

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL No.86 OF 2010

NARINDER SINGH ... APPELLANT
VERSUS
STATE OF PUNJAB ... RESPONDENT

O R D E R

This appeal is directed against the judgment and order dated 12th May, 2009 passed by the High Court of Punjab and Haryana in Criminal Appeal No.104-DBA of 1997.

The facts in brief are that on 30th September, 1991, Mohinder Singh, complainant (PW-2) along with Waryam Singh (PW-3) and a shadow witness had approached the appellant for obtaining a copy of a report that had been submitted to the Naib Tehsildar. The appellant was working in the office of the Naib Tehsildar as a miscellaneous clerk and the allegation is that he demanded a bribe of Rs.150/- for obliging Mohinder Singh and Waryam Singh.

Since the appellant made repeated demands, Mohinder Singh, complainant agreed to pay him an amount of Rs.100/- which, according to the complainant, was agreed to be accepted by the appellant.

A complaint was made to the Police Vigilance and a trap was set up and on 30th September, 1991, Mohinder Singh

and Waryam Singh went to give the bribe to the appellant. When the bribe was allegedly accepted, the Vigilance party conducted a raid and seized the currency notes of the amount of Rs.100/-, which had been treated with some chemical. When the hands of the appellant were washed, the solution turned pink thereby indicating that the appellant had made contact with the currency notes which were handed over to him as a bribe.

On these broad facts, the matter went for trial before the Special Judge, Rupnagar and the appellant was charged with offences punishable under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 (for short 'the Act').

After recording evidence including the evidence of witnesses of the appellant, the Special Judge acquitted him of all the charges by a judgment of acquittal dated 17th July, 1996.

Feeling aggrieved, the State preferred an appeal before the Punjab and Haryana High Court. By the judgment and order dated 12th May, 2009, which is under appeal, the High Court set aside the acquittal of the appellant and convicted him for offences punishable under Sections 7 and 13(2) of the Act. The appellant was sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.5,000/- for the offence punishable under Section 7 of the Act and he was sentenced to undergo

rigorous imprisonment for a period of four years and to pay a fine of Rs.7,000/- for the offence punishable under Section 13(2) of the Act.

The specific charges against the appellant were under Section 7 read with Section 13(1) (d) of the Act.

It is submitted by learned counsel for the appellant that Waryam Singh (PW-3) and the shadow witness did not support the case of the prosecution and in view of the acquittal by the Special Judge, the benefit of doubt must be given to the appellant.

We have gone through the evidence on record and find that there is no clinching evidence that a demand was made by the appellant when the trap was laid. Waryam Singh (PW-3) and the shadow witness did not make any categorical statement in this regard. Under the circumstances, we are of the opinion that on the basis of the evidence on record, it is not possible to uphold the conviction of the appellant under Section 13(2) of the Act.

As far as the conviction of the appellant under Section 7 of the Act is concerned, we find that there is evidence to show that the appellant had accepted an amount of Rs.100/- from Mohinder Singh, complainant (PW-2). The proceedings during the trap also indicate that there was acceptance of this amount. Therefore, in view of the presumption that is available under Section 20 of the Act, which has not been rebutted satisfactorily by the

appellant, we are of the opinion that the appellant's conviction under Section 7 of the Act must be upheld and we do so accordingly.

As mentioned above, the trap was laid as far back on 30th September, 1991 and the amount involved is only Rs.100/-. That being the position, we are of the opinion that the minimum sentence of six months deserves to be awarded to the appellant and we do so accordingly.

The appellant is on bail. He should surrender himself before the Special Judge for undergoing the remaining sentence. We have been informed by learned counsel for the appellant that he has already undergone about five months of imprisonment and, therefore, it is possible that with the remission granted to him, the appellant may not need to be taken into custody. This will be examined by the Special Judge and appropriate directions may be passed in this regard.

The appeal is disposed of in terms of the above.

.....J.
(MADAN B. LOKUR)

.....J.
(ADARSH KUMAR GOEL)

NEW DELHI
APRIL 09, 2015

ITEM NO.101

COURT NO.9

SECTION IIB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s).86/2010

NARINDER SINGH

Appellant(s)

VERSUS

STATE OF PUNJAB

Respondent(s)

(with office report)

Date : 09/04/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Appellant(s) Mr. R.K. Kapoor, Adv.
 Ms. Kheyali Sarkar, Adv.
 Ms. S. Rama, Adv.
 Mr. Anis Ahmed Khan, AOR

For Respondent(s) Mr. Saurabh Ajay Gupta, Adv.
 Mr. Saurabh Singhal, Adv.
 Mr. Kuldip Singh, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the signed order.

The appellant is on bail. He should surrender himself before the Special Judge for undergoing the remaining sentence. We have been informed by learned counsel for the appellant that he has already undergone about five months of imprisonment and, therefore, it is possible that with the remission granted to him, the appellant may not need to be taken into custody. This

will be examined by the Special Judge and appropriate directions may be passed in this regard.

(SANJAY KUMAR-I)
COURT MASTER

(TAPAN KUMAR CHAKRABORTY)
COURT MASTER

(Signed order is placed on the file)