

Sultan Ahmed

Vs

State of Bihar

Criminal Appeal No. 84 of 1970

(H. R.Khanna, R. S. Sarkaria JJ)

28.09.1973

JUDGMENT

KHANNA, J. -

1. This is an appeal by special leave by Sultan Ahmed Khan against the judgment of the Patna High Court, affirming on appeal the conviction of the appellant under Section 5 (1)(d) of the Prevention of Corruption Act and Section 161, Indian Penal Code and the sentence of rigorous imprisonment for a period of one year.

2. The prosecution case is that the accused appellant was employed as a dealing assistant in the office of the Block Development Officer (BDO), Mashrakh Block, District Saran, at the relevant time. Sobhan Singh (P.W. 2), who was a college student in those days, had received Rs. 60/- as advance subsidy in connection with the repair of his well from BDO. A scheme was in operation in those days under which half the cost of repairing a well was met by the Government. Sobhan Singh completed the work of repairing the well and asked for the balance amount of the subsidy. An application was filed by him in the office of BDO for that purpose. Sobhan Singh met the accused in connection with the subsidy, but the accused put him off and told him that he (the accused) would do the needful if he was paid a bribe of Rs. 5/-. As the accused was not preparing the final bill for payment of the balance of subsidy in spite of the demand of Sobhan Singh P.W., the latter went on October 7, 1964 to the office of the Anti-Corruption Department in Patna. An application was presented to the Additional Secretary of the Department by Sobhan Singh complaining of the demand of bribe of Rs. 5/- by the accused. The statement of Sobhan Singh was then recorded by a magistrate attached to the department. Sobhan Singh also produced a currency note of Rs. 5/- and its number was noted down. Sobhan Singh was thereafter directed to meet DSP Devi Charan Sinha (P.W. 21). DSP Sinha then told Sobhan Singh to meet him on the following day at 9 a.m. at Mashrakh railway station and to also bring the currency note of Rs. 5/-.

3. On the morning of October 8, 1964, DSP Sinha organised police party which included Inspector Raghuraj Singh (P.W. 3), Chandrika Prasad (P.W. 1), Hira Kishan Ojha (P.W. 16), Bhagwat Prasad (P.W. 4), all of the Anti-Corruption Department as well as Radha Krishan Prasad (P.W. 6) Prasad Chanda Basu (P.W. 5) and Madan Mohan Rai (P.W. 7) of the Central Bureau of Investigation. They were all today by DSP Sinha to meet him at Mashrakh railway station at 9 a.m. on that day. All the above police officials met DSP Sinha at Mashrakh railway station at 9 a.m. Sub-Inspector Ram Chand Singh Thakur (P.W. 19) too joined the party. Sobhan Singh also met DSP Sinha at Mashrakh railway station. DSP Sinha then introduced Sobhan Singh to the other members of the party and told them that they had assembled there in connection with the laying of a trap because the accused had made demand of Rs 5/- as bribe from Sobhan Singh. Harishankar Sing (P.W) directed by DSP Sinha

to accompany Sobhan Singh to the office of the accused and overhear the talk which took place between Sobhan Singh and the accused. It was also arranged that after the money had been received by the accused, Harishankar Singh would give a signal by tying his handkerchief over his head. The members of the raid party then proceeded towards the Block Development Office.

4. The accused-appellant was then seen coming on a bicycle. The accused was stopped by Sobhan Singh and was asked to prepare his bill. The accused told Sobhan Singh to come to his office with Rs. 5/- and that he would prepare the bill on receiving that amount. The accused thereafter went away. Sobhan Singh then went to the office of the accused. The accused also arrived there and made a demand of Rs 5/- from Sobhan Singh for preparing the bill. Sobhan Singh then handed over the currency note of Rs. 5/- to the accused. The accused placed that currency note in the pocket of his shirt. Harishankar Singh then gave the requisite signal. DSP Sinha and other members of the party thereupon arrived there. DSP Sinha disclosed his identity to the accused and told him that he (the Deputy Superintendent of police) would search the person of the accused because the latter had received bribe of Rs. 5/-. DSP Sinha also sent for project Executive Officer Gangasagar Thakur (P.W. 13) and Krishna Kumar, another official working in the Block Development Office. The person of the accused was then searched and the currency note of Rs. 5/-, of which the number had been noted on the previous day, was recovered from the pocket of the accused. After necessary sanction he was sent up for trial.

5. The accused in his statement under Section 342 of the Code of Criminal Procedure admitted that he had received the currency note of Rs. 5/- from Sobhan Singh. According, however, to the accused the said currency note had been received by him from Sobhan Singh because the latter wanted to have a change of five one-rupee currency notes in lieu of the currency note of Rs. 5/. The accused added that he immediately came out with this explanation when his person was searched. In defence, two witnesses, Randhir Prasad and Ramayan Mishra, were examined in support of the above version of the accused.

6. The trial Court accepted the prosecution allegation and rejected the version of the accused. He was accordingly convicted and sentenced as above. The findings of the trial Court were upheld on appeal by the High Court.

7. In appeal before us, Mr. Nuruddin on behalf of the appellant has argued that the prosecution evidence adduced in this case is not such upon which reliance can be placed. As against that, Mr. Goburdhun on behalf of the State has canvassed for the correctness of the view taken by the trial Court and the High Court. In our opinion, there is no force in the contention advanced on behalf of the appellant. As would appear from the resume of the facts given above, there is no dispute on the point that the currency note of Rs. 5/- was received by the accused from Sobhan Singh. According to the prosecution case, the said currency note was received by the accused from Sobhan Singh as bribe, while according to the accused, he had received the currency note because Sobhan Singh wanted five one-rupee currency notes in lieu of that currency note. The fact that the accused had demanded Rs. 5/- from Sobhan Singh is proved by the evidence of Sobhan Singh. There appears to be no cogent reason to disbelieve that evidence of Sobhan Singh as well as that of Harishankar Singh (P.W. 20). The application by Sobhan Singh in the office of the Anti-Corruption Department as well as the statement of Sobhan Singh which was recorded on the previous day also lend corroboration to the evidence of Sobhan Singh that the accused had made a demand of Rs. 5/- from him as bribe. So far as the plea of the accused is concerned that he received the currency note in question from Sobhan Singh with a view to give him in exchange five currency notes of rupee one, we find that no such suggestion was put by the accused when Gangasagar Thakur, the project

Executive Officer, was examined as a witness. Kishan Kumar Prasad, the other official employed in the office of the accused, has deposed that at the time the Deputy Superintendent of police told the accused that he had received in a bribe of Rs. 5/- from Sobhan Singh, the accused merely kept quite. It is also in the evidence of the other witnesses who were present at the time of the search of the accused that he looked perplexed and did not come out with any explanation at that time. It was only much later in the day, more than a couple of hours after the recovery of the currency note of rupees five from the accused, that he came out with the version that he had received it with a view to give five one-rupee currency notes to Sobhan Singh. In the circumstances, the above plea of the accused must be held to be the result of an after thought. The two defence witnesses did not make any statement about what they have deposed in the Court to any one and, in our opinion, their evidence has been rightly rejected by the trial Court and the High Court.

8. We see no cogent ground to interfere with the concurrent findings of the trial Court and the High Court which have been arrived at on due appraisal of the evidence adduced in the case. The accused appellant, in our opinion, has been rightly convicted. His appeal consequently fails and is dismissed.

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