

Som Parkash

Vs

State of Punjab

Criminal Appeal No. 319 of 1980

(Kuldip Singh, R.M. Sahai JJ)

29.11.1991

JUDGEMENT

R. M. SAHAI, J.:-

1. The appellant was Head Master of a Government high school. He was tried for accepting an illegal gratification from a teacher of the same school for showing favour in signing a bill relating to the arrears of his salary. The special Judge after considering the evidence led on behalf of prosecution held the appellant to be guilty for offence under S. 5(2) of Prevention of Corruption Act and S. 161 of the Penal Code. He was convicted and sentenced to rigorous imprisonment for two years under both the counts which were to run concurrently. A fine of Rs. 500/- was also imposed on him. In appeal the substantive sentence of imprisonment on both the counts was reduced to one year R.I. which were to run concurrently. The fine was maintained.

2. The High Court found that the witnesses who were associated in the conduct of the raid for recovery of tainted money from the appellant could not be termed as independent who could be associated with such raids. The High Court further expressed doubt about veracity of the witness who claimed that money was actually handed over in his presence. The High Court, however, drew an adverse inference against the appellant from the circumstance that the bill which was delayed for unreasonable period had suddenly been passed by the appellant. On an overall assessment the High Court entertained some suspicion about the credibility of the prosecution witnesses but at the same time did not find the suspicion to be strong enough to raise doubt about the guilt of the appellant. We agree with the learned counsel for the appellant that in the face of the finding that the witnesses who formed part of the raiding party were not independent and the evidence regarding handing over money to the appellant being unbelievable, the conviction of the appellant cannot be sustained. The guilt of the appellant has not been proved beyond reasonable doubt and as such the benefit must go to him.

3. In the result, this appeal succeeds and is allowed. The conviction and sentence passed against the appellant is set aside. His bail bonds are discharged.

Appeal allowed.

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