suppl. SCR 475** | **Referred to.** | **Para 11** |
| **1994 (1) SCR 37** | **Referred to.** | **Para 12** |
| **2009 (8) SCR 719** | **Referred to.** | **Para 13** |
| **2014 (9) SCC 281** | **Referred to.** | **Para 14** |
| **2015 (1) SCR 709** | **Referred to.** | **Para 15** |
| **1987 (2) SCR 710** | **Referred to.** | **Para 16** |
| **1995 (6) Suppl. SCR 195** | **Referred to.** | **Para 17** |
| **2006 (1) SCR 477** | **Referred to.** | **Para 18** |

A **2013 (5) SCR 979** **Referred to.** **Para 19**

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 585 of 2015

From the Judgment and Order dated 17.07.2014 of the
B High Court of Delhi at New Delhi in Criminal Appeal No. 326 of 2008

Sushil Kumar Jain, Yadav Narender Singh for the Appellant.
C

Ranjit Kumar, S. G., Kumar Parimal, Rana Mukherjee, B. V. Balaram Das for the Respondent.

The Judgment of the Court was delivered by

D

**KURIAN, J.:** Leave granted.

2. The appeal has called for an analysis of the penological philosophy behind punishment for offences under the Prevention of Corruption Act, 1988 (hereinafter referred to
E as 'the PC Act'). According to W. Friedmann, "*The purpose of the penal law is to express a formal social condemnation of forbidden conduct, buttressed by sanctions calculated to prevent it. Implicit in this formulation are three questions, to*
F *which different societies give very different answers: First, what kind of conduct is 'forbidden'? Second, what kind of 'formal social condemnation' is considered appropriate to prevent such conduct? Third, what kind of sanctions are considered as best calculated to prevent officially outlawed conduct?*"[1]

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3. By judgment dated 29.03.2008 of the learned Special Judge (CBI), Delhi in CC No. 194/2001, the appellant was convicted for the offences under Section 7 and 13(2) read with

1 "Law in Changing Society, W. Friedmann, 2nd Edition, P.191
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Section 13(1)(d) of the Prevention of Corruption Act, 1988 and thereafter sentenced to two years rigorous imprisonment for the offence under Section 7 with a fine of Rs.15,000/- and rigorous imprisonment for two years with a fine of Rs.15,000/- under Section 13(2) read with Section 13(1)(d) of the PC Act. There was a default sentence as well. The sentences were to run concurrently.

4. The allegation was that the appellant, who was working as Sub-Inspector of Police, demanded a bribe of Rs.25,000/- for releasing the nephew of the *de-facto* complainant. On such complaint of PW-5, the Anti-Corruption Branch of the CBI laid a successful trap on 13.01.2001 which led to the trial.

5. In appeal, the High Court of Delhi found that the conviction was fully justified. It was further held that "*as regards the sentence, the Appellant was a Sub Inspector and entrusted with the task of law enforcement. In the circumstances, the punishment awarded by the trial Court cannot be said to be disproportionate. The sentence awarded to the Appellant by the trial Court is upheld*", and hence the appeal.

6. Notice in the present case was limited to the quantum of sentence only. Heard Shri Sushil Kumar Jain, learned Senior Counsel appearing on behalf of the appellant. It is submitted that in view of the ordeal of a long trial and taking note of the fact that the incident is of the year 2001, the punishment may be limited to the period already undergone. Shri Ranjit Kumar, learned Solicitor General, appearing on behalf of the respondent, on the other hand submitted that since the appellant was caught red-handed while accepting the bribe in the case at the investigation stage and stressed on the fact that since the appellant was Sub-Inspector of Police at the

A relevant time, if the punishment is reduced, it will give a wrong signal to the society.

7. In determining the quantum of sentence, the kind of forbidden conduct, the kind of social condemnation, the B sanction prescribed in law, the object of punishment, the nature of crime, the status of the criminal, etc., are some of the relevant factors to be considered by the courts.

8. The Prevention of Corruption Act was first introduced C in the year 1947 when "imperative need was felt to introduce a special legislation with a view to eradicate the evils of bribery and corruption". It was subsequently amended in 1952 and 1964. "To make the anti-corruption laws more effective by widening their coverage and by strengthening the provisions", D the Prevention of Corruption Act, 1988 was enacted. The Act was amended in the year 2014.

9. A few special legislations provide for mandatory minimum punishments and the Prevention of Corruption Act is E one such statute. Prior to the amendment in 2014, the offence under Section 7, the mandatory minimum punishment was six months which may be extended up to five years with fine. Section 13 of the PC Act provided for a mandatory punishment of minimum one year which may be extended to seven years F with fine. Section 5 of the Prevention of Corruption Act, 1947, which is the predecessor to Section 13 of the Prevention of Corruption Act, 1988, granted the court a further discretion to reduce the sentence to less than one year for special reasons G to be recorded in writing. However, in the PC Act, 1988, this discretion given to the court, was taken away. Vide 2014 amendment, the minimum sentence under Section 7 of the PC Act was raised to three years and the maximum to seven years and that under Section 13 of the PC Act, it was raised H from one year to four years and maximum to ten years and

fine.

10. The punishments under Sections 8, 9, 10, 11 of the PC Act, 1988 were minimum six months extendable to five years with fine and under Section 14 of the Act, it was minimum two years extendable to seven years and fine. However, 1988 Act, as it originally stood, did not provide for mandatory minimum punishment under Section 15-for an attempt to commit an offence under Section 13. Nor did the Act of 1947 provide for a mandatory minimum punishment for the said offence. However, in the 2014 amendment, a mandatory minimum punishment of two years, which may be extended to five years and fine, has been prescribed as punishment for attempt under Section 15.

11. An analysis of the provisions on punishment under the PC Act would give a clear indication on the penal philosophy of deterrence conceived by the Parliament. Though no authentic reference is available as to what prompted the law maker to take away the discretion conferred on the court to reduce the minimum punishment and in enhancing the minimum punishment, it is fairly clear that the Parliament intended to restrict the discretion of the courts while imposing the sentence for offences under the Prevention of Corruption Act. In the words of Justice K. T. Thomas in **Madhukar Bhaskarrao Joshi** v. **State of Maharashtra**[2] - "*When corruption was sought to be eliminated from the polity all possible stringent measures are to be adopted within the bounds of law. One such measure is to provide condign punishment. Parliament measured the parameters for such condign punishment and in that process wanted to fix a minimum sentence of imprisonment for giving deterrent impact on other public servants who are prone to corrupt deals. That was precisely the reason why the sentence*

2 (2000) 8 SCC 571, Paragraph-8.

A *was fixed as 7 years and directed that even if the said period of imprisonment need not be given the sentence shall not be less than the imprisonment for one year. Such a legislative insistence is reflection of Parliament's resolve to meet corruption cases with a very strong hand and to give signals*
B *of deterrence as the most pivotal feature of sentencing of corrupt public servants. All public servants were warned through such a legislative measure that corrupt public servants have to face very serious consequences. If on the other hand any public servant is given the impression that if*
C *he succeeds in protracting the proceedings that would help him to have the advantage of getting a very light sentence even if the case ends in conviction, we are afraid its fallout would afford incentive to public servants who are susceptible*
D *to corruption to indulge in such nefarious practices with immunity. Increasing the fine after reducing the imprisonment to a nominal period can also defeat the purpose as the corrupt public servant could easily raise the fine amount through the same means."*

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12. In **Dhananjoy Chatterjee alias Dhana v. State of W.B.**[3], this Court held at paragraph-15 that "*Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals.*
F *Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime.*"

13. In **Ahmed Hussein Vali Mohammed Saiyed and**
G **another v. State of Gujarat**[4], at paragraph-99, this Court reiterated the position in the following words "*It is expected that the courts would operate the sentencing system so as to impose such sentence which reflects the conscience of the*

H 3 (1994) 2 SCC 220
4 (2009) 7 SCC 254

*society and the sentencing process has to be stern where it should be. Any liberal attitude by imposing meagre sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be resultwise counterproductive in the long run and against the interest of society which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system."*

14. In a recent decision in **State of Madhya Pradesh v. Bablu**[5], it was held as follows:

> *"**10.** It is well-settled proposition of law that one of the prime objectives of criminal law is the imposition of adequate, just, proportionate punishment which is commensurate with the gravity and nature of the crime and manner in which the offence is committed. One should keep in mind the social interest and consciousness of the society while considering the determinative factor of sentence commensurate with the gravity and nature of crime. The punishment should not be so lenient that it shocks the conscience of the society. It is, therefore, the solemn duty of the court to strike a proper balance while awarding sentence as awarding a lesser sentence encourages any criminal and as a result of the same society suffers."*

15. After extensively referring to the objects of punishment in **State of Punjab v. Bawa Singh**[6], at paragraph-17, this Court held that "*undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law. It is the duty of every court to award proper sentence...*".

5 (2014) 9 SCC 281

6 (2015) 1 S.C.R. 709

16. In **Mahesh s/o Ram Narain and others** v. **State of Madhya Pradesh**[7], while referring to the cruel acts of the convicted accused, this Court observed that "*to give the lesser punishment for the appellants would be to render the justice system of this country suspect. The common man will lose faith in courts. In such cases, he understands and appreciates the language of deterrence more than the reformative jargon*".

17. In **Ravi alias Ram Chandra** v. **State of Rajasthan**[8], this Court held that the sentence should reflect the social conscience of society and that the sentencing process has to be stern, where it should be.

18. In **Shailesh Jasvantbhai and another** v. **State of Gujarat and others**[9], at paragraph-7, it was held that "*protection of society and stamping out criminal proclivity must be the object which must be achieved by imposing appropriate sentence*".

19. In **Hazara Singh** v. **Raj Kumar and others**[10], this Court took the view that ... "*the cardinal principle of sentencing policy is that the sentence imposed on an offender should reflect the crime he has committed and it should be proportionate to the gravity of the offence.*"

20. As far as punishment for offences under the PC Act is concerned, we do not think that there is any serious scope for reforming the convicted public servant. The moment he is convicted, he loses his job. Hence, there is no significance to the theory of reformation of his conduct in public service. The only relevant object of punishment in such cases is denunciation and deterrence. That is the reason the Parliament has restricted the judicial discretion in imposing punishment.

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7 (1987) 3 SCC 80

8 (1996) 2 SCC 175

9 (2006) 2 SCC 359

10 (2013) 9 SCC 516

21. To quote Friedmann, "*Generally, the philosophy of deterrence still prevails in modern criminology. We continue to be concerned with preventing, by appropriate punitive sanctions, both the individual offender and other members of society from the repetition of crime, or the imitation on the part of others by similar actions*"[11]. Unless the courts award appropriately deterrent punishment taking note of the nature of the offence under the PC Act and the status of the public servant at the relevant time, people will lose faith in the justice delivery system and the very object of the legislation on prevention of corruption will be defeated. The court is the conscience of the statute and hence its judgments should project and promote the policy aims of punishment, lest it should shake the faith of common man in courts. The judgment on sentence shall not shock the common man. It should reflect the public abhorrence of the crime. The court has thus a duty to protect and promote public interest and build up public confidence in efficacy of rule of law. Misplaced sympathy or unwarranted leniency will send a wrong signal to the public giving room to suspect the institutional integrity, affecting the credibility of its verdict. Thus, while awarding sentence in cases under the PC Act, the court should bear in mind the expectation of the people of its paramount duty to prevent corruption in society by providing prompt conviction and stern sentence.

22. As noticed by the High Court in the impugned judgment itself, the appellant was the sub-inspector of police entrusted with the task of law enforcement. The keeper had become the poacher. In such circumstances, we do not find any reason to interfere with the punishment awarded by the trial court and confirmed in appeal. This appeal is hence dismissed.

Nidhi Jain Appeal dismissed.

11 "Law in Changing Society, W. Friedmann, 2nd Edition, P.224.