

Bal Krishan Sayal

Vs

State of Punjab

Criminal Appeal No. 229 of 1977

(Ranganath Misra, M. M. Dutt JJ)

28.01.1987

JUDGMENT

RANGANATH MISRA, J. -

1. This appeal is by special leave and the affirming judgment of the Punjab and Haryana High Court upholding the convictions and sentences of the appellant under Section 5(2) of the Prevention of Corruption Act and Section 161 of the Indian Penal Code is sought to be set aside.
2. The appellant was a clerk in the Personnel Branch of the Divisional Superintendent, Northern Railway at Firozpur. One Gurcharan Ram, a fitter in the railway establishment had become liable to penal rent in respect of the official residence occupied by him. The prosecution alleged that the appellant demanded a bribe of Rs. 100 from Gurcharan Ram to obtain an order of waiver of the penal rent. Gurcharan Ram pleaded that he was not in a position to pay the amount demanded and it was ultimately settled that the sum of Rs. 100 would be paid in five instalments of Rs. 20 each. With reference to the payment of the first instalment a trap was arranged and soon after the bribe of Rs. 20 had been received, the trap party recovered the amount. The defence was one of the total denial.
3. Two outsider witnesses had been examined in the case being Khazan Singh and Ram Chander in support of the case. Khazan Singh, as noticed by the High Court, did not speak as to what transpired in the conversation between the bribe-giver and the appellant. The other witness too was not very clear as to what talk preceded the passing of the two currency notes. The High Court took the view that even if the prosecution had not indicated what exactly the conversation was, once the passing of the two currency notes was accepted it was for the appellant to explain the circumstances under which the same had been received. Another contention which had been raised before the High Court was that the total penal rent due from Gurcharan Ram was Rs. 102 and to obtain waiver of this it was unlikely that Gurcharan would have agreed to pay a sum of Rs. 100 as bribe. We wanted to find out exactly how much of penal rent was due and, therefore, sent for the record. From the record it is apparent that the demand was of Rs. 102 which Gurcharan Ram wanted to be waived. There is no material to show whether there was likelihood of any additional demand to be raised against him. Taking the unsatisfactory character of the prosecution evidence in regard to the conversation preceding the passing of the currency notes and the feature that for waiver of Rs. 102, the bribe of Rs. 100 was offered, we are inclined to take the view that the prosecution has failed to establish its case beyond reasonable doubt and the appellant is entitled to this benefit of this situation. The appeal is allowed and the convictions and the sentences are set aside.

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