

(2011) 04 P&H CK 0342

High Court Of Punjab And Haryana At Chandigarh

Case No: C.R. Miscellaneous No. 13015 of 2011 in Cr. Appeal No. S-602-SB of 2011

Raj Kumar

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: April 4, 2011

Acts Referred:

- Prevention of Corruption Act, 1988 - Section 13(1), 7

Citation: (2011) 7 RCR(Criminal) 2381

Hon'ble Judges: S.S. Saron, J

Bench: Single Bench

Judgement

S.S. Saron, J.

The Applicant-Appellant-Raj Kumar has been convicted by the learned Special Judge, Hisar for the offence u/s 7 and 13(1)(d) of the Prevention of Corruption Act, 1988 ("Act" - for short). He has been sentenced to undergo rigorous imprisonment for a period of three years, besides, to pay a fine of Rs. 10,000/- for the offence u/s 7 of the Act and in default to further undergo rigorous imprisonment for six months. He has also been sentenced rigorous imprisonment for four years, besides, to pay a fine of Rs. 10,000/- and in default of payment of fine to undergo rigorous imprisonment for six months for the offence u/s 13(1)(d) of the Act. The sentence of imprisonment have been ordered to run concurrently.

2. Learned Counsel for the State has submitted the Custody Certificate of the applicant-Appellant in terms of which the applicant-Appellant has undergone imprisonment of two months and twenty four days till 3.4.2011.

3. The appeal is not likely to mature for hearing in the near future. According to learned Counsel for the applicant-Appellant, the applicant-Appellant is an employee of Haryana Prathmik Shiksha Pariyojna Parishad, which is a Society registered under Societies Registration Act, 1860. The appointment letter of the applicant-Appellant dated 27.12.2005, Ex.-P-7 has been placed on record as Annexure, A-1. According to

learned Counsel, the same is an appointment on contract by the State Project Director, Prathmik Shiksha Pariyojna Parishad. According to the learned Counsel for the Petitioner, the case has been registered on the complaint made by the complainant-PW.10, alleging that with the grant of Sarv Shiksha Abhiyaan, a class room was constructed in Government Middle School, Sarhera. On completion of the construction work of the room, the concerned JE had verified the construction and the final payment was also received. However, the applicant-Appellant S.D.E., visited the school and stated that the construction work had not been done rightly done and he could write against him, besides, no one could stop him. The applicant-Appellant demanded for Rs. 10,000/- for not writing against the complainant regarding the construction work. The matter was settled for Rs. 5,000/-. On the complaint made by the complainant, a trap was laid down by the police. The learned Special Judge, Hisar, it is submitted has misread the evidence and material on record; besides, has not appreciated the aspects of the case in its right perspective. The learned Counsel for the Appellant-applicant has submitted that the Appellant-applicant during the pendency of the appeal is liable to be released on bail.

4. Learned Counsel for the State has opposed the prayer. It is submitted that a clear finding of guilt has been recorded and the Appellant-applicant is not liable to be released.

5. It may be noticed that the applicant-Appellant has undergone two months and 24 days of imprisonment out of four years. In case under the Act, it has been observed that normally a conviction is not to be stayed although sentence under the Act may be suspended. There are arguable points which would require consideration at the time of final hearing.

6. In the circumstances, the sentence of imprisonment of the applicant-Appellant, on his furnishing personal bond and surety to the satisfaction of learned Special Judge, Hisar, shall during the pendency of the appeal remain suspended.