

(2008) 02 P&H CK 0229
In the Punjab And Haryana At Chandigarh

State of Haryana	Vs	APPELLANT
Rishi Pal Kaushik		RESPONDENT

Date of Decision : 25-02-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 2
Prevention of Corruption Act, 1988 — Section 17

Citation : (2008) 02 P&H CK 0229

Hon'ble Judges : Kanwaljit Singh Ahluwalia, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Kanwaljit Singh Ahluwalia, J.—On 15.5.1996, this Court had passed the following order:

In this case, the respondent Rishi Pal Kaushik was trapped while accepting bribe. The papers before me indicate that trap was laid by the police inspector of the State Vigilance Bureau. Eventually, prosecution was launched on the basis of that trap and investigation was carried out by the said Inspector. The Court discharged the accused on the ground that investigation by Inspector, without authorisation, was illegal. That order was dated 19.2.1991. Thereafter, the State undertook the exercise to obtain necessary sanction to investigate the case, and thereafter launched a fresh prosecution. That prosecution also ended into discharge on the ground that the earlier order of discharge dated 19.2.1991 had become final and subsequent sanction granted will not remove the lacuna in the investigation of this case. Section 17 of the Prevention of Corruption Act, 1988 states regarding the authorities or Officers who would be entitled to investigate the offences under that Act, and the officer not below the rank of Inspector of the police may be authorized by the State Government by general or special order to investigate such offences without previous order from the Magistrate to authorize such investigation. The question, in my opinion, is when it can be said that the investigation in a case under the Prevention of Corruption Act

commences. It is from that point the provisions of Section 17 of the Prevention of Corruption Act would assume significance. The investigation in a criminal case starts after information relating to the commission of cognizable offence is received by the police station. The terms "police station" has also been defined in Clause (s) of Section 2 of the Criminal Procedure Code, and it means any post or place declared by the State to be a police station. It would be, therefore, a moot point whether office of a State Vigilance Bureau can be termed as a "Police Station". It also becomes a matter of moot point whether the report by the complainant to the inspector of State Vigilance Bureau would be an information to a police station. Obviously, therefore, there is an arguable point whether the investigation in Anti Corruption Act starts at a very stage of giving information resulting in laying the trap or whether it starts thereafter since the time of reporting of the incident to the police station in the form of First Information Report. As often it happens, after successful trap, the report is lodged in the police station and offence is registered and thereafter the real stage of investigation starts in terms of Chapter 12 of the Cr.P.C. In view of this law point, this revision is admitted. Issue notice to other respondents.

2. Mr. Amarjit Singh, Advocate, appearing for the respondent has very fairly stated that the matter stands settled by Hon''ble the Apex Court.

3. In view of the law laid down in State of Punjab v. Harnek Singh 2002 SCC 659 by Hon''ble the Apex Court, impugned order cannot be sustained and is set aside. Present revision petition is allowed. However, liberty is granted to respondent/accused to raise all arguments, which are available to him, at appropriate stage including at the time of framing of charge before the trial Court.