

State of Punjab

Vs

Kuldip Prakash

Criminal Appeal No. 352 of 1975

(A.D. Koshal, V.B. Eradi, R.B. Misra JJ)

30.01.1981

JUDGMENT

KOSHAL, J. –

1. This is an appeal by special leave against a judgment of the High Court of Punjab & Haryana acquitting the respondent of an offence under Section 5(2) of the Prevention of Corruption Act of which he was convicted by the Special Judge, Sangrur and was awarded of rigorous imprisonment for 6 months and a fine of Rs. 100, the sentence in default of fine being rigorous imprisonment for a month.

2. According to the case for the prosecution, the respondent had accepted a bribe of Rs. 50 from two partners of a book-binding firm of Sangrur, known as M/s. Royal Book Binders, after a trap had been laid for his apprehension. Out of the two partners, one has fully supported the prosecution with a deposition to the effect that he and his partner had handed over currency notes worth Rs. 50 over which some powder had been sprinkled by the police, to the respondent who then put the same into a purse and placed the purse in his pocket. His partner, namely, Ramesh Kumar (PW 3), has given another version of the manner in which the bribe was demanded and accepted. According to Ramesh Kumar, the respondent never touched the money but the same was put in his (respondent's) pocket by Ramesh Kumar himself at the behest of the respondent. Another link in the chain of the prosecution case was that Gorakh Nath (PW 6) had acted as a shadow witness and it was after he had given a signal indicating the acceptance of the money by the respondent that the latter was apprehended and the money was recovered from his purse. In this state of conflicting evidence, while the learned Magistrate chose to ignore the stand taken by Ramesh Kumar (PW 3) and Gorakh Nath (PW 6) to the extent that they had not supported the prosecution, the High Court did not consider the testimony of Rajinder Kumar (PW 4) and the police officials who were members of the raiding party to be reliable enough in view of the fact that all of them were "trap witnesses" and were not only not corroborated by independent evidence but were contradicted in important aspects of the prosecution case by other witnesses for the prosecution itself.

3. After hearing Mr. O.P. Sharma for the State at length, we do not think it a fit case for our interference. The impugned judgment is one of acquittal and we do not find anything wrong with it. On the other hand, we are of the opinion that the High Court was justified in taking the view that it did when it found that there were three versions of the prosecution case given by its witnesses. Accordingly we find the appeal without merit and dismiss it.

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