(2012) 02 RAJ CK 0025

In the Rajasthan High Court

Case No : Criminal Leave to Appeal No. 222 of 2008

State of Rajasthan APPELLANT

Vs

Mohanlal RESPONDENT

Date of Decision : 02-02-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Prevention of Corruption Act, 1988 — Section 13(1), 13(2)

Citation : (2012) 02 RAJ CK 0025

Hon'ble Judges : Raghvendra S. Chauhan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.S. Chauhan

1. The State is aggrieved by the judgment dated 26.07.2008 passed by Sessions Judge (Prevention of Corruption Act Cases), Bikaner, whereby the learned Judge has acquitted the accused respondent, Mohanlal, for offences under Sections 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988 (''the Act'', for short). Briefly, the facts of the case are that Mohanlal Wadhwa was posted as Superintending Engineer, Narmada Project at Jalore. On 22.11.1996, he was allegedly caught accepting a bribe of Rs. 9,500/- . Thereafter, the ACB department carried out a raid at his residential premises situated at 18, Vinoba Basti, Sri Ganganagar and also seized his bank lockers. After tallying the incriminating evidence, it was discovered that he had more money than his known source of income. According to the ACB Department, although the known source of income would total upto Rs. 23,81,913/- , but if all his properties and expenditure were calculated, then the total amount would come to Rs. 31,24,658/- . Thus, the accused-respondent had more than Rs. 7,42,745/- than his known source of income. On the basis of investigation, a chargesheet was filed against accused-respondent for offences under Sections 13 (1) (e) read with Section 13(2) of the Act.

2. In order to support its case, the prosecution examined twenty-five witnesses, and submitted a few documents. In his statement recorded u/s 313, Cr.P.C., the accused-respondent stated that he was appointed in the service in 1964, and continued to work till 1996. According to him, his income for twenty-five months was not taken into account. At the relevant time, he was paid Rs. 32,000/- per month. Moreover, while six policies were taken into account, his seventh insurance policy, worth Rs. 12,769/- , was not taken into account. Similarly, the income that he derived from firm M/s. Munshilal & Sons was ignored. Likewise, the income he derived from the investments made at Post-office as well as the income that he derived from shares was also ignored. Therefore, he questioned the excess income shown against him. In order to further buttress his case, he examined three witnesses. After going through the oral and documentary evidence, vide judgment dated 26.07.2008, the learned Judge acquitted the accused-respondent for the aforementioned offences. Hence, this criminal leaves to appeal before this Court.

3. Mr. O.P. Singaria, the learned Public Prosecutor, has vehemently contended that the learned Judge has failed to appreciate the evidence in proper perspective. Therefore, the learned Judge has erred in acquitting the accused respondent.

4. On the other hand, Mr. Ramesh Purohit, learned counsel for the accused-respondent has contended that the learned Judge has critically analyzed the evidence and is justified in acquitting the accused-respondent.

5. Heard the learned counsel for the parties, and perused the impugned judgment.

6. A bare perusal of the impugned judgment clearly reveals that the learned Judge has noticed that the Investigating Officer, Niyaz Mohd. (P.W.17), has clearly admitted in his testimony that the salary paid to the accused-respondent for the periods beginning from 03.03.1964 to 22.11.1996 totaling an amount of Rs. 32,500/- was not included as known source of income. Similarly, he has admitted that although he had included six insurance policies, he had not included Policy No. 25247023 for an amount of Rs. 12,769/- in the income of accused.

7. The learned Judge has also noticed the fact that although the accused-respondent was receiving income from M/s. Khemchand Bahadur Chand and from M/s. Munshiram & Sons, these incomes were also not included while calculating the known source of income. The learned Judge has also noticed that these incomes were duly shown both in the income tax returns filed by the firms as well as filed by the accused-respondent.

8. Similarly, although the accused respondent had declared that he had received Rs. 67503/- as part of dividend paid on his shares - a fact that he had proven by filing his income tax returns, yet the said amount had not been included. After going through the relevant evidence, the learned Judge has concluded that, in

fact, the expenditure and the assets shown were not more than the declared income of the accused respondent. Since the learned Judge has critically analyzed the evidence, since there is no possibility of taking a different view from the one taken by the learned Judge, and since there is neither any illegality, nor perversity in the impugned judgment, this Court does not find any merit in this Criminal Leave to Appeal. Therefore, this Criminal Leave to Appeal, is hereby dismissed.