
(2003) 11 P&H CK 0063

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 491-DBA of 1989

State of Punjab

APPELLANT

Vs

Paramjit Singh

RESPONDENT

Date of Decision : 05-11-2003

Acts Referred:

Citation : (2004) 1 RCR(Criminal) 629

Hon'ble Judges : K.S.Garewal, J

Advocate : Mr. G.B.S. Dhillon, DAG, Punjab. Mr. R.S. Ghai, Senior Advocate with Mr. Bipan Ghai, Advocates., Advocates for appearing Parties

Judgement

K.S. Garewal, J.

1. This appeal against acquittal has been filed by the State of Punjab against Dr. Paramjit Singh who was tried by the learned Special Judge, Ludhiana, who vide judgment dated October 11, 1988 acquitted the accused for offences under Section 5(1)(d) read with Section 5(2) of the Prevention of Corruption Act, 1947 (for short 'the Act') and offence under Section 161 I.P.C.

2. The facts of the case are that Dr. Paramjit Singh was a veterinary doctor posted at Veterinary Hospital, Machhiwara. He was accused of having accepted Rs. 100/ as illegal gratification from Sushil Kumar (PW 1) for treating Sushil Kumar's buffalo. The respondent had been arrested on the basis of a trap successfully executed by Inspector Darshan Singh (PW 3) of the Vigilance Bureau, during which Sushil Kumar handed over the bribe to the respondent at the Veterinary Hospital in the presence of Karnail Singh (PW 2). Thereafter, on receiving the pointed signal the investigating officer reached the spot and recovered the tainted money from the possession of the respondent and placed him under arrest.

3. After completion of the investigation and obtaining a sanction Ex.PV, the respondent was sent up for trial. Charge was framed against the respondent under Section 5(1)(d) read with Section 5(2) of the Act. The prosecution

examined Sushil Kumar (PW 1), Karnail Singh (PW 2), Inspector Darshan Singh (PW 3), Gurcharan Singh (PW 4), MHC Sadhu Singh (PW 5), H.C. Swaran Singh (PW 6), C. Naib Singh (PW 7) and Jasbir Singh, Assistant, Punjab Civil Secretariat (PW 8) and closed the case. The respondent was examined without oath under Section 313 Cr.P.C. and he denied all the prosecution evidence which had been presented at the trial but admitted that he was working as a Veterinary doctor at Machhiwara and was incharge of the hospital during those days. Sushil Kumar had brought his sick buffalo to the hospital on March 17. On March 14 and 15, i.e., after the office hours the respondent had visited Sushil Kumar's house for treating the buffalo and also prescribed the medicine. In his defence the respondent gave a detailed statement.

4. The learned trial Court came to the conclusion that the sanction order was invalid, therefore, the respondent was discharged.

5. The sole question to be considered in the case is whether the finding of the trial Court can be accepted. The sanction order is Ex.PV. The order does not bear any date but on the foot of page 2 it is revealed that the order has been signed by "Deputy Secretary, Vigilance by order and in the name of President of India". According to Jasbir Singh (PW 8) the order was signed by Sh. S.M. Dua, Deputy Secretary, Vigilance Punjab. At the relevant time the witness was the dealing Assistant and was working under Shri Dua. The witness stated that the police record, challan papers etc. had been received in the office of the Vigilance Bureau and those papers had been put up before Shri Dua before the sanction was accorded. However, in crossexamination the witness stated that the proforma of the sanction order had also been received along with the police papers after the papers had been put up for sanction and sanction was accorded, the draft sanction was got vetted from the Legal Cell of the department. The sanction order was in accordance with the draft sanction.

6. The learned Additional Sessions Judge came to the conclusion that there was no evidence to show that Shri S.M. Dua had applied his mind before according the sanction. Indeed it was held that Shri Dua signed in routine and such a sanction was not a proper sanction. Moreover, the sanction order was undated. Furthermore, there was nothing on the record to establish that Shri S.M. Dua was authorised by the President of India to grant sanction. The Court held that no cognizance could have been taken of the case in view of the sanction being invalid.

7. After considering all the aspects of the case, I do not find any reason to disagree with the judgment of the learned Additional Sessions Judge. The sanction was invalid, therefore, the respondent had been validly discharged. There is no ground to interfere. The appeal against acquittal is hereby dismissed.