(2007) 02 RAJ CK 0089

In the Rajasthan High Court

Case No : Criminal Appeal No. 521 of 2004

State of Rajasthan APPELLANT

Vs

Jagmal Singh RESPONDENT

Date of Decision : 02-02-2007

Acts Referred:

Prevention of Corruption Act, 1988 — Section 13(1)(e), 13(2)

Citation : (2007) 2 WLN 267

Hon'ble Judges : Chatra Ram Jat, J

Bench : Single Bench

Judgement

Chatra Ram Jat, J.—This appeal is directed against the judgment and order dt. 10.01.2003 passed by the Sessions Judge, Prevention of Corruption Act, Bikaner, whereby he acquitted from the charge u/s 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988.

2. Brief facts of the case are that an F.I.R. No. 133/1992 was registered with Rajasthan State Investigation Bureau, Jaipur against Jagmal Singh, Project Manager, when he was posted as in World Food Programme, I.G.N.P. Bikaner. It is stated in the report for the check period 1960-62 his income from the valid resources was Rs. 12,50,000/- but he was found to be properties of Rs. 31,31,920/-. A search was conducted at Kamrani House, Gas Sales Agencies, and Anupam Video Vision on 21.10.1992 and lockers of SBBJ Bikaner was also searched. Thus, in all Rs. 55,09,092/- was found in his possession but income was considered to be 10,09,092/-. Hence, accused was having in possession of Rs. 45,09,092/- for which he could not able to furnish satisfactory reply and he was to retire on 31.07.1983.

3. After completion of the usual investigation, challan u/s 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988 was filed against the accused respondent, who denied the same and claimed for trial.

4. In trial, prosecution produced as many as 36 witnesses and 293 documents

whereas accused respondent produced 6 witnesses in his defence and produced 14 documents.

5. The statement u/s 313 Cr.P.C. of accused respondent Jagmal Singh was recorded on 04.11.2000 wherein he stated that he earned properties from his agricultural income, salaries and ancestral agricultural income.

6. After hearing the counsel for the parties and perusing the entire record of the case, learned trial Court by its judgment dt. 10.01.2003 acquitted the accused respondent Jagmal Singh of the charges levelled against him. Hence, this appeal is filed by the State of Rajasthan for quashing the judgment and punishing accused respondent according to law.

7. Learned Public Prosecutor has vehemently assailed the finding of learned trial Court by which the respondent accused has been acquitted for the charges and stated that the learned trial Court has erred in disbelieving the statement of prosecution witnesses whereas from the statement of those witnesses the guilt of the accused respondent is well proved. He also contended that learned trial Court has gravely and seriously erred in acquitting the accused respondent on the ground that there was no source of income of sons and wife of accused respondent but it is not clear that without source of income how the sons and wife of the accused respondent got agricultural land and plots which they purchased and thus the learned trial Court has discarded this important aspect of the matter and wrongly treated the income of the sons of accused respondent as Rs. 8,00,000/- as per income tax return and also not treated Rs. 18,33,966/- as income of accused respondent whereas as per record there was no source of the income of sons and wife of the accused. Learned Public Prosecutor further stated that the learned trial Judge has passed the impugned judgment without applying judicious mind and, therefore, the same deserves to be quashed and set aside and accused respondent may be convicted for the charges levelled against him.

8. Per contra learned Counsel for accused respondent supported the impugned finding and urged that the accused respondent was rightly acquitted by the trial Court after thoroughly discussing the evidence produced by the prosecution and defence. Learned Counsel stated that the check period was 1960 to 21.10.1992 but for this case, this period was 1986 to 21.10.1992 and after appreciating the evidence of the trial Court could not found Rs. 55,09,092/- as the income over and above whatever have been saved or legalised by the accused respondent. Thus, accused respondent has given satisfactory explanation for the source of valid income. It is also stated that accused respondents? father Priyojan Singh was also a Government servant and has agricultural lands in Rajasthan and Haryana and three sons of the accused respondent viz Prithvi Raj Singh, Dilip Singh and Raghu Raj Singh and they are married to good families and they also received cash and dowry articles and the articles found in locker were belonging to three daughter-in-laws of the accused respondent wife, and married daughter and which has been explained by the defence witnesses and the locker was being operated prior to 1986 and the income tax returns of 1991-92 also submitted by

the sons of the accused respondents. Locker No. 603 belong to Smt. Anup Kanwar wife of accused respondent was taken on rent on 17.03.1979. Learned Counsel also stated that the total income from all valid sources of the accused respondent has been calculated to Rs. 12,55,000/- whereas as per the evidence of prosecution, all earnings income of the accused respondent comes to Rs. 9,39,834.37/- and thus after deducting this amount the remaining Rs. 3,15,166/- comes as lesser and thus rightly acquitted of the charges and this appeal deserves to be dismissed.

9. Having closely scanned material on record with the assistance of learned Counsel for the parties, the factual situation emerges from the material on record is that the enquiry period is from 1960 to 1992 i.e. for 32 years and the respondent accused being Government servant and his father Pariyojn Singh was also a Government servant having landed property in Rajasthan and Haryana in olden days and said Pariyojn Singh having 7 sons and the accused respondent being one of them, was given 22-? bighas of agricultural land by the father and having 3 married sons, married to good families and married daughter and Kamrani House and out-house has been built in 1973- 74 as per the report of P.W. 34 Shri Govind Singh Choudhary, Executive Engineer, and income tax returns by the sons of accused respondents for 1991 and also the locker maintained by wife of the accused respondent and containing jewellery article of all the three daughter-in-laws, married daughter and the family members. Learned trial Judge reached to a conclusion after thorough discussion and appreciating both sides of evidence. After going through the submissions and the evidence, the finding of the trial Court is weighty one and it should not be disturbed unless it is perverse, unreasonable or against the evidence which is not a case in hand and no other view can be taken except of the trial Court has taken for the income of the accused respondent and thus this appeal deserves to be dismissed.

10. Accordingly, the appeal is dismissed and the Judgment dt. 10.01.2003 in ACD Case No. 5/1994 (106/1997) passed by Sessions Judge, Prevention of Corruption Act Bikaner, is affirmed and maintained.