

(2005) 04 P&H CK 0090

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal A. No. 145 of 1995

Mange Ram

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: April 1, 2005

Acts Referred:

- Prevention of Corruption Act, 1988 - Section 13(1)(E)

Citation: (2005) 14 CriminalCC 651

Hon'ble Judges: M.M. Aggarwal, J

Bench: Single Bench

Advocate: P.R. Yadav, for the Appellant; Harmeet Deol, for the Respondent

Final Decision: Allowed

Judgement

M.M. Aggarwal, J.

Mange Ram accused-appellant had been convicted by Special Judge, Narnaul vide judgment dated 22.2.1995 for offence u/s 13(1) (E) of the Prevention of Corruption Act, 1988 for acquiring assets disproportionate to his known source of income. He has sentenced to RI for two years and to pay fine of Rs. 10,000/-. In default of payment of fine to further undergo RI for two months.

2. As per prosecution version, this mange Ram was recruited as a Forest Guard by the Forest Department of Haryana State in the year 1967. He was promoted as Forester in the year 1982. He belongs to a Scheduled Caste Community. One Kuldeep Singh of his village had made complaint Ex.PA that Mange Ram was just a pauper when he came into service but, thereafter, had acquired assets disproportionate to his known source of income. The matter was enquired into by Piare Lal Inspector who made enquiry report Ex.PH and came to the conclusion that there had been difference of income and

3. Mange Ram appellant was accordingly prosecuted. He faced trial. The Special Judge. Narnaul had found the difference in the income of the accused from all

sources and the expenditure incurred by him in acquiring assets to be Rs.1, 26,900.00 as under:

However, after making some adjustment, it was assessed at Rs. 1,25,000/-.

4. Counsel for the appellant in this case had pointed out that as per Enquiry Report Ex.PH of Piare Lai Inspector, Mange Ram has two sons. Sunil Kumar was elder and was residing separately whereas Satish Kumar was younger and was a student. That Sunil Kumar was running a Atta Chakki which had been given to him at the time of his marriage by his in-laws. That Sunil Kumar had said that he was selling cloth and was also doing agriculture, breeding cattle and residing separately from his father; that his marriage was celebrated in the year 1986; that father of Mange Ram had some land also. Even from statement of Om Parkash, father-in-law of Sunil Kumar, Piare Lai Inspector had written that Sunil Kumar was married in the year 1986 and at the time of marriage apart from other matrimonial articles, an Atta Chakki was also given.

5. From this, counsel for the appellant argued that Sunil Kumar had a separate unit and the land purchased vide side deed dated 20.4.1990 in the name of Sunil Kumar could not be added in the assets acquired by Mange Ram. He further argued that the land was purchased by Mange Ram in the year 1974-75. The sale was also confirmed in the year 1975-76 but the Special Judge while making calculations had assessed the income of the land only from the year 1983-84 by relying wrongly on the Khasra Girdawari for the year 1982-83 and holding that as possession was from that year, income from the year 1983 could be calculated.

6. On behalf of the respondent-State it was pointed out that Sunil Kumar who appeared as DW2 had himself stated that he was residing jointly with his father and grand-father and, therefore, it could not be said that he was residing separately. It was also pointed out that prior to the year 1982-83, the Khasra Girdawari of the land purchased by Mange Ram was in the name of certain other persons and, therefore, Mange Ram had no income from that land up to the year 1982-83.

7. Exhibits PI to P4 are sale certificates showing 86K-17M of agriculture land situated in village Morri having been purchased by Mange Ram for a total consideration of Rs.39,860/- from the Department of Rehabilitation in auctions held between 20.11.1974 to 11.12.1975. These sales were confirmed also between the period from 19.12.1974 to 22.1.1976 although it is not mentioned that the possession had been delivered. Still when there were auctions and sales had been confirmed, merely relying on khasra girdawaris that the name of Mange Ram appeared in the column of cultivation in the year 1982 onwards will not be proper. The Special Judge had calculated the income from that land at the rate of Rs. 1500/- per acre per annum from the year 1982 onwards and calculated that income to be Rs.96,500/-. If this income is calculated from the year 1976 onwards, then further income from this land will come out to Rs. 1,00,000/-.

8. Sunil Kumar while appearing as DW2 on 6.2.1995 in court has given his age to be 29 years which will show that at the time of purchase of land in his name in 1990, he was 24 years of age. Sunil Kumar was married in the year 1986. Even if he says that he was residing jointly with his father and grand-father, still the fact remains that he was an adult grown up boy who had married in the year 1986. An Atta Chakki had been given to him by his in-laws and there is report that he was living separately which means that he may be separate in mess in the same house. It cannot be said that the whole amount of Rs. 1,90,000/- for purchasing land in the name of Sunil Kumar vide sale deed dated 20.4.1990 would have been contributed by Mange Ram. But taking into account the fact that Sunil Kumar had married in the year 1986 and was having separate unit and was 24 years of age on the date of purchase, it will not be proper to add Rs. 1,90,000/- in the calculation of income and expenditure for the property acquired by Mange Ram appellant.

9. Kuldeep Singh, who had made complaint Ex.PA while appearing as PW5, had admitted that he had inimical relation with Mange Ram. However, in the enquiry report made by Piare Lai Inspector it was made clear that Sunil Kumar was married in the year 1986; that father of Mange Ram had certain land and father-in-law of Sunil Kumar had given an Atta Chakki and Sunil Kumar was residing separately. While making the calculation of income and the amounts spent for acquiring assets or otherwise, he however, did not give any concession towards land purchased by Sunil Kumar in the year 1990. Similarly, there had been income from the land purchased by Mange Ram in the year 1974-75 which had not been properly calculated. He had found the difference to be Rs. 1,25,360/-.

10. The Special Judge had found the difference of Rs.1,25,000/- in the known source of income and the amounts spent by Mange Ram for acquiring properties. However, when concession is given for income from lands purchased from the years from 1976 to 1982 and the fact that Sunil Kumar was aged about 24 years at the time of purchase of land for Rs. 1,90,000/- and he was already married four years back, then it would come out that there had been no difference of the income and the amounts spent for acquiring properties.

11. From the above discussion, I hold that the prosecution case against the accused-appellant has not been proved. The appeal is allowed. The appellant stands acquitted of the charge.