

Raj Kumar Vs State of Haryana

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: April 4, 2011

Acts Referred: Prevention of Corruption Act, 1988 "Act" 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 Prathamik 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, Prathamik 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 be 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.