

Rup Singh

Vs

State of Punjab

Criminal Appeal No.102 of 1984

(A. M. Ahmadi, V. Ramaswami, Smt. M. S. Fathima Beevi JJ)

04.04.1991

JUDGEMENT

AHMADI, J.:-

1. Rup Singh, the appellant, was serving as a Revenu Patwari of village Balad Kalan. On 22nd December, 1980, PW 5 - Sukhdev Singh approached him in the Patwarikhana at Bhawanigarh and requested him to supply a copy of the Jamabandi concerning his land as he was desirous of installing an electric motor. The appellant demanded Rs. 300/- by way of illegal gratification for preparing and supplying the copy of the Jamabandi. After some discussion the amount was settled at Rs. 200/-. PW 5, however, was not desirous of paying the said amount to the appellant. He, therefore, approached PW 8 -Gurdial Singh, Vigilance Inspector, and gave his complaint Exh. PJ. Thereafter, PW 5 handed over two currency notes of Rs. 100/- each, Exhs. P4 and P5, to PW 8. PW 8 treated the currency notes with phenolphthalein powder and noted their numbers in the Memo Exh. PK. He thereafter gave a demonstration of the working of the phenolphthalein powder to PW 5 and PWs 6 and 7 who had been called to witness the trap proposed to be laid. PW 5 was instructed to go to the Patwarikhana and pay the amount to the appellant on demand. PW 7 was directed to accompany PW 5 and to give the signal on the appellant accepting the bribe money. Accordingly, PWs 5 and 7 went to the Patwarikhana and met the appellant. On seeing PW 5, the appellant stepped out of the Chobara and enquired if he had brought the money. On PW 5 answering in the affirmative the appellant demanded the amount which was paid to him by PW 5. The appellant accepted the amount by his right hand. PW7 who witnessed the acceptance gave the pre-planned signal whereupon PW 8 and party arrived at the scene of occurrence. On seeing PW 8 and his companions, the appellant threw away the notes in the adjoining compound. The appellant was apprehended and his person was searched. Rs. 642/- were recovered. Thereafter, the appellant's hand was placed in sodium carbonate mixed with water and it turned pink. The said solution was sealed in a bottle Exh. P3 under Memo Exh. PL. Thereafter, the raiding party went to the adjoining compound, picked up the two notes the numbers whereof tallied with the numbers noted in the Memo Exh. PK. The notes were sealed under the Memo Exh. PN. The bottle Exh. P3 was sent to the Forensic Science Laboratory which reported by Exh. PF that the solution contained sodium carbonate and phenolphthalein powder. After obtaining the necessary sanction, Exh. PE, the appellant was prosecuted under S. 5(1)(d) read with S. 5(2) of the Prevention of Corruption Act, 1947 and Section 161, IPC.

2. The appellant in his examination under S.313 of the Criminal Procedure Code denied the prosecution allegations and contended that PW 5 was annoyed as he had refused to change the valuation of land left by his father while preparing the statement of death-duty on 8th December, 1980. His case, therefore, was that PW 5 had been instrumental in setting up a false case against him

to take revenge.

3. The learned Special Judge, Sangrur, framed a charge for the commission of aforesaid offences and on an appreciation of the prosecution evidence, particularly the evidence of PWs 5 to 8, came to the conclusion that the guilt was established beyond any manner of doubt. He rejected the defence contention that PW 5 was actuated by ulterior motives in giving evidence against the appellant. He also rejected the appellant's contention that PWs 6 and 7 were also giving false evidence at the behest of PW 5. The appellant on conviction was sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs. 500/-, in default, to undergo rigorous imprisonment for five months under both the counts. The substantive sentences were directed to run concurrently.

4. The appellant preferred an appeal before the High Court of Punjab & Haryana which was heard by a learned single Judge. The learned single Judge came to the conclusion that even if it is believed for the sake of argument that PW 5 was annoyed because the appellant had refused to change the valuation and PW 6 was annoyed because the appellant had cancelled the mutation of his father, it is not possible to believe that PW 8 who had no axe to grind would become privy to the conspiracy of PWs 5 and 6 to falsely implicate the appellant. The finding of the currency notes from the adjoining house was also taken as indicative of the appellant's mens rea and the fact that the appellant's hands were tainted with phenolphthalein powder was considered a piece of corroborative evidence which supported the prosecution version. On this line of reasoning the learned single Judge of the High Court dismissed the appeal. Feeling aggrieved by the order dismissing his appeal, the appellant has approached this Court under Art. 136 of the Constitution.

5. The learned counsel for the appellant took us through the evidence of PWs 5 to 8. The evidence of PW 4 - Sarup Chand proves the fact that the appellant was the Revenue Patwari of Balad Kalan at the relevant point of time. This fact is clearly established from the service book Exh. PI. The evidence of this witness being unchallenged must be accepted without demur. So far as the evidence of PWs 5 to 8 is concerned, we find that their evidence clearly brings out the prosecution version regarding the incident. Nothing substantial has been brought out in their cross-examination to doubt their testimony. His defence that he was a victim of conspiracy because he had refused to change the valuation of the land on the demise of PW 5's father is, to say the least, preposterous. Except his oral statement there is nothing on record to support the contention. He has not explained the presence of phenolphthalein powder on his hand and the finding of currency notes from the adjoining house where according to the prosecution witnesses he had thrown the notes: The fact that PW 5 was involved in a murder case and had given evidence as an approver several years ago cannot impinge the credibility of the witness. It is also not possible to believe that PWs 6 and 7 have come forward to give evidence against the appellant at the behest of PW 5. Merely because PW 5 sold the land sometime thereafter cannot be a circumstance to doubt his case that he needed a copy of the Jamabandi to install an electric motor and as the learned single Judge rightly observes nothing is brought on record to show that PW 8 had reason to be privy to the conspiracy hatched by PW 5. The fact that PW 7 is a co-villager cannot cast a doubt on the veracity of his statement. On a careful examination of the evidence of the aforesaid prosecution witnesses we are satisfied beyond any manner of doubt that the prosecution has brought home the guilt against the appellant. We, therefore, see no reason to interfere with the order of conviction recorded by both the courts below.

6. For the above reasons, we see no merit in this appeal and dismiss the same. The appellant will surrender to his bail.

Appeal dismissed.

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