

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 156 OF 2008

PARSHURAM JHA		APPELLANT
VERSUS		
STATE OF JHARKHAND		RESPONDENT

O R D E R

1. This appeal by the accused is directed against the concurrent findings of conviction and sentence recorded by the Special Judge as well as the High Court convicting the appellant under Sections 161 of the Indian Penal Code and Section 5(1)(d) read with Section 5(ii) of the Prevention of Corruption Act, 1947 with a sentence of one year rigorous imprisonment under Section 161 and rigorous imprisonment for one year and a fine of Rs. 500/- and in default of payment of fine to undergo a further period of one year rigorous imprisonment for the offence under Section 5(1)(d) read with Section 5(ii), both the sentences to run concurrently.

2. We have heard the learned counsel for the parties at great length and gone through the judgments of the trial court as well as the High court as also the evidence.

3. We find that the prosecution story is supported by

the complainant Lalan Sahu and also the shadow witness P.W. 6 as well as the Investigating Officer - P.W. 9. We also see that circumstantial evidence with regard to the phenolphthalein test also supports the prosecution story.

4. Ms. Bindu K. Nair, the learned counsel for the appellant has, however, argued that the case against the accused appellant had been foisted on him by Lalan Sahu as he bore animosity towards him and as evidence of this fact, a report had also been lodged with the police by the appellant (Exhibit B) one week before the incident apprehending implication in some case. She has also pointed out that from a perusal of evidence of P.W. 6, the shadow witness, it was clear that he had not heard the conversation between the complainant and the appellant nor had he seen the money being handed over or recovered from him on the day in question.

5. It is true that a complaint Exhibit B had been filed by the appellant in the police station apprehending harm at the instance of Lalan Sahu. However, in the face of evidence already referred to above and the fact that P.W. 9 the Investigating Officer had no animosity against the appellant, we are of the opinion that the factum of the complaint having been filed loses all significance. We also notice that in his examination in chief on 19th January, 1994, P.W. - 6, he had completely supported the

prosecution story but when he was recalled for cross examination on 12th April, 1994, he deviated from his initial statements obviously with the intention of helping the appellant. We are, therefore, of the opinion that no benefit can be drawn by the appellant notwithstanding the fact that P.W. 6 was not declared hostile.

6. Ms. Nair has then argued that the incident happened in the year 1985 and as of now 25 years had elapsed since that day. She has, accordingly, prayed that in the light of the judgment of this Court in Bhagwan Das Keshwani & Anr. v. State of Rajasthan (1974) 4 SCC 611, the delay in the disposal of the matter and the fact that the appellant was now fairly advanced in age being 65, and that he had already undergone four months of the sentence, the sentence should be reduced to that already undergone.

7. We also see from the record which is before us that the appellant has undergone about four months of the sentence. In the light of the above facts and in the light of the cited judgment, we are of the opinion that the case of the appellant would fall under the proviso to Section 5(2) of the Act. We, accordingly, dismiss the appeal but reduce the sentence to that already undergone.

.....J

[HARJIT SINGH BEDI]

.....J
[CHANDRAMAULI KR. PRASAD]

NEW DELHI
SEPTEMBER 09, 2010.

