

Baldev Krishan Puri Vs The State of Punjab

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Jan. 29, 2003

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 313

Penal Code, 1860 (IPC) â€” Section 161

Prevention of Corruption Act, 1947 â€” Section 5(2)

Hon'ble Judges: Ashutosh Mohunta, J

Bench: Single Bench

Advocate: Lisa Gill, for the Appellant; Radhika Suri, AAG, for the Respondent

Final Decision: Allowed

Judgement

Ashutosh Mohunta, J.

The present appeal has been filed against the judgment of the Special Judge, Patiala, dated 31.3.1989 vide which

the appellant-Baldev Krishan Puri was convicted u/s 5(2) of the Prevention of Corruption Act, 1947 and Section 161 I.P.C. The appellant was

sentenced on both the accounts to undergo rigorous imprisonment for one year and to pay a fine of Rs. 250/- or in default of payment of fine to

further undergo R.I. for one month. The sentences were ordered to run concurrently.

2. The prosecution story in brief was that one Bhajan Singh was owner of 40 Bighas of land in village Chanarthal Kalan in District Patiala. He had

obtained loan for a Tractor to the tune of Rs. 49,800/- from the State Bank of Patiala and had mortgaged 48 Bighas of land with the aforesaid

Bank. It is alleged that on 14.12.1987 Bhajan Singh PW4 went to the appellant, who was working as a Patwari, to meet him in the Patwarkhana

and showed him the clearance certificate issued to him by the bank and requested him that mutation of redemption be entered in his name. The

appellant replied that he would charge Rs. 200/- for entering the mutation of redemption in the name of Bhajan Singh. The appellant is alleged to

have told the complainant-Bhajan Singh that Tehsildar, Sirhind, would be coming to the village on 16.12.1987 for sanctioning mutations and that

the complainant should contact him there and pay him Rs. 200/- as bribe and he would enter the mutation and get the same sanctioned from the

Tehsildar, Sirhind.

3. As the complainant did not want to pay the aforesaid amount, he along with one Dayal Singh son of Amar Singh approached the Vigilance

Bureau, Chandigarh. He met Inspector Sewa Singh and narrated to him the entire episode. Statement Ex.PC was made by the complainant before

Inspector Sewa Singh. The complainant produced two currency notes of the denomination of Rs. 100/- each before Inspector Sewa Singh who

got the said currency notes treated with Phenolphthalein powder. The currency notes duly attested by Bhajan Singh, Dayal Singh and Santokh

Singh, Inspector Vigilance Bureau, were handed over to Inspector Sewa Singh. Therefore, Inspector Vigilance Bureau got treated a piece of

paper with Phenolphthalein powder through Constable Kuldip Singh. He got the piece of paper dipped in the solution of Sodium Carbonate and

the colour of the solution became light pink. The Demonstration Memo Ex.PD was also attested by the complainant as well as Dayal Singh etc.

The Inspector Vigilance Bureau thereafter instructed Bhajan Singh to handover the bribe money to the accused-appellant but only on demand by

him. He also instructed Dayal Singh to act as a shadow witness and to accompany Bhajan Singh and witness the passing on the bribe money by

Bhajan Singh to the appellant. It was also directed that he should give signal by waiving his right hand on his head after the appellant had accepted

bribe money from Bhajan Singh. The aforesaid instructions were duly carried out. The money was handed over to the accused-appellant when he

demanding the same. The complainant handed over the clearance certificate and also the aforesaid currency notes to the appellant. The appellant is

alleged to have put these currency notes in the pocket of his Bushirt. At that time a signal was given by Dayal Singh upon which Inspector Sewa

Singh reached the spot. After disclosing his identity to the appellant the person of the appellant was searched and the marked currency notes along

with other currency notes were duly found from the pocket of the Bushirt of the appellant. Hence, a complaint was lodged against the appellant.

4. The prosecution examined various witnesses as given in para 3 of the judgment of the Special Judge, Patiala . The appellant when examined u/s

313 Cr.P.C. denied the allegation that he demanded any bribe money from Bhajan Singh. He also denied that any currency notes were recovered

from him. It was also contended by him that Sh. Sukhdev Singh Tiwana, S.P. Vigilance, Chandigarh, was inimical towards him. Thus, he has got

him framed in a false case.

5. Ms. Lisa Gill, learned counsel for the appellant, has argued that the appellant has been falsely implicated in the present case at the behest of Sh.

Sukhdev Singh Tiwana, the then S.P. Vigilance, Chandigarh. It is contended that the village Chanarthal Kalan falls within the jurisdiction of Patiala.

It is further contended that the land of Dayal Singh's son adjoins the land of the brother of Sh. Sukhdev Singh Tiwana, the then S.P. Vigilance,

Chandigarh. As the S.P. wanted that certain land be entered in his as well as his brother's name and on refusal by the appellant, he became

inimical towards him.

6. Apart from the above, it has been argued by Ms. Lisa Gill that the redemption of mutation already stood entered on 14.12.1987 and hence

there was no question of entering the same again on 16.12.1987. It has further been argued that the complainant-Bhajan Singh has not supported

the case of the prosecution and hence the appellant should be acquitted.

7. The stand taken on behalf of the appellant has been controverted by Ms. Radhika Suri, learned Asstt. Advocate General for the State of

Punjab. She has contended that he accused-appellant was caught red-handed. It has further been contended that every precaution was taken,

procedure was strictly adhered to and the marked currency notes were duly recovered from the personal search of the accused by Inspector

Sewa Singh. Hence, as the accused has been caught red-handed with the marked currency notes, therefore, his conviction is not liable to be set

aside.

8. After hearing the learned counsel for both the sides and perusing the record in the present case, one thing clearly stands out is that Dayal Singh is

a witness in the present case and his son's land adjoins the land of Sh. Sukhdev Singh Tiwana's brother. Instead of lodging the report at Patiala

under which the village Chanarthal Kalan falls, the complainant as well as the other witnesses choose to come to Chandigarh to lodge a complaint

with the Vigilance Bureau. Thus, it cannot be said that Sh. Sukhdev Singh Tiwana, the then S.P. Vigilance, was not inimical towards the appellant.

There is every chance that the appellant has been implicated in the case falsely at the behest of the aforesaid S.P. Apart from the above, the

redemption of mutation was already entered on 14.12.1987 vide Mutation No. 6110 and hence there was no occasion to pay the Patwari for

making redemption entries.

9. A perusal of the statement of Bhajan Singh-PW4 shows that he has completely resiled from the story as given by the prosecution. He has

supported the case of the prosecution upto the stage of recovery of marked currency notes. He has further stated that when the hands of the

accused were dipped in the solution of Sodium Carbonate, it did not change colour. It has also been stated by him that a piece of paper was put in

the solution and only then he colour of the solution was changed. This witness after being cross-examined was declared hostile. Thus, it is seen that

the complainant himself resiled from his statement on the basis of which the present case was lodged against the appellant.

10. In view of the above, I am of the considered opinion that the prosecution has not been able to prove its case against the appellant beyond

reasonable doubt. The possibility that there was animosity between Sh. Sukhdev Singh Tiwana, the then S.P. Vigilance Chandigarh, and the

appellant cannot be ruled out. The fact that the solution did not change colour as well as the fact that the complainant has resiled from his statement

creates a doubt in the story as put forward by the prosecution.

11. In this view of the matter I set aside the order dated 31.3.1989 passed by the Special Judge, Patiala, and acquit the appellant of all charges.