

SUPREME COURT OF INDIA

State of Kerala

Vs.

P.Muhammed Noushad

Crl.A.No.736 of 2008

(Abhay Manohar Sapre and Ashok Bhushan,JJ.,)

29.06.2016

JUDGMENT

Abhay Manohar Sapre,J.,

1. This appeal is filed by the State against the final judgment and order dated 09.08.2004 passed by the High Court of Kerala at Ernakulam in Criminal Appeal No. 496 of 2000 whereby the Single Judge of the High Court set aside the order dated 29.07.2000 passed by the Trial Court in C.C. No. 21 of 1999 convicting the respondent herein for the offences punishable under Sections 7 and 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as “the P.C. Act”) and sentenced him to undergo rigorous imprisonment for a term of three years with a fine of Rs.25,000/- in default to undergo simple imprisonment for one year under Section 7 of the P.C. Act and rigorous imprisonment for a term of four years under Section 13(1)(d) read with Section 13(2) of the P.C. Act.

2. In short, the case of the prosecution was as under:

“The respondent-accused was a Village officer, Vijayapuram in Kottayam District. There was a property dispute between PW-2 (Complainant) and his sister-in-law. The sister-in-law submitted a complaint to the District Collector on 01.09.1998. The District Collector (PW-1) immediately directed an enquiry through the respondent-Village Officer (accused) and directed him to submit a report before 15.09.1998.”

3. On 10.09.1998, the respondent-accused demanded gratification of Rs.500/- from PW-2 for forwarding a favourable enquiry report to the District Magistrate. On the same day, the complainant paid the accused a sum of Rs.300/-. Thereafter on 19.09.1998, the accused demanded the balanced sum of Rs.200/- from PW-2 and agreed to send a favourable report.

4. On 24.09.1998, PW-2 reported the illegal demand of the accused to the officials of vigilance department. Thereafter, on 26.09.1998, PW-2 made a formal complaint (Ex.P-3),

F.I. statement and produced M.O.1 notes (two notes of hundred rupees denomination) each before the Vigilance officer.

5. After registering the FIR, the Dy.S.P. affixed identification marks on the notes and after applying Phenolphthalein powder on the notes, placed them in the pocket of PW-2 with a direction to make the payment to the accused if, demanded.

6. At the time of trap, PW-3 (Agricultural Officer, Krishi Bhavan, Erattupetta) and Additional Tahsildar, Taluk Officer, Meenachil (PW-4) were present. After completion of the formalities of the trap team, PW-2 alone went inside the village officer's room. On seeing PW-2, the accused asked for the balanced amount and PW-2 tendered the amount to the accused, who after receiving the same placed the same in his shirt's pocket.

7. Thereafter, PW-2 came out of the room and conveyed the signal and the trap team arrived there. After investigation, the accused was apprehended and subsequently charge sheet was filed against the accused under Section 7 and Section 13(1)(d) read with Section 13(2) of the P.C. Act against the accused.

8. During the trial, the prosecution examined seven witnesses and the defence examined three witnesses.

9. By order dated 29.07.2000 the trial Judge convicted the accused under Sections 7 and 13(1) (d) read with 13(2) of the P.C. Act and sentenced him to undergo rigorous imprisonment for a term of three years with a fine of Rs.25,000/-, in default to undergo simple imprisonment for one year under Section 7 of the P.C. Act and rigorous imprisonment for a term of four years under Section 13(1)(d) read with Section 13(2) of the P.C. Act.

10. Challenging the said order, the accused filed an appeal before the High Court. The Single Judge of the High Court by impugned order dated 09.08.2004 set aside the order of conviction and acquitted the respondent of the charges leveled against him.

11. The High Court appreciated the evidence and on its appreciation recorded its disagreement with the reasoning of the Trial Court. The High Court held that it is not satisfactorily proved that how the currency notes reached in the pocket of accused. It is also not proved that colour of currency note did not turn pink. In the opinion of the High Court when these two material facts were not satisfactorily proved with the aid of evidence adduced by the prosecution, the accused is entitled to claim the benefit of doubt and hence can not be convicted for the offences in question. It is with these findings, the High Court allowed the appeal filed by the accused and set aside his conviction.

12. Aggrieved by the said order, the State has filed this appeal by way special leave before this Court.

13. Heard Mr. Nikilesh Ramachandran, learned counsel for the appellant-State and Mr. V.K. Sidharthan, learned counsel for the respondent-accused.

14. As mentioned above, this is a case where the Trial Court convicted the accused-respondent of the offences alleged against him under the PC Act whereas the High Court on appreciation of evidence finding fault in the manner of appreciation done by the Trial Court reversed the judgment of the Trial Court and acquitted the respondent on the findings mentioned in para 11 giving rise to filing of this appeal by the State.

15. We have perused the order of the High Court. In our considered opinion, the view taken by the High Court as detailed in para 11 above is based on appreciation of evidence and the same was taken within its jurisdiction. The High Court has given its reasoning as to why it has reversed the finding of the Trial Court. It is one of the possible views, which the High Court is capable to take on appreciation of evidence and it has so taken.

16. It is a settled principle of law that if the view taken by the High Court while reversing the judgment of the Trial Court appears to be just and reasonable and which is supported by cogent reasoning then this Court would not re-appreciate the evidence again especially when the appeal arises out of the order of acquittal.

17. It is only when the High Court while reversing the judgment of the Trial Court fails to record any reason or fails to appreciate the evidence or when the High Court records any material finding which is wholly perverse or against any provision of law, this Court would examine the issues arising in the case and in appropriate case may interfere. Such is not the case here.

18. In our view, the High Court has given cogent reasons in support of its view and we have not been able to notice any infirmity or perversity in the reasoning of the High Court, which may persuade us to interfere in the impugned order. In these circumstances, there is no need to undertake the exercise of appreciating the whole evidence in this appeal.

19. All the submissions urged by the learned counsel for the appellant (State) are on facts and involved appreciation of evidence. He was not able to point out any legal or jurisdictional error or/and extreme perversity in the reasoning of the High Court, which may persuade us to probe into evidence de novo. We thus decline to accept the submissions and also decline to re-appreciate the evidence.

20. In the light of foregoing discussion, there is no merit in the appeal. The appeal thus fails and is accordingly dismissed.