

Harmesh Chander Kakkar Vs State of Haryana

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 13, 2009

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 313, 342, 428

Evidence Act, 1872 â€” Section 101

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

Prevention of Corruption Act, 1947 â€” Section 20(1), 4(1), 5(1), 5(2)

Prevention of Corruption Act, 1988 â€” Section 13, 13(1), 19, 20(1), 4(1)

Citation: (2011) 1 RCR(Criminal) 668

Hon'ble Judges: Sham Sunder, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Sham Sunder, J.

This appeal, is directed, against the judgment of conviction dated 26.11.1996, and the order of sentence dated

28.11.1996, rendered by the Court of Special Judge, Ambala, vide which, it convicted the accused, for the offence, punishable u/s 7 of the

Prevention of Corruption Act, and sentenced him, to undergo rigorous imprisonment, for six months, and to pay a fine of Rs. 5000/-, and in default

thereof, to further undergo rigorous imprisonment for three months.

2. The gist of the prosecution case, is that, Vijay Kumar Talwar son of Siri Ram Talwar, r/o Jagad-hri, was running a cloth shop. The Haryana

Financial Corporation, had advertised the sale of Pamco Industries, Plot No. 21, Industrial Estate, Yamuna Nagar, and tenders, had been invited,

in this regard. The complainant also filled in the tender and enclosed Rs. 25,000/-, as an earnest money. The tenders were opened, on

20.03.1990. The tender of the complainant, was for Rs. 4,50,000/-, and it being the highest, was accepted. He had deposited Rs. 87,5000/-, Rs.

1,12,500/-, and Rs. 2,25,000/-, respectively, vide different drafts, with the Haryana Financial Corporation, Chandigarh. The last draft, was

deposited, on 13.07.1990. Even after deposit of the entire amount, he did not get possession of the plot. In the first instance, when he visited the

office of the Haryana Financial Corporation, H.C. Kakkar, accused, who was, at the relevant time, working as Assistant General Manager, met

him, and assured him, that he would get his tender accepted. Thereafter, the complainant, had met the accused, on several occasions. Even two

drafts, were also, handed over to the accused. When the complainant deposited the last draft, he had shown the receipt to the accused, who got

drafted an application, from the complainant, for getting the delivery of possession. The accused had assured him that he would get possession, by

an early date. However, the possession, was not delivered to the complainant.

3. On 20.07.1990, the complainant met the accused, who invited him, at his residence. The complainant met the accused, at his residence, where

he demanded a sum of Rs. 10,000/-, as gratification, other than legal remuneration. However, the complainant, was not ready to pay gratification,

other than legal remuneration, whereupon, the accused threatened him that, in case, the same, was not paid, he would not allow the possession, to

be delivered. In these circumstances, the bargain was settled. Rs. 5,000/-, were to be paid, before the delivery of possession, whereas, the

remaining amount of Rs. 5,000/-, was to be paid, after the delivery of possession. On 28.07.1990, the accused came to the shop of the

complainant, and threatened him that if the amount was not paid, the possession of the plot, would not be delivered to him. The complainant

agreed to visit the house of the accused on 01.08.1990, at about 8.30 AM, and hand over Rs. 5,000/-, to him, as gratification, other than legal

remuneration. Since the complainant, did not want to pay gratification, other than legal remuneration, he approached Sh. Sham Lal Goel, Deputy

Superintendent of Police (Vigilance), in his office, on 31.07.1990, and narrated the aforesaid facts, to him.

4. On 01.08.1990, Vijay Kumar Talwar, complainant, handed over ten currency notes of the denomination of Rs. 500/- each, to Sh. Sham Lal

Goel, the numbers whereof, were noted down, by him. Vikas Gupta son of Som Parkash Gupta, also accompanied the complainant at that time.

The currency notes, were treated with phenol-phthalein powder, and the same were returned to the complainant, by Sh. Sham Lal Goel, after

putting his initial, on the same. Personal search of the complainant, was conducted, and nothing was left with him. The complainant was instructed,

to hand over Rs. 5000/-, as gratification, other than legal remuneration, to the accused, on demand, and Vikas Gupta, who was appointed as

shadow witness, was instructed, to give the requisite signal, to the remaining members of the raiding party, consisting of Sham Lal, Deputy

Superintendent of Police (Vigilance), and other Police officials. Shri S.K. Joshi, Sub Divisional Magistrate, Panchkula, was also joined, in the

raiding party. Thereafter, the raiding party, went to the house of the accused, and concealed its presence.

5. The complainant handed over Rs. 5000/-, as gratification, other than legal remuneration, to the accused on demand. After receiving the requisite

signal, from the shadow witness, the raiding party", reached the spot, and apprehended the accused. The hands of the accused were got washed,

in the solution, which turned into pink. The hand-wash of the accused, was put into two separate nips, sealed separately, with the seal, bearing

impression SL". Thereafter, the search of the accused, was carried out, as a result whereof, ten currency notes of the denomination of Rs. 500/-

each, were recovered, from the front pocket of the shirt, worn by him. On comparison, the numbers of the tainted currency notes, tallied with

numbers, already noted down, before conducting the raid. The currency notes were sealed, and taken into possession, vide a separate memo.

Thereafter, the shirt of the accused, was taken off, and the pocket from which the tainted currency notes were recovered, was washed, in a

separate solution of sodium carbonate, as a result whereof, it turned into pink. The pocket-wash, was put into two separate nips, duly sealed, and

taken into possession. The hands of Vijay Kumar Talwar, complainant, were also got washed, in a freshly prepared solution of sodium carbonate,

as a result whereof, it turned into pinkish. The solution was put into two separate nips and sealed. The seal bearing impression "SL", was handed

over to S.K. Joshi, the then Sub Divisional Magistrate. The accused was arrested. During the course of investigation, the sealed parcels aforesaid,

were sent to the Forensic Science Laboratory, Madhuban, which gave the positive results. Sanction PB, for launching prosecution of the accused,

was accorded by the Managing Director of the Haryana Financial Corporation. After the completion of investigation, the accused was challaned.

6. On his appearance, in the Court, the accused was supplied the copies of documents, relied upon by the prosecution. Charge under Sections 7

and 13 of the Prevention of Corruption Act, 1988, was framed against the accused which was read-over and explained to him, to which he

pleaded not guilty, and claimed judicial trial.

7. The prosecution, in support of its case, examined Rajesh Kumar, draftsman (PW1), who prepared the site plan.

8. P.K. Kohli, Deputy General Manager, Haryana Financial Corporation, Head Office, Chandigarh (PW2), brought a copy of the tender PI, dated

20.03.1990, regarding the auction of M/s Pamco Industries, as also the record, with regard to the copy of appointment letter of H.C. Kakkar,

accused.

9. Swami Nath Yadav, Assistant Manager (PW3), identified the signatures of the Managing Director, Haryana Financial Corporation, on sanction

PB.

10. Vijay Kumar, complainant (PW4), deposed with regard to the payment of gratification, other than legal remuneration, to the accused, as also,

his apprehension, by the Police.

11. Ravi Kumar Azad, Deputy Superintendent of Police, Flying Squad, Hissar (PW5), recorded the statements of some of the witnesses.

12. Mr. S.K. Joshi, HCS, S.T.C., Chandigarh (PW6), is a witness, to the recovery. He was posted as Sub Divisional Magistrate, Panchkula, at

the relevant time, when the raid was conducted.

13. Vikas Gupta (PW7), shadow witness, supported the statement of Vijay Kumar, in all material particulars.

14. Sham Lal Goyal, Superintendent of Police, Jind (PW8), Deputy Superintendent of Police (Vigilance Bureau), Haryana, at the relevant time, is

the Investigating Officer, who conducted the investigation, and proved various documents.

15. The Public Prosecutor for the State, tendered into evidence, PR report of the Forensic Science Laboratory, and other documents. Thereafter,

he closed the prosecution evidence.

16. The statement of the accused, u/s 313 of the Code of Criminal Procedure, was recorded. He was put all the incriminating circumstances,

appearing against him, in the prosecution evidence. He pleaded false implication. He admitted that he had been working as Assistant General

Manager, in Haryana Financial Corporation, since 01.06.1983. He also admitted that initially, he was appointed as Financial Appraiser, in

Haryana Financial Corporation. The remaining allegations, were denied, by him. He, however, took up the following plea:

It is a false case against me and it is the outcome of the bureaucratic arrogance of"" Mr. Sudhir Verma and Sham Lal Goel who""conspired to get me

ousted from my service as I was the most qualified person in the""Corporation. Mr. Sudhir Verma then""Additional General Manager,

personally""dealt with this file. I never dealt with this file after 24.05.1990. The file remained in the personal custody of Sudhir Verma

after""24.05.1990. Possession could be delivered""on telephone call from Mr. Sudhir Verma to Branch Manager, Yamuna Nagar. A letter""could

also be written by Sudhir Verma to""the Branch Manager for delivering the""possession. The entire sale consideration was paid by Vijay Kumar on

13.07.1990. The""Managing Director of the Corporation had""also written to Mr. Sudhir Verma, on""06.08.1990, as to why the possession was""not

delivered and as to why he kept the file with him without any movement of the same""from 13.07.1990 to 01.08.1990. I am""innocent.

The accused also examined R.C. Sethi (DW1), in his defence. Thereafter, he closed the defence evidence.

17. After hearing the Counsel for the parties, and, on going through the evidence, on record, the trial Court, convicted and sentenced the accused,

as stated above.

18. Feeling aggrieved, the instant appeal, was filed by the Appellant.

19. I have heard the Counsel for the parties, and have gone through the evidence, and record of the case, carefully.

20. The Counsel for the Appellant, submitted that the trial Court, was wrong, in acting upon the unreliable evidence of the complainant, and the

shadow witness, to come to the conclusion, that the prosecution had proved its case, against the accused, beyond a reasonable doubt. Vijay

Kumar, PW-4, is the complainant. From his evidence, it was proved that, in the Month of March, 1990, a news, was published, in the

newspapers, inviting tenders, for the auction of Pemco Industries Ltd., Yamunanagar, which was a dead unit, through the Haryana Financial

Corporation. His evidence is further to the effect, that he filled the tender for Rs. 4= lacs, and enclosed with the same, a demand draft of Rs.

25,000/-. The tender furnished by him, was passed. It was further stated by him, that to complete 25 per cent of the total sale amount, he gave

another demand draft, in the sum of Rs. 87,500/-, in the name of the Haryana Financial Corporation. It was further stated by him that he gave

another demand draft to the Haryana Financial Corporation, in the sum of Rs. 1,12,500/-, after sometime. He also stated that the last draft, was

given by him, at the Haryana Financial Corporation office, Yamunanagar, in the sum of Rs. 2,25,000/-. All the amounts, were credited into his

account. The accused, was the dealing hand, in this case, being Assistant General Manager, Haryana Financial Corporation, Chandigarh. He

approached the accused, in his office, and demanded the delivery of possession of plot sold, in his favour, because he had made full payment. The

accused, told him, that he should give a sum of Rs. 10,000/-, to him (accused), for delivering possession, otherwise he would get his case spoiled.

Earlier also, this plot was sold by Haryana Financial Corporation, by inviting tenders, but the purchaser, could not get the plot, as his case was

spoiled. The complainant feared, that his case may also not be spoiled, in a similar fashion. The accused, told Vijay Kumar, to pay him, a sum of

Rs. 5,000/-, before the delivery of possession of the plot, and the balance Rs. 5,000/-, after the delivery of possession. Vijay Kumar told Vikas

Gupta, about this factum. On 01.08.1990, he alongwith Vikas Gupta, contacted Deputy Superintendent of Police, Vigilance, in Vigilance Office,

Panchkula, situated near the office of the accused. He made statement, before the Police, narrating the aforesaid facts. A sum of Rs. 5,000/-,

consisting of ten currency notes of Rs. 500/- each, was handed over, by the complainant, to the Deputy Superintendent of Police. Those currency

notes were treated with phenol-phthalein powder, by the Deputy Superintendent of Police, and were also initialled, by him. Memo, in this regard,

was prepared. A raiding party, was constituted. Vikas Gupta, was appointed, as shadow witness, and Mr. S.K. Joshi, HCS, Sub Divisional

Magistrate, Panchkula, was also joined, in the raiding party. He further stated that, he was instructed by the Deputy Superintendent of Police, to go

to the accused, at his house, as per pre- arrangement, and on demand, by him, pay the aforesaid tainted currency notes, to him. Vikas Gupta,

shadow witness, was instructed, to give signal, to the Police party, after the amount, was paid by the complainant, to the accused. Thereafter, the

complainant, and Vikas Gupta, reached the house of the accused, as per pre-arrangement, where he was found present. The complainant paid the

aforesaid tainted currency notes, to the accused, on demand, which were put, by him, in the front pocket of his shirt, which he was wearing, at that

time. Vikas Gupta, then gave the requisite signal, to the Police party. The Police party, reached there. A glass, containing plain water was fetched.

The hands of the accused, were got washed therein, as a result whereof, the colour thereof, turned into pinkish. On search of the accused, tainted

currency notes of Rs. 5,000/-, were recovered. The statement of Vijay Kumar, complainant, was duly corroborated by Vikas Gupta, and S.K.

Joshi, prosecution witnesses, in all material particulars. Not only this, the ocular evidence, was also corroborated, through the handwash of the

accused, which turned into pinkish, pocket-wash of the accused, which also turned into pinkish, and the recovery of tainted currency notes, from

his pocket, which were a short-while ago, with the complainant. The evidence of the prosecution witnesses, was rightly found to be most reliable

by the trial Court. Still further corroboration to the ocular version, was provided, through the report PR, of the Forensic Science Laboratory,

Madhuban, Haryana, which found phenol- phthalein powder, on the tainted currency notes, and phenol phthalein and sodium bi-carbonate, in the

handwash, as also in the pocket-wash of the accused. It is not that the ocular evidence of the complainant, and the shadow witness, should only be

corroborated through the evidence of an independent witness. In Hans Raj v. State of Haryana (1997(3) RCR 427, the principle of law, laid

down, was to the effect, that the chemical test is a corroborative piece of evidence. Even no explanation, was furnished by the accused, as to how,

the solution, in which his hands were washed, and the solution, in which, the pocket of his shirt, was washed, turned into pinkish. Even no

explanation was furnished by the accused, as to how, the tainted currency notes of Rs. 5000/-, reached the front pocket of his shirt, which were a

short while ago, with the complainant. In *Rup Singh Vs. The State of Punjab*, it was held that where the accused was not able to explain the

presence of phenolphthalein powder, on his hands, his conviction, under the relevant Section was legally sustainable. The ocular evidence, duly

corroborated by the circumstantial evidence, referred to above, was rightly found to be reliable by the Court below to bring home the guilt to the

accused. The submission of the Counsel for the Appellant, thus, being without merit, must fail, and the same stands rejected.

21. It was next submitted by the Counsel for the Appellant, that no independent witness, was joined and examined, and, as such, the evidence of

the prosecution witnesses, was not sufficient, to bring home the guilt to the accused. He placed reliance on *Tarlok Singh son of Inder Singh*, Line

Superintendent, Patiala v. The State of Punjab, 1983 RCR 382, in support of his contention. There is no rule of law, that the case of the

prosecution, until and unless corroborated, through an independent witness, could not be acted upon. It is only, as a matter of caution, that the

Courts, sometimes insist, on independent corroboration, to the evidence of the interested witnesses. During the course of his cross-examination

Sham Lal Goyal, Superintendent of Police, who was the Deputy Superintendent of Police, at the relevant time, and the Investigating Officer, stated

that the house of the accused, was located, in a densely populated locality. He further stated that no person of the locality, had come to the house

of the accused. He also stated that, he did not call any witness, from the public, from that locality. The mere fact that, no independent witness, was

joined, by Sham Lal Goyal, Deputy Superintendent of Police, the Investigating Officer, at the relevant time, was not sufficient to throw away the

case of the prosecution over-board. It is a matter of common experience, that the independent witnesses of the locality, hardly come forward, to

join a raid, so as to avoid the wrath and displeasure of the accused. Since the evidence of the complainant namely Vijay Kumar, was duly

corroborated by Vikas Gupta, shadow witness, Mr. S.K. Joshi, HCS, at the relevant time, Sub Divisional Magistrate, Panchkula, who appeared

as PW6, and the circumstantial evidence, referred to above, non-joining and non-examining of an independent witness, did not at all cause any

dent, in the prosecution story. The facts of *Tarlok Singh's* case (*supra*), are clearly distinguishable, from the facts of the instant case. In *Tarlok*

Singh's case (*supra*), it was held, that the statement of the complainant alone, without any independent corroboration, was not sufficient, to bring

home the guilt to the accused. The instant case, is not based, on the statement of the complainant alone. In the instant case, as stated above, the

statement of the complainant, was duly corroborated, through the evidence of other witnesses, as also the strong circumstantial evidence. In this

view of the matter, no help, can be drawn, by the Counsel for the Appellant, from the aforesaid case. The submission of the Counsel for the

Appellant, being without merit, must fail, and the same stands rejected.

22. It was next submitted by the Counsel for the Appellant, that the sanction PB, was invalid, as it was accorded, without application of mind, to

the facts and circumstances of the case. The submission of the Counsel for the Appellant, in this regard, also does not appear to be correct. The

perusal of exhibit PB, the sanction, accorded by the competent authority, clearly goes to show, that the relevant file, was produced, before it. It

was only after going through the same, and applying mind, to the facts and circumstances of the case, that the competent authority, came to the

conclusion, that it was a fit case, in which, sanction for launching prosecution, under Sections 7 and (13)(1) of the Prevention of Corruption Act,

1988, should be accorded. Accordingly, the competent authority, accorded sanction exhibit PB. It, therefore, could not be said, that the sanction

exhibit PB, was the result of non-application of mind, to the facts and circumstances of the case. In Shiv Raj Singh Vs. Delhi Administration, , it

was held that where the order of sanction shows, on the face of it, what were the facts constituting the offence charged; and the sanctioning

authority after carefully examining the material before it, in regard to the allegations, in the case, considers that a prima facie case is made out,

against the accused, the order fulfills the requirements of Section 6 (now Section 19) of the Prevention of Corruption Act, 1988. The principle of

law, laid down, in Shiv Raj Singh's case (supra), is fully applicable, to the facts of the instant case. The submission of the Counsel for the

Appellant, being without merit, is rejected.

23. It was next submitted by the Counsel for the Appellant, that the Appellant was not in a capacity to show any, favour, to the complainant, and,

as such, the question of demand of gratification, other than legal remuneration, by him, did not at all arise. The submission of the Counsel for the

Appellant, in this regard, also does not appear to be correct. The tenders were called, by the Haryana Financial Corporation, for auction of Pemco

Industries Ltd., Yamu-nanagar, which was a dead unit. The tender of the complainant, was accepted, and he deposited the entire sale

consideration. Only the delivery of possession of the plot, which was sold, in his favour, was to be given, to him. The accused, was the Assistant

General Manager, at the relevant time, and the complainant approached him, a number of times, to deliver him the possession of the plot, which

was sold, in his favour. It was, on that account, when he met the accused that he made a demand of Rs. 10,000/-, as gratification, other than legal

remuneration, from the complainant, for showing him favour, in the matter of delivery of possession of plot. It, therefore, could not be said, that the

accused, was not in a position, to show, any favour to the complainant. The accused, therefore, demanded gratification, other than legal

remuneration, as a motive or reward, so as to show favour, to the complainant, in the matter of delivery of possession of the plot sold, in his

favour. In this view of the matter, the submission of the Counsel for the Appellant, being devoid of merit, must fail, and the same stands rejected.

24. The Counsel for the Respondent, submitted that the statutory presumption u/s 20(1) of the Prevention of Corruption Act, 1988, could be

drawn, against the accused, as the tainted currency notes were recovered from the front pocket of the shirt worn by him, and it was for him, to

explain, as to how, the same came into his possession, which were a short while ago, in the possession of the complainant. He further submitted

that the accused failed to furnish any explanation, in this regard. The submission of the Counsel for the Respondent, in this regard, appears to be

correct. In *Trilok Chand Jain Vs. State of Delhi*, a case, relating to Section 5(1) and (2) of the Prevention of Corruption Act, 1947, the question,

with regard to the interpretation and scope of Section 4(1) (now Section 20(1)) arose before the Apex Court, wherein, it was held as under:

The degree and the character of the burden of proof which Section 4(1) casts on an accused person, to rebut the presumption raised there-under,

cannot be equated with the degree and character of proof, which u/s 101, Evidence Act, rests on the prosecution. While the mere plausibility of

an explanation, given by the accused in his examination u/s 342 Code of Criminal Procedure, may not be enough, the burden on him to negate the

presumption may stand discharged if the effect of the material brought, on the record, in its totality, renders the existence of the fact presumed,

improbable. In other words, the accused may rebut the presumption, by showing a mere preponderance of probability, in his favour; it is not

necessary for him to establish his case, beyond a reasonable doubt. AIR 1974. S.C. 773, followed.

The sole purpose of the presumption u/s 4(1) is to relieve the prosecution of the burden of proving a fact which is an essential ingredient of the

offences, u/s 5(1) and (2) of the Prevention of Corruption Act and Section 161 Penal Code. The presumption, therefore, can be used in

furtherance of the prosecution case and not in derogation of it. If the story set up by the prosecution inherently militates against or is inconsistent

with the fact presumed, the presumption will be rendered sterile from its very inception, if out of judicial courtesy, it cannot be rejected out of hand

as still-born.

The plain reading of the principle of law, laid down, in the aforesaid case, reveals that the accused can rebut such presumption, by leading

evidence, or from the evidence of the prosecution witnesses. It is, no doubt, not necessary for him, to establish his case, to rebut such statutory

presumption, operating against him, u/s 4(1) of the Act (now u/s 20 (1) of the Prevention of Corruption Act, 1988), beyond a reasonable doubt.

The demand and acceptance of gratification, other than legal remuneration, by the accused, was proved from the cogent, and convincing evidence,

produced by the prosecution. The statutory presumption, operating u/s 20(1) of the Prevention of Corruption Act, 1988, remained rebutted.

The rebutted statutory presumption strengthened the truthfulness of the prosecution case.

25. The defence, set up by the accused, was to the effect, that one Sudhir Verma, was brought to Haryana Financial Corporation, from the

banking company, directly as Assistant General Manager, on deputation, for one year, but he was designated, as Deputy General Manager, and

made his boss, whereas, he was made junior to him. He further stated that Mr. R.K. Chhiber, Senior Deputy General Manager, challenged that

order. He further stated that, he instigated R.K. Chhiber, to file writ, in the High Court, and, that was why, Sudhir Verma, was annoyed, with him,

and involved him, in this case. He further stated that, it was Sudhir Verma, who was to deliver the possession, as per the orders of the Managing

Director. He also stated that the Managing Director of the Company, had also written a letter, to Sudhir Verma, on 06.08.1990, as to why, the

possession of the plot, had not been delivered, and as to why he kept the file, with him, from 13.07.1990 to 01.08.1990. It may be stated here

that, if any, writ was filed by R.K. Chhiber, challenging the order of appointment of Sudhir Verma, then he could be said to have some grouse,

against R.K. Chhiber, and not against the accused. In those circumstances, Sudhir Verma, could be expected to involve R.K. Chhiber, in the

instant case. Even if, the file was kept by Sudhir Verma, for some time, that did not mean, that he falsely involved the accused, in the instant case.

It was the accused, who demanded, and accepted gratification, other than legal remuneration, from the complainant, for showing him favour,

regarding the delivery of possession of the plot, which was sold, in his favour. The recovery of tainted currency notes, was effected, from the

accused. The hand-wash and the pocket-wash, in which, the tainted currency notes, were put by the accused, also gave the positive results. So,

whether the file, was kept by Sudhir Verma, for sometime, or not, could not absolve the accused of his criminal liability. The defence of the

accused, being unreliable, was rightly discarded by the Court below.

26. The Counsel for the Appellant, last of all, submitted that the Appellant has been facing the criminal proceedings, for the last 19 years, when the

case was registered, against him. He further submitted that the Appellant, must have undergone a lot of mental agony, and physical pain. He further

submitted that lenient view, be taken, by reducing his sentence. The perusal of the trial Court judgment reveals that, already the minimum sentence,

provided by the Act, for the offence, punishable u/s 7 of the Prevention of Corruption Act, was awarded to the accused. Under these

circumstances, the same, cannot be reduced. The submission of the Counsel for the Appellant, being without merit, must fail, and the same stands

rejected.

27. No other point, was urged, by the Counsel for the parties.

28. In view of the above discussion, it is held that the judgment of conviction and the order of sentence, are based on the correct appreciation of

evidence, and law, on the point. The same do not warrant any interference. The same are liable to be up held.

29. For the reasons recorded above, the appeal, being devoid of merit, is dismissed. The judgment of conviction and the order of sentence,

rendered by the trial Court, are upheld.

30. The Chief Judicial Magistrate, shall take necessary steps to comply with the judgment with due promptitude, keeping in view the applicability

of the provisions of Section 428 of the Code of Criminal Procedure, and submit compliance report, within 02 months.

31. The District & Sessions Judge, is also directed to ensure that the directions, referred to above, are complied with, and the compliance report is

sent within the time frame, to this Court.

32. The Registry is directed to keep track that the directions are complied with, within the stipulated time. The papers be put up within 10 days, of

the expiry of the time frame, whether the report is received or not, for further action.