

State of U. P.

Vs

Ram Asrey

Civil Appeal No. 23 of 1988

(S.R. Pandian, K. Jayachandra Reddy JJ )

07.02.1990

JUDGMENT

S. RATNAVEL PANDIAN, J. –

1. The State of Uttar Pradesh represented by its Chief Secretary has preferred this appeal questioning the correctness and legality of the judgment of the High Court of Allahabad, Lucknow Bench setting aside the judgment and order of the Special Judge, Barabanki and allowing the appeal preferred by the respondent/accused. The respondent took his trial before the Special Judge for offences punishable under Section 161 of the Indian Penal Code and Section 5 (1) (d) of the Prevention of Corruption Act. The facts of the prosecution case briefly stated are thus :

One Ambar Prasad who was a student of B. A. 1st year presented an application on October 27, 1979 before the respondent at the direction of Tehsildar, Fatehpur for obtaining a certificate, to the effect that he belongs to backward class so that he could apply for his scholarship provided for the backward class students. The respondent demanded a sum of Rs. 20 as bribe for expediting the matter but Ambar Prasad agreed to pay Rs. 10. As the respondent did not agree, Ambar Prasad finally agreed to pay Rs. 15 on November 8, 1979. Thereafter, Ambar Prasad filed a petition before the Superintendent of Police Vigilance Department, U. P. (PW 1) under Ex. Ka-1 on November 5, 1979. A trap was laid. As per the arrangements, Ambar Prasad paid a sum of Rs. 10 smeared with phenolphthalein. On a signal given by Ambar Prasad, the vigilance police with two other independent trap witnesses PWs 4 and 5 went into the office of Tehsildar recovered a sum of Rs. 10 from the respondent after following all formalities. Thereafter, the charge-sheet was filed.

2. The respondent has totally denied having received any amount from Ambar Prasad and stated that he has been falsely implicated in this case since he has made a complaint against the persons involved in a movement organised by Communist Party against the Tehsil staff at Fatehpur and PW 5 was one of the persons who was arrested on his complaint. Though the appellant was found guilty and convicted by the trial court, the High Court has acquitted him. Hence this present appeal is filed by the State.

3. The appellant court has given the following reasons for allowing the appeal of the respondent, they being :

(1) There is no corroboration of the testimony of the complainant, Ambar Prasad regarding the demand of bribe by the respondent on October 27, 1979.

(2) The evidence adduced by the prosecution that even on November 5, 1979, the respondent demanded the bribe from Ambar Prasad in the presence of the other persons without taking any precaution is not convincing.

(3) There is no acceptable reason as to why Ambar Prasad who had promised to give the bribe money on November 8, 1979 came even on November 5, 1979 with the vigilance party.

(4) Though Ambar Prasad agreed to pay Rs. 15, he paid only Rs. 10.

(5) The application said to have been presented by Ambar Prasad is not found.

(6) No evidence whatsoever was produced to show that Ambar Prasad required a backward class certificate for getting the scholarship in the month of November.

4. The sum and substance of the above reasoning go to show that there is no acceptable and clinching evidence proving that there was a demand of bribe and that the respondent accepted the amount in question as a motive or reward for doing an official act or showing a favour to Ambar Prasad in exercise of his official function.

5. On going through the impugned judgment of the High Court, we are of the view that the facts and circumstances of this case do not warrant interference.

6. In the result, the appeal is dismissed.

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