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**(2008) 09 P&H CK 0186**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Criminal Miscellaneous No. 166-MA of 2008 (O and M)

State of Haryana

APPELLANT

Vs

Sant Lal

RESPONDENT

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**Date of Decision :** 08-09-2008

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 378(3)  
Prevention of Corruption Act, 1988 — Section 13(1)

**Citation :** (2009) 1 RCR(Criminal) 631

**Hon'ble Judges :** A.N. Jindal, J

**Bench :** Single Bench

**Advocate :** P.M. Anand, A.A.G., Haryana, for the Appellant;

**Final Decision :** Dismissed

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## **Judgement**

A.N. Jindal, J.—The State of Haryana through its Public Prosecutor has sought leave to appeal against the judgment dated 21.11.2007 passed by Special Judge (under Prevention of Corruption Act), Sirsa recording acquittal of the accused-respondent Sant Lal (herein referred as respondent") u/s 13(1) of the Act.

2. In nutshell, the case of the prosecution is that a complaint was received in the office of Chief Secretary, Vigilance, Haryana to the effect that the respondent had acquired properties beyond his known sources of income, which was sent to the Superintendent of Police, State Vigilance Bureau (H), Hisar. On enquiry, it was found that income of the respondent during the year 1970 to 2000 was Rs. 10,38,600/-, while, he had acquired the properties worth Rs. 12,52,480/-. Therefore, he acquired property worth Rs. 2,13,880/- in excess to his known sources of income. Thereafter, in a supplementary enquiry, it was found that income of the respondent from all sources during the period 1970 to 2000 was Rs. 10,67,956/-, whereas, his expenditure was Rs. 11,72,915/-. This time also, it was found that the respondent had acquired property worth Rs. 1,40,171/- more than his known sources of income. Consequent thereupon, vide his letter dated 20.8.2004, the Director, SVB(H), Panchkula got the present case registered

against the respondent. It was investigated and the charge- report was submitted in the Court.

3. The respondent was charged u/s 13(1) of the Act, to which he pleaded not guilty and opted to contest. Evidence was recorded and the trial ended in acquittal of the respondent.

Heard.

4. It is contended that sufficient evidence has been led by the prosecution to hold the respondent guilty of the offence. The respondent acquired disproportionate assets then his known sources of income. Additional Advocate General while referring the statements of Pyare Lal, Clerk (PW4), Rameshwar Kumar Lamba, Inspector (P8) Krishan Kumar, LDC (PW12) and Nand Lal, Inspector (PW16) has contended that the Trial Court has not appreciated the evidence in right perspective.

5. The present case is based on the documentary evidence, but close scrutiny of the same does not convince this court to rely upon those documents for the following reasons:-

6. The mother of the respondent had purchased a house situated at Village Khairpur in September, 1964, which he inherited in the year 1985. It happened much before the respondent joined the services. He and his sons purchased plots/ house worth Rs. 1,85,000/- during the period from 1980 to 2000 and the sale-deeds are not disputed. They all raised constructions over their respective plots, which was evaluated (Ex.P18) by B.P. Arora (PW7) to the tune of Rs. 10,02,700/-, after deducting 10% on account of variation of the prices of the building material etc. This evaluation report (Ex.P18) cannot be relied upon as the evaluation was carried out as per the specification of PWD(B&R), whereas, there is no document on record to show that the construction was raised according to those specifications. More so, the evaluation was done in the year 2002 by B.P. Arora, whereas, the original construction was raised between 1981 to 2000 and in such circumstances, merely deducting 10% on account of the variation in the market price of the construction would just be a fallacy. While dealing further with the issue, there are two evaluation reports; one Ex.P20 by B.P. Arora (PW8) to the tune of Rs. 12,52,480/- and another Ex.P38 by Nand Lal Inspector (PW16) to the tune of Rs. 11,72,915/-, having a difference of Rs. 79,565/-. Such a huge variation reflects that the persons, who carried out the evaluation did not follow the proper procedure, rather they estimated as per their own individual procedures. Thus, in such circumstances, the statements and reports of B.P. Arora, Rameshwar Kumar Lamba and Nand Lal, PW7, PW8 and PW16, respectively cannot be made the basis of conviction for having earned disproportionate assets.

7. Secondly, the records of salary statements of the respondent produced by the prosecution is not complete, wherein salary for a period of 34 months is not included. Total salary of the respondent for the period from 27.7.1970 to

December, 2000 comes to more than Rs. 9,50,000/-, whereas, according to Rameshwar Kumar Lamba (PW8) it comes to Rs. 7,99,763/- and as per Nand Lal (PW16), it is Rs. 8,12,545/-. In this manner, on this point as well, the prosecution witnesses have failed to corroborate each other and that too on an issue, which could well be resolved on the basis of official records, perhaps in their bid to show the income of the respondent on the lower side and his acquired assets on the higher side.

8. Thirdly, reports of B.P. Arora, SDE, Rameshwar Kumar Lamba, Inspector and Nand Lal, Inspector, PW7, PW8 and PW16 respectively, with regard to the income of the respondent and his sons deserve to be belied as during enquiry, they took into possession salary statements (Ex.P9 and P10) of the respondent, which relate to the year 2001-2002.

9. Last of all, Additional Advocate General made an effort to prove the guilt of the respondent while contending that he could not save more than 40% of his salary. In this regard, it needs mention that saving of a person depends on his management between his income and expenditure on living. It depends on his habits of living and social liabilities. An unsocial person certainly will save more, for the reason that he has not to fulfill any social obligation. A healthy family also need not to spend money on expensive treatments, which also adds to its savings. Therefore, the general principle of not saving more than 40% of the income cannot be made applicable in all cases. Living standard plays an important role in saving and in the present case, the prosecution has brought nothing on record to prove the standard of living of the respondent and his family.

10. Perusal of the judgment shows that proper procedure has been followed and no defect, illegality, much less any irregularity resulting into failure of justice has been detected in the impugned judgment, warranting interference by this court.

11. The law is well-settled that in an appeal against an order of acquittal, interference would be called for only when the judgment is palpably perverse and is based on a misreading of the evidence. However, it is equally settled that where two views are possible, the one taken by the Trial Court should not be disturbed.

12. As a result of the above discussion, this Court is not inclined to grant leave to appeal against the impugned judgment. Hence, the application moved by the State u/s 378(3) of the Code of Criminal Procedure is dismissed.

Consequently, the appeal also fails.