

Ayyasami

Vs

State of T.N.,

Criminal Appeal No.346, of 1980

(Kuldip Singh, R.M. Sahai JJ)

29.11.1991

R. M. SAHAI, J.:-

1. The appellant, a Deputy Naib Tahsildar, was convicted for offences under Section 161 of the Penal Code and Sec. 5(1)(d) of the Prevention of Corruption Act, 1947. He was tried for demanding and accepting a bribe of Rs. 1 00 / - for issuing a solvency certificate to a contractor. According to prosecution when the complainant approached the appellant for solvency certificate he told him that it could be issued only if he paid him Rs. 100/-. The complainant then approached the office of the appellant accompanied with a trader who knew the appellant and before whom he repeated his demand. But since the complainant had not taken any money he was asked to come later but within a day or two as he was proceeding on leave. After two days at the instance of the complainant a trap was organised on basis of which the appellant was tried and convicted. The High Court rejected the testimony of the trader who accompanied the complainant before whom it is claimed that the appellant demanded the money. The High Court further found that when hand of appellant was put in the chemical solution it did not turn pink, but it accepted the explanation of the prosecution that the money was placed in the drawer of the appellant by the complainant on appellant's bidding and that it was recovered from his drawer by the raiding party.

2. We have heard learned counsel for parties. There is no independent evidence to show that the appellant demanded Rs. 100/as bribe from the complainant. The chemical solution did not inculcate him. The money was recovered from the drawer. There is no evidence apart from the complainant to show that the money was placed in the drawer by the complainant at the asking of the appellant. Under the circumstances we agree with the learned counsel for the appellant that the conviction is based more on probabilities than on the evidence proving the guilt against him beyond reasonable doubt.

3. In the circumstances, the appeal succeeds and is allowed. The conviction and sentence of the appellant is set aside. His bail bonds are discharged.

Appeal allowed.

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