

PUNJAB AND HARYANA HIGH COURT

Om Prakash

Vs

State of Punjab

(T.P.S.Mann, J.)

14.03.2007

JUDGEMENT

T.P.S.Mann, J.

(1.) BY this common judgment, I intend to dispose of the present appeal as well as Criminal Appeal No. 162-DBA of 1992, which had been filed by the State of Punjab against the acquittal of Om Parkash Sharma accused, as they arise out of judgment and order passed by Special Judge, Hoshiarpur on 8.11.1991.

(2.) BOTH the accused, namely, Om Parkash son of Shiv Saran Dass and Om Parkash Sharma son of Amin Lal Sharma, were tried under Section 5(2) of the Prevention of Corruption Act, 1947 and Section 161 IPC. Vide impugned judgment, the trial Court acquitted Om Parkash Sharma of the charges against him. However, Om Parkash son of Shiv Saran Dass was held guilty under Section 5(1)(d) read with Section 5(2) of the Prevention of Corruption Act, 1947 as well as Section 161, IPC. He was awarded RI for two years and to pay a fine of Rs. 500, failing which to further undergo RI for three months on the first count and sentence of two years and to pay a fine of Rs. 500, failing which to further undergo RI for three months on the second. However, the substantive sentences of imprisonment were ordered to run concurrently. Aggrieved of the same, Om Parkash son of Shiv Saran Dass filed the present appeal, while State of Punjab filed Criminal Appeal No. 162-DBA of 1992 against the acquittal of Om Parkash Sharma accused.

(3.) AT the relevant time, Om Parkash Sharma was posted as Defence Pension Disbursing Officer, Hoshiarpur, while Om Parkash son of Shiv Saran Dass as a clerk in his office. Beant Singh, who used to draw pension from the Army, passed away on 2.6.1988. His widow Swaran Kaur applied for receiving the pensionary benefits. She along with her son Sukhwinder Singh, met the officials of Punjab and Sind Bank, Mahilpur, where Beant Singh was having the pension account. They enquired from there about receiving the life time arrears payable to Beant Singh. The bank authorities told them to contact the Defence Pension Disbursing Officer, Hoshiarpur.

Accordingly, they went to the Defence Pension Disbursing Office, Hoshiarpur (for short 'DPDO') and came across Om Parkash, Clerk, who gave them a letter to be delivered to the bank authorities at Mahilpur. Pursuant thereto, the bank issued a draft of Rs. 981 which was handed over by Sukhwinder Singh complainant to Om Parkash, Clerk. Letter Ex. PJ was then sent by DPDO to the bank for returning the amount of pension lying undisbursed for the month of May, 1988 for payment to the legal heirs of the pensioner. This time again, the bank issued a draft for Rs. 424, which was deposited by the complainant in the office of DPDO. It was alleged that on 8.8.1988, when the complainant approached Om Parkash, Clerk for issuance of the cheque in respect of the pensionary benefits, the latter demanded a sum of Rs. 300 as bribe and finally the deal was settled at Rs. 200. Om Parkash, Clerk told Sukhwinder Singh that out of the amount of Rs. 200 to be received by him as bribe, he would pay a sum of Rs. 50 to Om Parkash Sharma for getting the cheque signed from him. Om Parkash, Clerk advised the complainant to come to his office along with his mother on 10.8.1988 for collecting the cheque for Rs. 1,199 after paying the agreed amount of Rs. 200. According to the complainant, he was not willing to pay the bribe. While accompanied by Surinderpal Singh the complainant appeared before Inspector Udham Singh of the Vigilance Bureau, Hoshiarpur and apprised him about the demand of bribe. It was, thus, decided that a trap would be laid to apprehend the accused. The complainant produced four currency notes of the denomination of Rs. 50 each, which were then treated by Inspector Udham Singh with phenolphthalein powder. The complainant was instructed to hand over the said notes to Om Parkash, Clerk on demand. Surinderpal Singh, who had accompanied the complainant to the Vigilance Office was deputed to act as a shadow witness. Demonstration memo regarding the reaction of phenolphthalein powder when coming into contact with sodium carbonate, was prepared. ;