

Man Singh

Vs

The State of Haryana

Criminal Appeal No. 182 of 1969

(A. N. Grover, M. H. Beg JJ)

17.03.1972

JUDGMENT

GROVER, J. -

1. This is an appeal by Special Leave from a Judgment of the Punjab and Haryana High Court.
2. The appellant was convicted by the High Court for an offence under Section 5(1)(d), read with Section 5(2) of the Prevention of Corruption Act and sentenced to one year's rigorous imprisonment and a fine of Rs. 100/-; in default of payment of fine he was to suffer further rigorous imprisonment for three months. This was in reversal of the Order of the Special Judge who had acquitted the appellant.
3. The case of the prosecution was that the appellant was a Patwari at the material time. He demanded illegal gratification from Amar Singh P.W. 1 for supplying certified copies of certain Khasra Girdawari and Jamabandi entries. Amar Singh, P.W. 1, reported the matter to the Deputy Superintendent of police, Prem Kumar Sharma, P.W. 13, at Police Station Sadar Panipat, who after complying with all the necessary formalities organised a raid. The currency notes which were produced by Amar Singh, P.W. 1 were duly signed by the Deputy Superintendent of Police. The raiding party which consisted of P.W. 1 Amar Singh, P.W. 2 another Amar Singh son of Molu, the Deputy Superintendent of Police, Prem Kumar Sharma, P.W. 13, Tara Chand, P.W. 12, a member of the Block Samiti and some other persons, went in a jeep which was parked in the neighbourhood of the Patwarikhana. Pursuant to the pre-arranged plan the signal was given at the material time and the police party rushed to the office of the appellant and from his shirt currency notes, Exhibits P-1 to P-14, amounting to Rs. 230/- were recovered. Those were the same which had been signed by P.W. 13.
4. The defence of the appellant was that he never received the aforesaid amount as bribe. According to him he was suffering from a skin disease and he had taken off his shirt which was laying on the side. Amar Singh, P.W. 1, who stood there for ten or fifteen minutes somehow managed to put the money in the pocket of the shirt. It was thereafter that the Deputy Superintendent of Police came and picked up the shirt and recovered the money. The learned Special Judge was of the view that the appellant was suffering from acute dermatitis and it being hot weather it was very likely that he had taken off his shirt. His explanation as to how the money came to be found in the pocket of the shirt was considered reasonable and the evidence of the witnesses was rejected as unsatisfactory or as discrepant. The High Court, however, came to the firm conclusion that at the time when the money recovered from the pocket of the shirt of the appellant he was wearing it and therefore it was for the appellant to explain how that amount came into his possession. The explanation which he gave

was not considered acceptable and, therefore, he was convicted and sentenced as stated before.

5. Now the crucial question in this case is whether the appellant was wearing the shirt from which the currency notes, which were marked, were recovered. If the shirt was lying elsewhere, the Special Judge might have legitimately taken the view which he did, but if the shirt was recovered from his person and the money was found therefrom, then clearly it was incumbent under the law on the appellant to show how he came into possession of that money. Even according to him that money did not belong to him and he never claimed that it had come from any other source except that it had been planted in the pocket of his shirt by Amar Singh, P.W. 1.

6. We have been taken through the judgments of the Special Judge and also of the High Court and we have looked at the material portion of the evidence as well. We are satisfied that the High Court was justified in coming to the conclusion that the shirt was recovered at the time of the raid from the person of the appellant. In other words, he was wearing it at the time the raiding party came and recovered the notes from the pocket of the shirt. Even if the evidence of Amar Singh P.W. 1, who is a partisan and interested witness and against whom there are certain suggestions of previous enmity with the appellant, is excluded as also of Preet Singh, who had to be declared hostile, we are unable to understand how the evidence of Tara Chand, a member of Block Samiti, who was perfectly an independent witness, could be disbelieved. The learned Special Judge has dealt with his evidence in a manner which cannot be regarded as satisfactory. This is what he says:

"Tara Chand is a member of the Block Simiti. He was joined in the raid from his village Naulthe. The inference clearly is that he could be relied on by the police for any story that was to be built up."

7. We are unable to understand how the mere fact Tara Chand who was a member of the Block Samiti and was joined from his village would lead to the inference that he was a tool in the hands of the police and that he would support any story which might have been falsely concocted against the appellant. In his evidence nothing was brought out to show that he was in any way interested in getting the appellant involved in this offence. The evidence of the Deputy Superintendent of Police, Prem Kumar Sharma, P.W. 13, also does not contain any such infirmity as would have justified the Court in disbelieving him. The High Court has believed these witnesses and has considered the discrepancies which weighed with the Special Judge for discarding the evidence of the witnesses, as of a minor consequence. There is hardly any such infirmity either in the approach to the case or in the matter of application of law which would justify interference under Article 136 of the Constitution by this Court. This appeal fails and is dismissed. The appellant is on bail. He shall surrender to his Bail Bond to serve out the rest of the sentence.

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