

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 503 OF 2014

[Arising out of SLP(Crl.) No.9336 of 2013]

BALDEV SINGH

.....APPELLANT

Versus

STATE OF PUNJAB

.....RESPONDENT

JUDGMENT**VIKRAMAJIT SEN,J.**

1 Leave granted.

2 The Appellant has filed the present Special Leave Petition (now Appeal) in an endeavour to set aside the concurrent findings of the Courts below with regard to his conviction and sentence under Section 13(2) of the Prevention of Corruption Act, 1988 (hereinafter 'the P.C. Act'). The Special Judge had convicted the Appellant, which came to be sustained by the High Court in terms of its impugned judgment dated 8.7.2013. Accordingly, the Courts below have concurrently found the

Appellant guilty, and sentenced him to undergo Rigorous Imprisonment for a period of three years and to payment of a fine of Rs.5000/-, and in default thereof, to further undergo Rigorous Imprisonment for a period of six months.

3 According to the Prosecution, a complaint was received from Nishan Singh, an agriculturist who along with his family owned farm land in village Golewala, which, however, was at two separate places, but was being irrigated at the same time. Since this was obviously fraught with inconvenience, the Complainant wanted to have an earlier and separate allocation of canal water for the said two parcels of land. It was in regard to this request that the Appellant had demanded Rs.2000/- from the Complainant, and the matter was eventually “settled” at Rs.1000/-. The Complainant paid the said amount to the Appellant in his house, as demanded by him, but after alerting the Vigilance Authorities. These currency notes aggregating to Rs.1000/- were applied with Phenolphthalein Powder and were handed over to the Appellant in the presence of official/shadow witness, Jaskaran Singh, who was examined as PW4. Two other official witnesses also constituted the raid party.

4 We have perused the order of the Special Judge dated 11.8.2003, as well as the impugned order of the High Court dated 8.7.2013, both of

which have gone into the minute details of the case, which exercise we do not consider necessary to replicate. Suffice it to say that the evidence establishes that the Complainant had handed over to the Appellant a sum of Rs.1000/- which was subsequently recovered from beneath the files. The formality of tallying the numbers on the currency notes was complied with, including the washing of the Appellant's hands in Sodium Carbonate solution, leading to his unassailable implication. The Courts below have disbelieved the Appellant's version, *inter alia*, that the currency notes had been kept under the files by the Complainant on his own volition without any demand being made in that regard by the Appellant. The Courts below have also rightly noted that the Complainant would have had no occasion to go to the house of the Appellant unless he had been specifically called; and it was improbable for the Complainant to be called to the home and not to the office, unless there was some ulterior motive, such as claim and receipt of the subject bribe. It also appears that the Complainant's turn to receive water would not have occurred before 1.10.2000, whereas, in fact, water was received much in advance of the previous practice on 28.6.2000. The Appellant has not succeeded in showing any contradiction or inconsistency in the statement of the Complainant, who appeared as PW3. In this conspectus, we find no error in the impugned

Judgment, which in turn affirms the Order of the Special Judge.

5 We are also not persuaded by the submissions of the learned Counsel for the Appellant that the decision of this Court in Banarsi Dass vs State of Haryana (2010) 4 SCC 450, is of any succour to him. The prosecution in that case failed to establish that the accused had demanded illegal gratification and contrary to what has been proved in the case in hand, the recovered money was found lying on the table, apparently on the unilateral volition of the complainant. Similarly, C.M. Girish Babu vs CBI , Cochin, High Court of Kerala, (2009) 3 SCC 779, is also of no assistance to the Appellant because the Court had concluded that the sum of Rs.1500/- was accepted by the Accused in that case believing it to be repayment of a loan taken from him by PW2, and it further held that prosecution failed to establish any demand of bribe/illegal gratification made by the Accused to the PW10, as PW10 did not support the story of the prosecution. This Court found the evidence of PW2 about the demand of bribe amount by the accused as inadmissible since the same was hearsay. A. Subair vs State of Kerala (2009) 6 SCC 587, has enunciated that the prosecution is required to prove that the accused in this genre of cases had demanded and accepted illegal gratification. In A. Subair, the complainant was not examined rendering the factum of demand unproved. Interestingly, the

entire case was based solely on the evidence of PW10, whose evidence was found to be lacking in quality, and , therefore, unreliable. In contrast, both the constituents of demand and acceptance stand proved beyond reasonable doubt in the case in hand. As early as in M.K. Harshan vs State of Kerala (1996) 11 SCC 720, this Court has opined that to bring home charges of bribery, the twin concomitants of 'demand' and 'acceptance' must be substantiated. In the afore-noted case, owing to conflicting versions and suspicious feature in the story of prosecution, the version of the Accused that the money was put in the drawer in his office without his knowledge was found probable. The Appellant Accused, therefore, was given benefit of doubt and thereby acquitted. It seems to us to be irrefutable that culpability or innocence is always regulated by the evidence that has been brought on record, therefore, multiplying previous decisions of this Court will be of no advantage to the Appellant. Discussing each of them will lead to making this judgment avoidably prolix.

6 In the particular circumstances of the case, we have noted that the Appellant is 62 years of age, and has already retired. As already mentioned, he has been sentenced to undergo Rigorous Imprisonment for a period of three years and to pay a fine of Rs.5000/- and in default thereof, to further undergo Rigorous Imprisonment for a period of six

months. Keeping in perspective the age of the Appellant and that he is no longer in service and, therefore, cannot indulge in corrupt practices, we are inclined to reduce the sentence to two years Rigorous Imprisonment, but increase the fine to Rs.10,000/-, and on failure to pay the said amount, to further undergo Rigorous Imprisonment for an enhanced period of nine months.

7 The appeal is disposed of in the above terms.

.....J.
[K.S. RADHAKRISHNAN]

.....J.
[VIKRAMAJIT SEN]

New Delhi
February 26, 2014.

JUDGMENT