

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 955 OF 2015

(@ Special Leave Petition (Crl.) No. 2383 of 2015)

Gurjant Singh ... Appellant

Versus

State of Punjab

... Respondent

J U D G M E N T

Prafulla C. Pant, J.

This appeal is directed against judgment and order dated 24.12.2014, passed by the High Court of Punjab and Haryana in Criminal Appeal No. 2065-SB of 2005, whereby the criminal appeal is dismissed, and order dated 5.11.2005, passed by the Sessions Judge, Faridkot, convicting and sentencing the appellant Gurjant Singh under Sections 7/13(2) of the Prevention Act, 1988, is upheld.

2. We have heard learned counsel for the parties and perused the papers on record.

3. Prosecution story in brief is that complainant Harpal Singh (PW-1) was President of Rice Millers Association, Kotkapura. Appellant Gurjant Singh was posted as Technical Assistant with Food Corporation of India (for short "the FCI"). On 29.5.2003, complainant, after holding a meeting with other rice millers, met the appellant regarding supply of 20 consignments of advance rice belonging to ten shellers to the FCI, on which he (appellant) demanded rupees one lakh as illegal gratification for approving the quality of the rice. The complainant reluctantly agreed to pay Rs.50,000/- on next day, i.e. 30.5.2003. The complainant disclosed about the same to Sandip Kataria (PW-2) who advised him to complain to the Vigilance Department. Thereafter, they complained the matter to Deputy Superintendent of Police, Vigilance Bureau, Faridkot. On the basis of said complaint, a First Information Report No.22 dated 30.5.2003 was registered, and a trap was laid by the

Vigilance Department. Jetha Ram (PW-3), District Welfare Officer, Faridkot, and Surjit Singh, Junior Assistant in the office of the District Welfare Officer, were requested to be official witnesses. Hundred currency notes of denomination of Rs.500 were produced by the complainant in the office of Vigilance Department, in order to use the same to trap the appellant. Phenolphthalein powder was applied to the currency notes by the Vigilance Officers and the numbers of the currency notes were jotted down in memorandum (Ext. P8). Tainted currency notes were then handed over to complainant Harpal Singh (PW-1) so that he may offer the same to the appellant in response to the demand made by him. Sandip Kataria (PW-2), shadow witness, was directed to hear the conversation between the appellant and the complainant, and to give signal to the raiding party. Baldev Singh Dhaliwal (PW-11) Deputy Superintendent of Police, Vigilance, led the team along with other personnel of the Department, and the witnesses. On 30.5.2003, he along with the complainant and the witnesses went to Mahan Laxmi Rice Mills, Kotkapura where the amount was to be handed

over to the appellant. The complainant and witnesses were dropped at some distance from the mill, and raiding party remained outside the mill. After some time, the shadow witness (Sandip Kataria) gave a signal to the raiding party on which it rushed to the mill. Appellant Gurjant Singh, who was found in the mill, was given identity by Baldev Singh Dhaliwal, Deputy Superintendent of Police, Vigilance (PW-11), and the appellant was made to dip his both hands in the glass of sodium carbonate solution on which the colour of the solution turned to light pink. The solution was then put into a clear nip (M02) with seal bearing impression "BS", whereafter signatures of the witnesses were taken on it. Thereafter the Deputy Superintendent of Police asked the appellant to hand over the tainted currency notes accepted by him. The appellant produced a packet of Rs.50,000/- consisting of hundred currency notes each of denomination of Rs.500/- from the pocket of his trousers. After the numbers of the currency notes got tallied with the numbers mentioned in the memorandum earlier prepared, the appellant was arrested. After investigation, charge sheet against accused

Gurjant Singh, relating to offences punishable under Section 7/13(2) of the Prevention of Corruption Act, 1988 was submitted to the trial court.

4. Learned Sessions Judge, Faridkot, on 20.2.2004, after hearing learned counsel for the parties, framed charge against accused Gurjant Singh (appellant) relating to offences punishable under Section 7/13(2) of the Prevention of Corruption Act, 1988, to which he pleaded not guilty and claimed to be tried.

5. On this, prosecution got examined PW-1 Harpal Singh, complainant, PW-2 Sandip Kataria, shadow witness, PW-3 Jetha Ram, District Welfare Officer, official witness, PW-4 Ashok Kumar Bhandari, PW-5 Suresh Kumar, PW-6 Mohinder Pal, Personal Assistant to Deputy Commissioner, PW-7 Constable Harmail Singh, PW-8 Head Constable Swaran Singh, PW-9 Madan Lal, PW-10 Head Constable Kirpal Singh and PW-11 Baldev Singh Dhaliwal, Deputy Superintendent of Police (vigilance).

6. The prosecution evidence, both oral and documentary, was put to the accused under Section 313 of the Code of Criminal Procedure, 1973, in reply to which he pleaded his innocence and stated that the evidence adduced against him was false. In defence, the appellant got examined DW-1 Anil Kumar, Assistant Manager, DW-2 Murli Dhar, Auditor, and DW-3 Darshan Singh, Assistant Manager, Accounts. Learned Sessions Judge, after hearing the parties, found that charge against accused Gurjant Singh (appellant) is proved and, after hearing on sentence, sentenced him to rigorous imprisonment for a period of three years and directed to pay fine of rupees one lakh under Section 7/13(2) of the Prevention of Corruption Act, 1988, and also directed that in default of payment of fine, the convict shall undergo rigorous imprisonment for further period of three months.

7. Aggrieved by said judgment and order dated 5.11.2005, passed by the learned Sessions Judge, Faridkot, criminal appeal was preferred by the convict before the High

Court, and the same, by the impugned judgment, was dismissed.

8. On going through the evidence on record, we find that PW-1 Harpal Singh, complainant, has proved the demand of rupees one lakh, made by the appellant, for accepting and approving the advance rice to be supplied by the Shellers. He has further proved that after some talks the appellant agreed to accept Rs.50,000/-. He has given detailed narration of the facts as to how the matter was complained to the Vigilance Department and trap was laid, and as to how the hundred tainted currency notes of denomination of Rs.500/- were accepted by the appellant, on which the Vigilance team caught the appellant red handed, and recovered the amount from him. The statement of PW-1 Harpal Singh is fully corroborated by PW-2 Sandip Kataria and PW-3 Jetha Ram, District Welfare Officer.

9. PW-11, Baldev Singh Dhaliwal, Deputy Superintendent of Police, Vigilance Bureau, Faridkot, has also narrated the entire operation. He has proved the

complaint made by PW-1, and the First Information Report (Ext.PA/2), registered as directed by Baljinder Singh Grewal, Superintendent of Police. He further proved sanction (Ext. PM) for prosecution of appellant, and also proved the report (Ext. PP) from Forensic Science Laboratory, received on completion of investigation.

10. We have also gone through the statements of defence witnesses. But considering quality of evidence of prosecution witnesses, we are of the opinion that amount of Rs.50,000/- cannot be planted, and the defence version pleading innocence cannot be accepted in the facts and circumstances of this case. The statements of defence witnesses are of little help to discredit the testimony of the prosecution witnesses. As such, keeping in mind the presumption to be taken under Section 20 of the Prevention of Corruption Act, 1988, we are not inclined to interfere with the conviction recorded by the trial court under Section 7/13(2) of the Act, and affirmed by the High Court. We think

it proper to mention here few decisions of this Court, which reflect what approach should be adopted in such matters.

11. In ***Narendra Champaklal Trivedi v. State of Gujarat***¹, this Court, in almost similar facts, has observed as under: -

“22. In the case at hand, the money was recovered from the pockets of the appellant-accused. A presumption under Section 20 of the Act becomes obligatory. It is a presumption of law and casts an obligation on the court to apply it in every case brought under Section 7 of the Act. The said presumption is a rebuttable one. In the present case, the explanation offered by the appellant-accused has not been accepted and rightly so. There is no evidence on the base of which it can be said that the presumption has been rebutted.”

12. In ***Mukut Bihari and Another v. State of Rajasthan***², referring to various cases, this Court has made following observations: -

“13. This Court in *C. Sharma v. State of A.P.* [(2010) 15 SCC 1], after considering various judgments of this Court including *Panalal Damodar Rathi v. State of Maharashtra* [(1979) 4 SCC 526] and *Meena Balwant Hemke v. State of Maharashtra* [(2000) 5 SCC 21] held that acceptance of the submission of the accused that the complainant’s version required

¹ (2012) 7 SCC 80

² (2012) 11 SCC 642

corroboration in all circumstances, in abstract would encourage the bribe taker to receive illegal gratification in privacy and then insist for corroboration in case of the prosecution. Law cannot countenance such situation. Thus, it is not necessary that the evidence of a reliable witness is necessary to be corroborated by another witness, as such evidence stands corroborated from the other material on record.....”

13. Learned counsel for the appellant submitted that the sentence awarded by the trial court is harsh, and the same may at least be reduced to the period already undergone by the appellant. It is further submitted by him that the sentence of imprisonment awarded by the trial court is much more than the minimum sentence prescribed under law as it stood in 2003. It is relevant to mention here that the minimum sentence under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 has been enhanced by Act No. 1 of 2014 with effect from 16.1.2014, but incident in question relates to the period prior to said date. Considering the facts and circumstances of the case, we are of the view that the sentence of rigorous imprisonment for a period of two years and fine of rupees one lakh would meet the ends of justice in the present case.

.....J.
[Dipak Misra]

.....J.
[Prafulla C. Pant]

New Delhi;
July 24, 2015.