

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

RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 1032 OF 2002

STATE OF RAJASTHAN

Appellant (s)

VERSUS

FAKIR MAL

Respondent(s)

(With appln(s) for exemption from filing O.T. and office report)

Date: 16/11/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE A.K. MATHUR

For Appellant(s)

Mr. Aruneshwar Gupta, Addl. Adv. General

Mr. Naven Kumar Singh, Adv.

For Respondent(s)

Mr. Girdhar G Upadhyay, Adv.

Ms. Vinita G Upadhyay, Adv.

Mr. Syed Ali Ahmad, Adv.

Mr. Syed Tanweer Ahmed, Adv.

Mr. Awadhesh G Upadhyay, Adv.

Mr. R.D. Upadhyay, Adv.

UPON hearing counsel the Court made the following

O R D E R

Mr. Girdhar G Upadhyay, learned counsel resumed his submissions

at 10.55 a.m. and concluded at 11.15 a.m.

The appeal is allowed, impugned order of acquittal rendered by the

High Court is set aside and the order of conviction recorded by trial Court is

restored. The respondent is directed to be taken into custody forthwith to serve out the period of sentence for which compliance report must be sent to this Court within one month from the receipt of copy of this order.

[Charanjeet Kaur] [Om Prakash]
Court Master Court
Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1032 OF 2002

State of Rajasthan .. Appel
lant(s)
Versus
Fakir Mal .. Respo
ndent(s)

O R D E R

Heard learned counsel for the parties.

The sole respondent was convicted by the trial Court under Section 161 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of Rs. 500/-, in default, to undergo further rigorous imprisonment for a period of one month. He was further convicted under Section 5 (1)(d) of the Prevention of Corruption Act, 1947 (for short, the Act } and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs. 500/-, in default, to undergo further rigorous imprisonment for a period of one month. On appeal being preferred, the High Court after appreciating the

evidence adduced on behalf of the prosecution accepted the prosecution case that the accused received a sum of Rs.200/- as bribe but acquitted him on the ground that the receipt by him was for payment to his boss Shri Rajvanshi, who was Superintending Engineer. Hence this appeal by special leave.

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In our view the High Court was quite justified in recording finding that the

respondent received a sum of Rs. 200/- which was bribe money, but erred in acquitting him on

the ground that the same was received by him for payment to Shri Rajvanshi. Section 5(1)(d)

of the Act lays down that if any person by corrupt or illegal means or otherwise abusing his

position as public servant, obtains for himself or for any other person any valuable thing of

pecuniary advantage, he would be guilty for commission of the offence under section 5(1)(d) of

the Act. Therefore, on the finding recorded by the High Court, it was not justified in

acquitting the respondent of the charges. Learned counsel appearing for the respondent has

placed before us, the evidence of prosecution witnesses and tried to persuade us that trial

Court and the High Court were not justified in placing reliance upon the evidence of

prosecution witnesses. In our view, the two courts have considered the evidence and placed

reliance thereon upon threadbare discussion, as such it is not possible for this Court to

reappraise the evidence under Article 136 of the Constitution of India. For the foregoing

reasons we are of the view that the High Court was not justified in acquitting the respondent of

the charges.

Accordingly, the appeal is allowed, impugned order of acquittal rendered by the

High Court is set aside and the order of conviction recorded by trial Court is restored. The

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respondent is directed to be taken into custody forthwith to serve out the period of sentence for

which compliance report must be sent to this Court within one month from the receipt of copy

of this order.

B.N. AGRAWAL]

.....J[

[A.K. MATHUR]

.....J

NEW DELHI,

NOVEMBER 16,2005.