

# SUPREME COURT OF INDIA

Sat Pal

Vs.

State of Punjab

Crl.A.No.1712 of 2007

(Harjit Singh Bedi and Chandramauli Kr. Prasad JJ.)

07.04.2011

## ORDER

1. The Appellant before us was the Veterinary officer in Veterinary Hospital village Kot Sukhia, Police Station Katkapura. On the 30th May, 1991 PW.2 Darshan Singh, the complainant, went to him at about 1.00 p.m. and requested him for a certificate to get a loan for buying a buffaloe as per the Government scheme. The Appellant told him that the certificate had been prepared but would not be delivered to him unless he paid Rs. 200/-. On negotiation however this figure was reduced to Rs. 100/-. PW.2-Darshan Singh thereafter told the Appellant that he would pay the money the next day. He however talked over the matter with Kuldip Singh-PW.3 who suggested that in stead of paying bribe he should inform the Vigilance Department, Faridkot. The two thereafter went to Faridcot and informed DSP Tara Chand-PW.6 who prepared a trap and carried out the procedure with the phenolphthalein powder on a currency note of Rs. 100/- provided by Darshan Singh. The raiding party also associated Dr. J.C. Manda-PW.1 of the Homeopathic Dispensary as a shadow witness. The raiding party then came to village Kot Sukhia and whereas Darshan Singh and Kuldip Singh went to the Appellant's hospital the others stayed back near the water-works. The Appellant asked Darshan Singh if he had brought the money whereupon he handed over the currency note to the Appellant, who put the same in his purse and placed the purse in the back pocket of his trousers. Kuldip Singh thereafter gave the signal to the raiding party which rushed to the place. The DSP introduced himself to the Appellant and first washed the hands of Dr. Manda in the Sodium Carbonate solution, on which the colour of the solution did not change and thereafter, he put the hands of the Appellant in the solution on which the colour changed to pink.

2. On the completion of the investigation the Appellant was charged for offences punishable under Sections 7 read with Section 13(2) of the Prevention of Corruption Act, 1988.

3. The prosecution in support of its case examined Dr. J.C. Manda-PW.1, Darshan Singh-PW.2, Kuldip Singh-PW.3 and Bank Manager-Bhupinder Singh (PW.4) who was to provide the loan, D.S.P Tara Chand -PW.6 and several other witnesses in support of its case. Several documents were also tendered in evidence. The Appellant in his statement under Section 313 of the Code of Criminal Procedure denied the allegations and stated that he had in fact issued the certificate to the complainant on the 30th May, 1991 at 9.45 a.m. itself and then had gone to attend the monthly meeting of Officers at Faridkot and had returned at 3.30 p.m. whereafter Darshan Singh had met him and asked him for medicine for increasing the milk yield of his buffaloes, and had assured him that he would pay for the medicine after receiving it. He further stated that he had brought the medicine from Kotkapura on the 31st May, 1991 and the Rs. 100/- taken from Darshan Singh was the price of the medicine and it was this amount which had been recovered by the DSP in the course of the raid. He also asserted that the evidence of PW.2 could not be believed as he had tendered an affidavit dated 30th June 1991 disowning the prosecution case in toto. He further stated that the entire story put up by the prosecution was wrong as the time factor which was relevant to the case both on the 30th and 31st May, 1991 did not fit in with the circumstances. It was further pleaded that the prosecution story had been cooked up by the complainant in connivance with the other witnesses.

4. The Trial Court in the course of an elaborate judgment dated 5th May 1994 held the case against the Appellant as proved. It was noted that the evidence of PW.2 and PW.3 was corroborated by the evidence of PW.1 and PW.6 as well. The defence put up by the Appellant was also rejected for the reason that though the affidavit Ex. D.A. did bear the signatures of Darshan Singh yet it was apparent from the stamp vendor's register that the paper had been purchased by somebody else. The Court also held that the paper was purported to have been purchased in 1990 yet the Oath Commissioner's endorsement had been made on the 27th March, 1993 and as such the very genesis of the affidavit was suspect. The Trial Court accordingly convicted the Appellant and sentenced him to one year's R.I. under Section 13(2) of the Act. The matter was thereafter taken in appeal and the High Court has affirmed the judgment of the Trial Court.

5. Mr. Vijay Hansaria, the learned senior counsel for the Appellant, has raised pleas similar to ones raised in the Trial Court and the High Court. He has first contended that the prosecution story itself was suspicious as the Appellant had been in Faridkot in the monthly meeting and the story that the Darshan Singh had met him in the clinic at 1.00 p.m. was not borne out from the record. He has also pointed out that though a presumption under Section 20 could be used against an accused in a case where the money had been recovered from him but the presumption was rebuttable and in this case the defence evidence had clearly rebutted the presumption in as much that the Rs. 100/- represented the payment for the medicine that had been brought by the Appellant from Kotkapura and handed over to Darshan Singh-PW.2. He has also urged that the presumption was further rebutted by the affidavit D.A. which admittedly bore the signatures of Darshan Singh PW.2.

6. These arguments have been controverted by the learned Counsel for the State of Punjab. He has pointed out that the evidence of PWs. 1,2,3 and 6 clearly proved the prosecution story beyond doubt. He has also pointed out that the affidavit Ex. D.A. on which much of the defence arguments had been based was dated the 30th June, 1991 yet the attestation by the Oath Commissioner was of the 27th February 1993 and no reliance could thus be placed on this evidence and the Trial Court as also the High court had examined this aspect very carefully and had come to the conclusion that the affidavit Ex. D.A. though bearing the signatures of Darshan Singh, had not been executed by him.

7. We have considered the arguments advanced by the learned Counsel very carefully. The prosecution story stands proved by the evidence of PWs. 1,2,3 and 6. Tara Chand, the DSP-PW.6 was the Investigating Officer and the one who had organized the trap. No reasons have been suggested as to why he would involve the Appellant in a false case. Likewise the recovery of Rs. 100/- from the pocket of the Appellant clearly brings his case within the ambit of Section 20 of the Act. We find that the defence version with regard to the circumstances in which the incident happened is not borne out by the evidence. The main plea of the defence is based on the affidavit Ex. D.A. Both the Courts below have found that this affidavit has been maneuvered by the Appellant with the help of some of his associates. The Trial Court has given a positive finding that the stamp paper on which the affidavit had been typed had been purchased by somebody else. The defence story that PW.2 had met the Appellant on the 30th May, 1991 and requested him to get some medicine for his buffaloes and that Rs. 100/- represented the payment for the medicine that the Appellant had brought from Kotkapura has to be rejected as in such

a situation the medicine would have been recovered at the time of the raid. Admittedly there is no suggestion whatsoever to the DSP that any medicine had been found on site and he had refused to show it as a recovery and had created a false story for the prosecution. Accordingly we find no merit in the appeal.

8. Dismissed.