(2009) 01 RAJ CK 0111

In the Rajasthan High Court

State of Rajasthan APPELLANT

Vs

Ranjeet Singh RESPONDENT

Date of Decision : 28-01-2009

Acts Referred:
Prevention of Corruption Act, 1988 — Section 13, 7

Citation : (2010) 1 RLW 16

Hon'ble Judges : Mahesh Bhagwati, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahesh Bhagwati, J.—Challenge in this appeal is to the judgment dated 25th April, 1997, rendered by Special Judge, Prevention of Corruption Cases, Jaipur whereby the accused respondent Ranjeet Singh was acquitted in the offences u/s 7/13 and Section 13(i)(d)(ii) of Prevention of Corruption Act 1988 (hereinafter referred to as ''Act 1988'').

2. The factual matrix of the case in nutshell is that PW.1 Krishna used to supervise the agricultural land of his younger sister Panchi. With a view to aid his sister, he purchased 2-1/4 bighas land from Ram Jachak in 12,000/- rupees for her and got its registry done in the office of Nayab-Tehsildar Pushkar. The registry of the land took place on the same day when the papers were filed in the office. It is alleged that the concerned clerk Ranjeet Singh dealing with all these registered documents did not issue the registry to him in routine. Instead he solicited for a bribe of 360 rupees for releasing the registered document. The complainant expressed his inability to give this amount on account of his poverty but the accused stuck to his demand and told that unless he gave 360 rupees to him, he would not hand over the registry. Finally, the accused Ranjeet Singh agreed to accept a sum of Rs. 200/- in lieu of releasing the registry. The complainant did not intend to grease the palm of the accused, so he filed a complaint before the Additional Superintendent of Police, Prevention of Corruption Department, Ajmer, who formulated a scheme for entrapping the

accused. Having undergone the laid procedure, Shri N.K. Tripathi, Dy. S.P. Prevention of Corruption Department, Post Ajmer, laid a trap and recovered the bribe amount of Rs. 200/- from Raju @ Rajendra, the son of the accused. During interrogation, it emerged that the decoy gave the bribe amount of Rs. 200/- to Raju @ Rajendra at the instance of the accused Ranjeet Singh at his residence. Hence, the Dy. S.P. ACD arrested the accused Ranjeet Singh, prepared the seizure report and sent the detailed report to CPC Prevention of Corruption Department, Jaipur upon which Ex. P/18 was lodged and investigation commenced.

3. The Investigation Officer recorded the statements of the witnesses acquainted with the facts and circumstances of the case, took the relevant documents pertaining to the transfer and posting orders of the accused on record, obtained sanction from District Magistrate Ajmer to prosecute the accused and after usual investigation sent the accused Ranjeet Singh for trial to the Court of the Special Judge, Prevention of Corruption Cases, Jaipur.

4. The accused appellant was indicted for the offences u/s 7/13 and Section 13(i)(d)(ii) of Act 1988, who pleaded not guilty and claimed trial. In order to further its version, the prosecution examined in all 17 witnesses. In his explanation u/s 313 of Cr.P.C. the accused claimed innocence and pleaded that the complainant Krishna gave the fees of registry. In fact Krishna got the registry of her sister done in the name of her mother-in-law and brother-in-law which according to him was an offence. He cautioned the complainant not to commit this offence failing which he shall be convicted. But the complainant Krishna got annoyed and threatened to see him as to whether he losses his land or the accused looses his services? On account of this animosity only, the complainant falsely implicated him in this case.

5. Heard the learned Public Prosecutor appearing for the State as also the learned Counsel for the accused respondent and scanned the relevant material available on record.

6. Fact situation emerging in the instant appeal may be summarized thus:

(i) Neither there is corroborative evidence with regard to initial demand of bribe of 360/- rupees nor there is any evidence to support that he finally agreed to accept only 200/- rupees as illegal gratification. (ii) No other independent witness has also supported the demand of bribe money.

(iii) Registry has not been recovered from the possession of the accused.

(iv) The receipt available on record reveals that the registry was taken by the decoy on the same day, it was completed in the office, (v) On the contrary, the registry has been recovered from the possession of the complainant.

(vi) The decoy or the complainant did not give the bribe amount of Rs. 200/- to the accused respondent.

(vii) Tainted currency notes of Rs. 200/- are found to have been recovered from the possession of the son of the accused.

(viii) The son of the accused is too small who does not understand the intricacies and the minute details of corruption,

(ix) The decoy is found to have given the bribe amount of Rs. 200/- to the son of the accused at his instance but this fact has not been corroborated by any other evidence.

(x) The decoy was required and expected to give the currency notes of Rs. 200/- to the accused only. He was not required to give tainted currency notes to the son of the accused as it could frustrate the whole purpose of entrapping him. The complainant has failed to explain as to why the bribe money was given to the son of the accused. These factors cast doubt upon the credibility of the decoy and the conduct of the decoy creates suspicion about his bonafides.

7. Now, the most crucial question springing for consideration in the instant appeal is as to whether the demand and acceptance of bribe amount of Rs. 200/- by the accused from the complainant is proved beyond reasonable doubt?

8. It is a settled proposition of law that mere receipt of bribe amount by the accused-respondent from the complainant will not be sufficient to fasten guilt upon the accused u/s 7 of the Act 1988.

9. Evidence of trap witnesses must be tested in the same way as that of any other interested witness and in a proper case the Court may look for independent corroboration before convicting the accused person. Mere recovery of money divorced from the circumstances under which it is paid is not sufficient to convict the accused when the substantive evidence in the case is not reliable. In the instant appeal undeniably and unquestionably, the bribe amount of Rs. 200/- is found to have been paid to the son of the accused who is only of the age of 8-10 years. Under no circumstance, the decoy was required to give this bribe money to the son of the accused, even at his own instance.

It is also not proved that any work of the complainant was pending with the accused as the registry he had taken from him on the same day. Hence, there was no occasion to show any favour to the decoy.

10. In the light of this fact that the registry has been recovered from the possession of the complainant and the registry was found to have given on the same day it was completed by the office, the conduct of giving Rs. 200/- to the son of the accused casts doubt about his bonafides. It appears that on account of some unknown ulterior motive, the decoy wanted to falsely implicate him in this case of corruption. Conviction of the accused can be based only on unimpeachable testimony of the decoy and trustworthy statement of the independent witnesses. I do not find any acceptable and clinching evidence providing that there was a demand of bribe and that the accused respondent accepted the bribe amount of Rs. 200/- in question as a motive or reward for

doing any official act or showing a favour to decoy in exercise of his official function.

11. In the ultimate analysis, it is held that the demand of bribe is very material in trap cases. Once the story of demand falls through, the authenticity of trap becomes highly doubtful because acceptance of bribe germinates through demand. Since in the instant case, the so called bribe money is found to have been recovered from the possession of the son of the accused, it cannot be inferred that the accused respondent obtained any bribe money from the decoy to show any favour to him. Thus the absence of motive on pat of accused either to demand or accept bribe renders the whole prosecution story doubtful. The prosecution has failed to prove against the accused respondent, both the demand and acceptance of bribe of Rs. 200/- from the complainant, beyond reasonable doubt. The learned trial Court has critically analysed and properly appreciated the evidence of the prosecution witnesses in detail. His impugned judgment is cogent and well merited, I do not find any infirmity therein. There is nothing on record which may lead me to deviate from the finding of the lower Court. I am in full unison with the finding of acquittal rendered by the learned trial Court and the impugned judgment, to my firm view, does not call for any intervention.

12. For these reasons, the State appeal being bereft of merits stands dismissed. Bail bonds of the accused respondent stand discharged.