

Tilak Prakash Khullar

Vs

State of Haryana

Criminal Appeal No. 214 of 1974

(Syed M. Fazal Ali, A. D. Koshal JJ)

14.02.1979

JUDGMENT

FAZAL ALI, J. –

1. In this appeal by special leave the appellant has been convicted under Section 5(2) of the Prevention of Corruption Act and sentenced to one year's RI and fine of Rs. 2000. He was also convicted under Section 161, IPC and sentenced to one year's RI. The two sentences were directed to run concurrently. The prosecution case has been fully detailed in the judgment of the High Court and the trial Court and it is not necessary for us to repeat the same over again. It appears that a theft in the godown of the Bank of Patiala had been reported to the Police Station, Solan and the appellant who was the sub-Inspector in charge of the police station took up the investigation on a FIR lodged in this connection by PW 3 Budh Ram. The prosecution case was that the appellant conveyed a message to Budh Ram that if he was prepared to pay Rs. 3000 the appellant shall try to help him out. Budh Ram agreed to pay this money and it was settled that the appellant would come to Ambala on December 19, 1969 and take the money. Budh Ram, however, informed the Vigilance Officer at Ambala who organised a raiding party. According to the prosecution the first stage of the demand was when the appellant visited the house of Om Prakash at Ambala and remained there for two hours. At that time the demand for bribe was conceded by Budh Ram and the appellant agreed to take the same, but placed the money on the table saying that he would take the same when he leaves the place. Thereafter the appellant went along with Ram Swarup PW 4 on his motor cycle and while sitting on the pillion seat took the money, kept the same in his hands. As previously arranged the party reached the petrol-pump where the Vigilance S.I. PW 2, Faqir Chand Gurbachan Singh PW 5 were waiting to watch the recovery of the money. As soon as PW 4 stopped the motor cycle, the Inspector came down and while walking on the road, counted the money, at that time Faqir Chand PW 2 rushed at him and caught hold of his hands and recovered the money. The recovery list was prepared which has been signed amongst others by Gurcharan Singh, PW 5. It may be mentioned that the prosecution has examined two independent witness to prove the acceptance of the bribe. One is PW 6, Aggarwal who was watching the talk going on between Budh Ram and the appellant and the passing of the money at the house of Om Prakash and another independent witness was Gurcharan Singh who was an officer in the Postal Department and in his presence the money was recovered at the petrol-pump. After the usual formalities a charge-sheet was submitted and the accused was tried and ultimately convicted by the Sessions Judge as indicated above.

2. We have gone through the judgment of the High Court and that of the trial Court. We do not find any error of law in the judgment of the High Court.

3. Mr. Kohil appearing for the appellant has raised two points before us. In the first place it was submitted that the whole prosecution case is impossible and ridiculous. It was contended that it was difficult to believe that the appellant had gone to the house of Om Prakash and remained there for a long time without taking the money when it was offered to him but kept the same at the table. This fact, however, has been proved by the evidence of independent witness and accepted by two courts and we find ourselves unable to differ with the view taken by them. Moreover, the appellant was a clever police officer and wanted to take all possible precautions. Secondly, it was submitted that the innocence of the accused should be inferred from the fact that the moment he was apprehended by PW 2, he gave out that the currency notes have been given to him by PW Ram Swarup and the prosecution ought to have verified the defence of the accused by asking Ram Swarup also to dip his hand in water and if he dipped and his hand turned red, this would prove the defence of the appellant. This argument is undoubtedly very attractive and it would indeed have been much better for the prosecution to have tried this experiment. But the mere fact that the prosecution did not do so, is not supported by independent and unconnected witness viz Gurcharan Singh and Aggarwal. Gurucharan Singh has clearly stated that when the motor cycle was stopped the accused was holding the currency notes. Thereafter he started counting the notes with the help of the other hand. Just then, Faqir Chand rushed and caught hold of the accused. The statement of these witnesses has not been shaken in cross examination and nothing of importance elicited which may support the defence case. It is true that the accused had taken the defence at the time of recovery that the money was given to him by Ram Swarup. From this suggestion it appears that the accused had said that Ram Swarup had given the money at a distance of few paces where the motor cycle had been stopped. This appears to be an improbable story because while the motor cycle was in motion, it is difficult for Ram Swarup to take out such a huge amount of Rs. 3000 and pay it to the appellant. Another suggestion given was that the money was lying on the table and was taken up from there. This suggestion is clearly falsified by the fact, that when the accused's hands were washed with the lotion, they turned red as deposed by Gurcharan Singh and Aggarwal. For these reasons, therefore, we are unable to agree with Mr. Kohli that on the basis of the circumstances relied upon, the prosecution case should be rejected. Lastly Mr. Kohli enabling on the question of sentence. We were informed that the accused lost his job and the prosecution was started ten years back. But we feel that in this particular case the appellant had made a very heavy demand for asked very cleverly. If a public servant entrusted with the duty honest investigation, demands heavy bribe of Rs. 3000 such be seriously deprecated and deserves no clemency. In these therefore, we are unable to see any ground for reduction of. The result is that all the contentions raised by Mr. Kohli fail dismissed. The bail bonds of the appellant will now stand cancelled and he must show surrender to serve out the remaining portion of the sentence.

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