

(1986) 05 P&amp;H CK 0015

**High Court Of Punjab And Haryana At Chandigarh****Case No:** Criminal Revision No. 390 of 1986

Kamal Dev

APPELLANT

Vs

State of Haryana

RESPONDENT

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**Date of Decision:** May 14, 1986**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 179, 180
- Prevention of Corruption Act, 1947 - Section 5(1)

**Citation:** (1987) 1 ILR (P&H) 346 : (1986) 90 PLR 159 : (1986) 2 RCR(Criminal) 220 : (1987) 2 RCR(Criminal) 44**Hon'ble Judges:** M.M. Punchhi, J**Bench:** Single Bench**Advocate:** Baij Nath Sharma and Kapil Sharma, for the Appellant; B.S. Panwar, A.A.G., for the Respondent

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**Judgement**

M.M. Punchhi, J.

During the course of vigilance inquiry, it was revealed that the Petitioner Kamal Dev was in possession of property disproportionate to his known sources of income and for that he could not account for satisfactorily. This brought him under the shadow of Section 5(1)(e) of the Prevention of Corruption Act, 1947. Accordingly, an F.I.R. was recorded at P.S. Vigilance Bureau, Karnal on 2nd October, 1984. A challan was presented in due course in the Court of Special Judge, Ambala.

2. The Petitioner took objection to the jurisdiction of the Court. According to him, his entire service career had been at Chandigarh though he was an employee of the Haryana Government. Further-more, his contention was that the property said to have been acquired by him, disproportionate to his known sources of income, was statedly at Chandigarh, Panchkula and Mohali, while he was serving at Chandigarh. Thus, it was urged that since the criminal misconduct attributed to the Petitioner was committed while he was posted at Chandigarh, then it is his misconduct which is

the subject matter of charge and not each of the properties, one of which happens to be situated at Panchkula (Haryana). The learned Special Judge, Ambala,--vide his order dated 26th February, 1986, now sought to be revised, rejected such a plea which has given rise to the present petition.

3. The relevant penal section which is attracted to the case reads as follows:

5. Criminal misconduct in discharge of official duty.-(1) A public servant is said to commit the offence of criminal misconduct:

x x x x x

(e) If he, or any person on his behalf is in possession of or has, at any time during the period of his office, been in possession, for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known source of income.

4. The commission of the offence of criminal misconduct has nexus to the period of his office. It is so intimately interlinked that it is the place of office which would determine the place of commission of his misconduct. It is through his office alone that one can determine his known source of income and if his property which is presently in his possession or in possession of someone on his behalf, or has at any time during the period of his office been in his possession or of someone on his behalf, then it is relatively to be viewed with the period of his office. In this context, the place of office assumes importance, for that would determine the jurisdiction in which the offence of criminal misconduct would be triable. Thus, In the instant case, I am of the view that it was the Special Judge at Chandigarh who had the jurisdiction to try the offence against the Petitioner.

5. Viewing the case from another angle, it would be fair, even otherwise, to have the case tried at Chandigarh. Though it may be taken that the offence of criminal misconduct was committed at Chandigarh, yet it can perhaps legitimately be said that its consequences visited at places outside Chandigarh so as to attract the provisions of Section 179 and 180 of the Code of Criminal Procedure; Without meaning to determine finally on this matter, it can at best be said that both Courts, i.e., at Ambala and Chandigarh have the jurisdiction. So, out of the two, it would be appropriate in the interest of justice to have the case tried before the Special Judge, Chandigarh.

6. Thus, on account of both the above considerations, I am of the considered view that the trial of the Petitioner shall be held before the Special Judge, Chandigarh. Accordingly, instead of ordering the challan to be returned by the Special Judge, Ambala to the Prosecutor for fresh presentation before the Special Judge, Chandigarh. I order its transfer to the Special Judge, Chandigarh; Parties through their counsel are directed to put in appearance before the learned Special Judge, Chandigarh, on 12th June, 1986.