

Niranjan Singh Vs. State

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Court : Delhi

Decided On : Mar-27-2014

Judge : Indermeet Kaur

Appellant : Niranjan Singh

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI % + Judgment reserved on:24.03.2014. Judgment delivered on:27.03.2014 CRL.A. 189/2006 NIRANJAN SINGH Through Appellant Ms. Rebecca M. John, Sr. Adv. with Mr. Vishal Gosain, Mr. Kuldeep Gaur and Mr. Harsh Bora, Adv. versus STATE Through Respondent Mr. Varun Goswami, APP CORAM: HON'BLE MS. JUSTICE INDERMEET KAUR INDERMEET KAUR, J.

1 This appeal has been directed against the impugned judgment and order of sentence dated 04.03.2006 & 06.03.2006 respectively wherein the appellant Niranjan Singh has been convicted under Sections 7 and 13 (1)(d) read with Section 13 (1)(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as the said Act) and has been sentenced to undergo RI for a period of 1 year and to pay a fine of Rs.3,000/- and in default of payment of fine to undergo SI for three months for the offence under Section 13 (1)(d) of the said Act; for the offence under Section 7 of the said Act, he has been sentenced to undergo RI for a period of 6 months and to pay a fine of Rs.1,000/- and in default of payment of fine, to

undergo SI for 1 month. 2 The case of the prosecution is as follows:- (i) Complainant Ashok Puri (PW-9) had made a complaint in the Anti-Corruption Branch on 10.05.1999 (Ex.PW-9/A). In this complaint, it was stated that the complainant had applied for a telephone connection at his residence i.e. at house No.44, second floor, West Patel Nagar, New Delhi on 04.02.1999; the telephone fittings had been installed but the line was not made operative; on 23.04.1999, he had made an application in the telephone department at Karol Bagh asking them to activate his telephone connection; he met the DGM. He was advised to meet the JTO i.e. the appellant whom he met on 07.05.1999 and who had made a demand of Rs.500/- for getting his phone activated. On negotiations, the demand was reduced to Rs.400/-; Rs.100/- was given on the same day and it was agreed that Rs.300/- will be paid on 10.05.1999. Since the complainant did not wish to pay the bribe amount, he had made this complaint in the Anti-Corruption Branch. (ii) On receipt of this complaint, V.P. Singh (PW-11) organized a pre-raid team. The three currency notes of Rs.100/- each (Rs.300/-) which the complainant had to pay as bribe money to the appellant were produced before PW-11; their numbers were noted; a live demonstration was given in front of the panch witness Dinesh Kanwar (PW-10) that these notes have been coated with phenolphthalein powder and when dipped into solution of sodium carbonate would turn pink; PW-11 directed PW-9 to handover the bribe money to the appellant only when a demand was made; PW-10 had been advised that after the bribe money had been accepted by the appellant, he would give the pre-appointed signal to the raiding party. (iii) Accordingly in the raid from the left fist of the appellant, a sum of Rs.300/- was recovered; the number of GC notes were tallied. Left hand wash of the appellant was taken which was sent for scientific analysis and the CFSL vide its report (Ex.PW-11/D), tested this exhibit positive for phenolphthalein. (iv) Apart from the aforementioned witnesses, Bishan Singh (PW-1), P.J.

Pandey (PW-5) and Anup Singh (PW-6) who were working in the MTNL had also been examined. PW-1 had produced documents Ex.PW-1/A-1 to A-5 relating to the application of the telephone connection made by the complainant to the Department. PW-5 was the SDO at the relevant time; the appellant was working under him; his version is that on 07/08.05.1999, the complainant had come to his office in connection with telephone No.5714125; PW-5 gave instructions to the

appellant to look into the complaint of PW-9. PW-6 was a telephone operator; as per his version, the telephone connection of the subscriber i.e. Ashok Puri was okayed on 11.05.1999. (v) This was the sum total of evidence collected by the prosecution. (vi) In the statement of the appellant recorded under Section 313 of the Cr.PC, he pleaded innocence; his version being that he has been falsely implication in the present case. (vii) No evidence was led in defence. (viii) In view of the aforementioned evidence collected by the prosecution both oral and documentary, the appellant was convicted and sentenced as noted supra. 3 Arguments had been addressed in detail by learned senior counsel Ms. Rebecca M. John assisted by Mr. Vishal Gosain, Advocate. It is pointed out that the version of the complainant is inherently improbable; his version that the demand was made on 07.05.1999 is demolished by his admission in his cross-examination that admittedly no person was present at the time when this demand was made from PW-9. It is pointed out that there is no explanation as to why the complainant remained silent and then finally made a complaint on 10.05.1999. The version of PW-9 qua the second demand is full of infirmities and attention has been drawn to the confrontation of the witnesses wherein certain parts of the statement made on oath does not find mention in his earlier complaint Ex.PW-9/A. It is pointed out that the testimony of the complainant is in the nature of an evidence of an accomplice and rule of caution demands that it must be corroborated. To support this submission, reliance has been placed upon (1979) 4 SCC526 Panalal Damodar Rathi Vs. State of Maharashtra. Reliance has also been placed upon AIR 2000 SC3377 Smt. Meena Balwant Hemke Vs. State of Maharashtra as also another judgment of the Apex Court reported in (1996) 11 SCC720 M.K. Harshan Vs. State of Kerala. It is pointed out that in these cases where the testimony of the complainant was not supported by other corroborative evidence, benefit of doubt had accrued in favour of the accused and he was entitled to an acquittal; it is pointed out that in this case also, the panch witness (PW-10) is hostile; he has not advanced the version of the prosecution; the testimony of PW-9 is also full of infirmities; in the absence of any independent corroboration, the trial Judge convicting the appellant has committed an illegality. Reliance has been placed upon (2009) 3 SCC779 C.M. Girish Babu Vs. CBI, Cochin to support a submission that mere recovery of money is not sufficient to convict an accused for the offence

under Section 7 of the said Act; presumption contained in Section 20 also cannot be drawn unless the prosecution has crossed the initial threshold which it has failed to do so in the instant case. It is pointed out that in this case, the version built up by the prosecution in two parts; as per the complaint, the initial demand of Rs.100/- was made on 07.05.1999 and the second amount of Rs.300/was paid on 10.05.1999; where the first part of the incident i.e. of 07.05.1999 has been disbelieved, reliance on the second incident of 10.05.1999 which is only continuation of the first incident of 07.05.1999 is also an illegality and to support this submission reliance has been placed upon a judgment of the Apex Court in (1977) 3 SCC352Hari Dev Sharma Vs. State (Delhi Administration). Attention has also been drawn to Ex.PW-1/A as also the version of PW-1 and PW-6 on this score; submission being that this document is per-se inadmissible as it was only a photocopy of the original and this document cannot be read in evidence. To support this submission, reliance has been placed upon (2009) 6 SCC681Ram Suresh Singh Vs. Prabhat Singh @ Chhotu Singh and Another as also another judgment of a single Bench of this Court in 1995 (34) DRJ Sudir Engineering Company Vs. Nitco Raodways Ltd.. On all counts, the appellant is entitled to a benefit of doubt and a consequent acquittal. 4 Learned APP for the State has refuted these submissions. It is pointed out that the judgment of the Apex Court reported in AIR 2003 SC4548R.V.E. Venkatachala Gounder Vs. Arulmigu Viswesaraswami and V.P. Temple and another has settled the issue of admissibility of a document; it is pointed out that unless and until such an objection had been raised by the appellant before the trial Judge, it cannot be entertained before this Court. It is pointed out that neither any objection about the admissibility of the document nor any objection about its mode of proof had been raised before the trial Court. On merits, it is pointed out that the version of PW-9 is credible and coherent; on no count, can it be disbelieved. It is pointed out that the Supreme Court in (1979) 3 SCC90Prakash Chand Vs. State (Delhi Administration) had noted that the testimony of a raid officer even by itself de-hors the version of the complainant may also in a given case be sufficient to convict the appellant as the Courts cannot overlook the hard realities that the witnesses are won over by the accused. Reliance has also been placed upon 2012 VIII AD (Delhi) 466 Harish Chand Khurana Vs. State to support a submission that a demand can be made

even by a gesticulation which was so in the instant case. Last submission of the learned APP for the State being that the judgment of Hari Dev Sharma (supra) has been distinguished by the Supreme Court in (2009) 5 SCC117 State of Andhra Pradesh Vs. M. Radha Krishna Murthy and even presuming that the incident of 07.05.1999 is to be disbelieved, it cannot take away the authenticity of the incident of 10.05.1999. 5 Arguments have been heard. Record has been perused. 6 PW-9 is the complainant. He had filed his complaint Ex.PW-9/A before the Anti-Corruption Branch on 10.05.1999. It was this complaint which had initiated the investigation in this case. The complainant had averred that he had applied for a telephone connection for his residence i.e. H-44, West Patel Nagar, New Delhi. On 04.02.1999 the telephone fittings were installed along with the instrument but the current in the telephone was not activated for which purpose he had filed an application before the Department on 23.04.1999. He had visited the Rajender Bhawan Telephone Exchange on 07.05.1999 in connection with this complaint where he had met the JTO Niranjana Singh who demanded a bribe of Rs.500/- to activate his connection which was scaled down on negotiation to Rs.400/-. At that point of time, he had Rs.100/- which he had paid in two notes in the denomination of Rs.50/each to the appellant and the balance Rs.300/- was agreed to be paid between 03:00-05:00 PM on 10.05.1999. Since PW-9 did not wish to pay this money, he lodged a complaint. The version in this complaint (Ex.PW-9/A) has been reiterated on oath by the witness stating that he had applied for a telephone connection and although the telephone fittings and instrument had been fixed in the house but the telephone line had not been activated; he met the DJM who advised him to go to Rajender Place Rajender Bhawan; on 07.05.1999, he had gone to the SDO where JTO Niranjana Singh was also sitting; SDO instructed Niranjana Singh to look into the complaint of the complainant. The appellant however threatened him that his connection would not be and Rs.100/- was paid at that time. Pursuant to the complaint made by PW-9, the pre-raid proceedings were conducted. PW-9 has further deposed that three currency notes of Rs.100/- each were handed over to ACP Vijay Pal Singh (PW-12) and a live demonstration was given in front of him and the panch witness (PW-10) demonstrating how the notes coated with phenolphthalein powder when dipped into a solution of sodium carbonate would change colour and become pink. PW-9 had been instructed to

handover the money to the appellant on his demand whereupon PW-10 would give the signal. 7 The raid proceedings have also been described in detail to PW-9. He has deposed that the raid team had reached the office at Rajender Bhawan by 03:00 pm. PW-9 along with PW-10 went into the room of the appellant; public dealing was going on. PW-9 requested the appellant to do his work about which he had informed him on Friday (07.05.1999). On query by the appellant, the panch witness was introduced as the elder brother of PW-9. The appellant opened his drawer and by indication with the movement of his eyes, he asked the complainant to keep the bribe money in the drawer. The complainant did not do so and went outside. The appellant followed him. With a gesture from the fingers of his left hand, the appellant again demanded the bribe amount; accordingly three notes of Rs.100/- each were handed over to the accused who accepted them in his left hand. On the appointed signal, the raiding party reached the spot. The appellant was challenged; from his left fist, the money was recovered. In one part of his examination, PW-9 has stated that the appellant kept saying that he had not taken the money. This line was highlighted by the learned senior defence counsel. The money was thereafter recovered from the left fist of the accused. The numbers of the GC notes matched with the numbers which had been noted in the pre-raid proceedings. 8 PW-9 was subject to a lengthy cross-examination. He admitted that the telephone line and the telephone instrument had been installed at his residence on 04.02.1999 but inspite of requests, the line was not activated. He reiterated that he had met the SDO on 23.04.1999 in connection with the complaint and thereafter on 07.05.1999 where the appellant was present in the office of SDO and he had been instructed to look into the complaint of the complainant. Certain portions in the earlier version of the complainant (Ex.PW-9/A) had been confronted to the appellant and the following lines have been highlighted by the learned defence counsel to support a submission that there is an improvement in the version of PW-9. These lines read herein as under:

I then came out of the room of the SDO and the accused also came out of the SDO. Thereafter, the accused became angry with me and said that I made complaints against him to his senior officers. The accused also told me that my telephone will not be activated like that despite my complaints to senior officers as the connection is to be activated by him only.

9 Submission of the learned defence counsel on this score being that the credibility of this witness is tarnished. 10 Version of PW-9 that he had gone to the Rajender Place on 07.05.1999 where he had met the SDO and the SDO had instructed the appellant to look into the complaint of the complainant is supported by the version on oath by the SDO who had been examined as PW-5. He had deposed that on 07/08.05.1999, the complainant had come to his office; he was the subscriber of telephone No.5714125; on this application of the complainant, the appellant Niranjan Singh who was per chance sitting in his office was instructed to start the telephone of the subscriber immediately. In cross-examination, it was reiterated that the complainant had come to his office between 03:00 to 05:00 pm to tell him about his grievance. 11 Another part of the version of PW-9 i.e. about the pre-raid proceedings and the actual raid has been corroborated by PW-10. PW-10 was the panch witness. He has been declared a hostile witness by the learned prosecutor as he did not toe the line of prosecution in totality. However the testimony of a hostile witness as has been reiterated by the Supreme Court time and again is not washed off the record completely; so much as the version of such a witness which supports the line of the prosecution and conforms to it can be read; bounded duty of the Courts being to sift the grain from the chaff and to find out the truth. In this context, the observations of the Supreme in AIR 2011 SC3753 Mrinal Das & Others Vs. The State of Tripura are relevant and read herein as under:

In the case on hand Ganesh Kol (PW-2), Satyendra Tanti (PW-9), Ramakanta Paul (PW-10) and Prabhir Biswas (PW-12) were declared as hostile witnesses. It is settled law that corroborated part of evidence of hostile witness regarding commission of offence is admissible. The fact that the witness was declared hostile at the instance of the Public Prosecutor and he was allowed to cross-examine the witness furnishes no justification for rejecting en bloc the evidence of the witness. However, the Court has to be very careful, as prima facie, a witness who makes different statements at different times, has no regard for the truth. His evidence has to be read and considered as a whole with a view to find out whether any weight should be attached to it. The Court should be slow to act on the testimony of such a witness, normally, it should look for corroboration with other witnesses. Merely because a witness deviates from his statement made in the

FIR, his evidence cannot be held to be totally unreliable. To make it clear that evidence of hostile witness can be relied upon at least up to the extent, he supported the case of prosecution. The evidence of a person does not become effaced from the record merely because he has turned hostile and his deposition must be examined more cautiously to find out as to what extent he has supported the case of the prosecution.

12 On this touchstone, the testimony of PW-10 has been rescrutinized. He has admitted that the complaint of the complainant (Ex.PW-9/A) bears his signatures at point B; he has admitted the report Ex.PW-10/A which bore his signatures at points A and B. Ex.PW-10/A had recorded the proceedings of 10.05.1999 commencing from 02:00 pm up to 02:45 pm i.e. the pre-raid proceedings and the point when the raiding party reached the spot. The other documentary evidence in this regard i.e. Ex.PW-9/E was also admittedly signed at point B by PW-10. Ex.PW-9E is the record of the raid proceedings. PW-10 has also admitted that he is an educated person holding a degree of B.E. Mechanical; further deposition being that at the time when he had appended his signatures on these papers; they were not blank; he was not under pressure for signing these documents. He has also admitted that he was with the complainant at the time of the raid and one Sardarji had come out of the room (the appellant is a Sikh gentleman). 13 This deposition of PW-10 is fully corroborative of the version of the prosecution i.e. not only the version of PW-9 but also by the documentary evidence of the prosecution which includes Ex.PW-9/A, Ex.PW-10/A and Ex.PW-9/E. 14 The raid officer ACP Vijay Pal Singh (PW-12) has also reiterated these versions of PW-9 and PW-10. He has on oath described the preraid proceedings where he had given a live demonstration of phenolphthalein powder to PW-9 and PW-10; instructing PW-9 to hand over the bribe money to the appellant only on demand wherein PW-10 would give the pre-appointed signal; he has reiterated that the accused had got perplexed and started apologizing; this has been corroborated by PW-1 as well. In cross-examination, this witness has stuck to his stand. 15 Apart from the aforementioned versions, testimony of PW-6 is also relevant. He was working as telephone operator at the relevant time. He has reiterated that Ex.PW-1/A is the photocopy of the jumper letter which relates to the application for the telephone connection made by the complainant Ashok Puri. He has deposed that this was

received by him in the office on 27.04.1999 which he had sent to the switch room on 29.04.1999. In a further part of his examination-in-chief, he has stated that the line of the subscriber was finally okayed on 11.05.1999 and the complainant was satisfied. This has been reiterated again in his crossexamination. 16 PW-1 was a summoned witness. He had come from the Telephone Exchange Department; he had produced photocopy of the jumper letter No.025339 dated 23.04.1999 along with certain other documents which had been proved as Ex.PW-1/A1 to A-5. He has deposed that these documents had been taken into possession by the Investigating Officer vide seizure memo Ex.PW-1/B. In his crossexamination, he explained that in their office, at the relevant time, there used to be a JTO Outdoor, a JTO, MDF (Main Distribution Frame) and in the inside section, there was one more post of JTO switch room. It was the duty of JTO Outdoor to get the telephone wires and instrument installed at the premises of the consumer and after installation, compliance report would be sent by the JTO Outdoor; he reiterated that the JTO outdoor (the appellant) had sent the documents on 24.04.1999 after installation of line and instrument of the consumer; it was the switch room operator who was then to energize the connection. 17 Two arguments have been propounded by the learned senior defence counsel on this deposition of PW-1. The first argument is that the Ex.PW-1/A cannot be read in evidence; it is per-se inadmissible; it was only a photocopy of the original; there is nothing on record to show that the original had been produced. 18 Record shows that PW-1 had been examined as the first witness; this was on 29.08.2003. The summons sent to PW-1 have also been perused. This witness is admittedly a witness who was appearing in his official capacity. Although in the deposition of PW-1 it has not been specifically recorded that while exhibiting Ex.PW-1/A-1 to A-5, the original file had been brought by the witness yet this Court is fully conscious of the fact that a summoned witness does not bring loose papers for purpose of proof in the Court; they have to be a part of the file which would be the file of the Department. More so in this case there were five documents which were exhibited i.e. Ex.PW-1/A-1 to A5. PW-1 in his official capacity obviously must have brought the original file and the photocopy was exhibited in the Court. This position is also fortified by the seizure memo (Ex.PW-1/B) which also shows that photocopies of the aforementioned documents had been seized by the Investigating Officer. This seizure memo

(Ex.PW-1/B) records that five documents i.e. the following five documents have been seized in the presence of O.P. Gautam who was working as D.E. (FRS), Karol Bagh Telephone Exchange.

1. Jumper letter No.025339 dated 23.04.1999.

2. O.B. Letter No.101-571-013921 dated 06.02.1999. 3 Annexure A. Ashok Puri, R/o, H-44, IInd floor, West Patel Nagar, New Delhi 4 Switch room compliance report. Jumper letter No.587 dated 29.04.1999. 5 MDF compliance report jumper letter No.36 dated 01.05.1999

1. Investigating Officer (PW-11) has proved this seizure memo in his version on oath. Not a single question has been put to this witness about the originals. So also in the version of PW-1; it is thus clear that the photocopies (Ex.PW-1/A-1 to A-5) were permitted to be exhibited as the original must have been seen by the Presiding Officer and returned which is the normal practice in the trial Court although this has not been specifically so recorded. If the originals had not been produced, it was at that point of time the duty of the defence counsel to have objected to the exhibition of a photocopy. Not a single question has been put to PW-1 either on this score. 20 Relevant would it be to also note that on 29.08.2003, three witnesses had in fact been examined by the trial Court. HC Surinder Singh (PW-3) was MHCM; he had also produced photocopy of the malkhana register and proved it as Ex.PW-3/A. This deposition of PW-3 also does not reflect that he had brought the original record. 21 Thus it was only due to inadvertence that it has not been recorded in the deposition of PW-1 or PW-3 that the original record had been perused and returned. Neither the Presiding Officer and nor the defence counsel would allow a photocopy of a document to be exhibited unless the original was produced. Moreover, PW-1 was summoned in his official capacity; he had no personal knowledge of the case; an official witness cannot depose as per memory; he has to depose as per the record. It is thus clear that neither the admissibility and nor the mode of proof of Ex.PW-1/A-1 was ever challenged either in the version of PW-1 or in the testimony of PW-11. The judgment of Sudhir Engineering (Supra) permits a party to challenge the admissibility of a document at the appellate stage but in the facts of the instant case it is clear that the photocopy of

document Ex.PW-1/A-1 was admitted on the basis of the record. The judgment of Sudhir Engineering is even otherwise distinct on its facts. Apart from the fact that the provisions of Order 13 Rule 4 of the CPC and the Delhi High (Original Side) Rules had been examined, the Court had only enunciated the thumb rule that admission of a document in evidence is not to be confused with the proof of a document. The judgment of Ram Suresh Singh (Supra) in this context is also inapplicable as in that case the Apex Court had rightly noted that a Xerox copy in the absence of the original was inadmissible in evidence. This Court has already noted that PW-1 having come in his capacity as an officially summoned witness could not have deposed on memory; it had necessarily to be on the basis of the record. Thus the objection of the learned senior defence counsel that Ex.PW-1/A cannot be read in evidence is rejected. 22 The second submission of the learned senior defence counsel on the version of PW-1 is that the energizing of the telephone connection had to be done by the switch room operator and once the documents relating to the connection of PW-9 had been forwarded to the switch room operator on 24.04.1999, he had no role left. This submission of the learned senior defence counsel is again ill-founded. Testimony of PW-1, PW-5, PW-6 & PW-9 has to be read as a whole. As noted supra, PW-1, PW-5 and PW-6 are official witnesses from the Telephone Exchange Department. PW-5 was the SDO at the relevant time and he confirmed the fact that on 07.05.1999, the complainant had visited his office in connection with his complaint that his telephone had not been energized inspite of the fact that the telephone line and instrument had stood installed. This complaint had been marked to the appellant. Testimony of PW-5 is clear on this aspect. He has categorically stated that he had given instructions to the appellant on this score; additional submission of the learned senior defence counsel that there is no marking of this complaint to the appellant is thus an argument without force; it was well within the powers of PW-5 to have orally instructed his junior (the appellant) to look into the complaint of PW-9. The presence of PW-9 in the Rajender Bhawan Telephone Exchange Department on 07.05.1999 was confirmed. It was for no other reason but for the fact that he continued to nurse a grievance against the Department for not energizing his telephone connection. In this background, testimony of PW-9 has been rescrutinized. He has on oath affirmed that when he come out of the office of the

SDO, the appellant asked him for a bribe of Rs.500/- for starting his telephone which was scaled down to Rs.400/- and since he had received Rs.100/-, he had given it to the appellant at that time. He admitted that there was no person present at that time. The highlight of the argument of the learned senior defence counsel that version of PW-9 remains uncorroborated on this score is again an argument which has to be necessarily negated as presence of PW-9 in the telephone department on 07.05.1999 as noted supra stands proved; this was for no other reason but for the grievance that he was nursing against the department. At that point of time when the appellant asked him for a bribe, it would have been highly unnatural on the part of PW-9 to have rushed back to the SDO as the situation would have worsened further as part of the deposition of PW-9 is that when he came out of the office of the SDO, the appellant was very angry with him and asked him as to why he had made the complaint to his senior. It is in this background that PW-9 parted with the initial amount of Rs.100/-; obviously this illegal gratification had to be given in secrecy and that is why no person was present at the time when this money was handed over by PW-9 to the appellant.

23 There is no reason whatsoever as to why these versions of PW-9 and PW-5 should be disbelieved. The incident of 07.05.1999 stands proved. 24 The incident of 10.05.1999 was a continuation of the first incident of 07.05.1999. This also stands fully proved not only by the oral depositions of PW-9 and PW-11 but also by PW-10 who even though was hostile had admitted his signatures on the documents both in the pre-raid as also in the post-raid. The number of the GC notes which had been handed over by the complainant in the pre-raid proceedings tallied with the notes recovered from the left hand of the appellant; the scientific report Ex.PW-11/D had also test the hand-wash of the appellant positive for phenolphthalein. This could be for no other reason but for the fact that these notes had been accepted by the appellant in his left palm. 25 The judgment of Hari Dev Sharma (supra) thus has no application. In this background, the trial Judge was also right in drawing the presumption under Section 20 of the said Act for the offence under Section 7. In the statement of the appellant recorded under Section 313 of the Cr.PC, he has pleaded innocence but the evidence gathered before the trial Court both oral and documentary does not in any manner establish this version. 26 At the cost of repetition, presence of PW-9 on 07.05.1999 and

10.05.1999 in the Telephone Exchange Department stands proved. He had gone there for no other reason but for the grievance which he was still nursing against the Department; although the telephone instrument and line had been installed at his residence but the telephone connection had not been activated. PW-6 and Ex.PW-1/A1 are both categorical; this telephone connection had been okayed only on 11.05.1999. This was after the complainant had made his grievance to PW-5 who had instructed the appellant to look into this complaint. 27 The prosecution has thus successfully established that the appellant had taken a bribe of Rs.400/- from PW-9 for a job which was otherwise his bounded duty to perform being the JTO Outdoor; the activation of the telephone connection was withheld and it was finally activated only after PW-9 had agreed to pay the illegal gratification to the appellant. He was caught red handed on 10.05.1999. There was also no reason whatsoever for the complainant or for the Raid Officer to have built up a false case against the appellant. This is also not the suggestion given by the learned defence counsel to any of these PWs. 28 The conviction of the appellant does not call for any interference. 29 Even on sentence, this Court is not inclined to interfere as the unhealthy practise of corruption is probably the worst vice in our society. The trial Judge has even otherwise awarded the minimum sentence under Section 13 (1) (d) read with Section 13 (1)(2) which prescribes a minimum of one year and also for the offence under Section 7 of the said Act which prescribes a minimum of six months. On no count, does the appellant deserve any sympathy. 30 Appeal is without any merit. Dismissed. Bail bonds of the appellant are cancelled. He be taken into custody to serve the remaining sentence. INDERMEET KAUR, J
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