

Ranjit Singh Vs. State

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Court : Allahabad

Decided On : Aug-30-1956

Reported in : AIR1956All194

Judge : Oak, J.

Appellant : Ranjit Singh

Respondent : State

Judgement :

Oak, J.

1. These two connected appeals have been filed by two persons, Ranjit Singh and Pratap Singh, who have been convicted by the learned Special Judge, Hamirpur at Orai under Section 161, I. P. C. and Section 5, Prevention of Corruption Act, 1047. Ranjit Singh has been sentenced to imprisonment for two years and a fine of Rs. 200/- under Section 161, I. P. C. He has been sentenced to imprisonment for two years under Section 5, Prevention of Corruption Act. Pratap Singh has been sentenced to imprisonment for one year and a fine of Rs. 100/- under Section 101, I. P. C. He has been sentenced to imprisonment for one year under Section 5, Prevention of Corruption Act. The sentences passed upon each accused have been ordered to run concurrently.

2. According to the prosecution, Ajodhya Prasad Dube had Sir and Kliudkasht land in village Gaor. His Mukhtaram Badri Dayal used to look after this cultivation, Ranjit Singh was the canal Amin, and Pratap Singh was the canal Patrol in this circle. On 27-3-1953 Badri Dayal approached Pratap Singh Patrol for irrigation slips in Ajodhya Prasad's name. There was a dispute between Ajodhya Prasad and certain Chamars about possession over the land in village Gaor. Pratap Singh Patrol informed Badri Dayal that, Chamars were willing to pay Rs. 400/-. Pratap Singh inquired from Badri Dayal as to how much he was prepared to pay to obtain irrigation slips in Ajodhya Prasad's name. At first Badri Dayal was unwilling to pay anything as a bribe. Pratap Singh suggested to Badri Dayal that he might pay Rs. 200/- to obtain the necessary irrigation slips. Badri Dayal replied that he would give his final answer after consulting his master Ajodhya Prasad. Badri Dayal informed Ajodhya Prasad about the demand made by Pratap Singh Patrol for the bribe. Ajodhya Prasad conveyed the information to the District Magistrate and the Executive Engineer. The District Magistrate directed that a trap should be laid for catching the Amin and the canal Patrol. Sri Ram Chandra Sharma, S. D. M. Jalaun, was ordered to lay a trap. Ajodhya Prasad produced Rs. 250 in ten-rupee notes. These 25 currency notes were marked and initialled by the Magistrate, Sri Rani Chandra Sharma. The notes were then returned to Ajodhya Prasad.

3. On 28-3-1953 Ajodhya Prasad and Badri Dayal went to village Narainpura, where the Amin and the Patrol were working. Eadri Dayul paid Ranjit Singh Amin Rs. 175 in currency notes. Badri Dayal paid a sum of Rs. 15 to Pratap Singh canal Patrol, After a few minutes Sri Ram Chandra Sharma Magistrate appeared at the place where the two accused were working. The Magistrate searched the persons of the two accused. A sum of Rs. 175 was recovered from Ranjit Singh's possession. A good deal of money including Rs. 15 received as bribe was recovered from Pratap Singh's possession. After investigation the two accused were prosecuted under Section 161, I. P. C. and Section 5, Prevention of Corruption Act, 1947 for bribery and criminal misconduct in the discharge of duty as public servants.

4. Both the accused pleaded not guilty. The two accused denied having received any money from Bndri Dayal as a bribe. The two accused, however, admitted the

recovery of money from their possession. The two accused gave different explanations about the possession of the money. The explanation offered by Ranjit Singh Amin was that, one Abdul Shakur was working as Amin in this circle before Ranjit Singh came to this place. Badri Dayal requested Ranjit Singh accused to carry a sum of money to Abdul Shakur Amin. At First Ranjit Singh accused was unwilling to accept the money offered by Badri Dayal. But when Badri Dayal insisted, Ranjit Singh accused took the money. The explanation offered by Pratap Singh accused was that, Badri Dayal gave him a note saying that Dube Ji had given the money as Faslana. Pratap Singh accused refused to take the money. But Badri Dayal insisted, saying that if the accused did not want the money, the accused could return the money to Ajodya Prasad. So saying, Badri Dayal put the money into Pratap Singh's pocket.

5. The learned Special Judge did not accept the explanations offered by the two accused. The Court held that the two accused received money from Badri Dayal as illegal gratification. Both the accused were, therefore, convicted and sentenced as mentioned above.

6. The prosecution produced Sri R. C. Sharma Magistrate and several other witnesses to prove the recovery of the money from the possession of the appellants. The accused themselves admitted the recovery of the money from their possession. The question for determination is whether money passed from Badri Dayal to the accused in the circumstances alleged by the prosecution or under the circumstances alleged by the accused.

7. The most important witness in the case was Badri Dayal (P. W. 5). He was Ajodhya Prasad's Mukhtar am. He described the talk between himself and Pratap Singh accused on 27-3 1953, and further described how he paid the different sums of money to the two accused on the following day. Ex. P-1 is the statement made by Ajodhya Prasad before Sri Ram Chandra Sharma Magistrate before the money was paid to the accused. In Ex. P-1 Ajodhya Prasad stated that the accused had asked the Mukhtar-am to come to village Kunwarpura. Thus according to Ex. P-1, the parties had settled that money would be paid to village Kunwarpura. But Badri Dayal said that he and his master at first went to village

Gael. On not finding the accused at village Gael, Ajodhya Prasad and Badri Dayal went to village Kunwarpura. The accused were not found at Kunwarpura also. Then the witness and his master went to village Narainpura, where the accused were found. Badri Dayal said that his talk on 27-8-1953 was with Pratap Singh Patrol, and not with Ranjit Singh Amin. But on the following day Badri Dayal paid the Amin as much as Rs. 175, and only a small sum of Rs. 15 to the Patrol. This was an unusual way of paying a bribe. According to the prosecution, bribe was paid for obtaining irrigation slips. It is, therefore, rather surprising that two officials of the irrigation department were paid separately in connection with the same transaction. Badri Dayal said that he knew the two accused since 27-3-1953. It is said that on the following day as much as Rs. 190 was paid to the accused as bribe. It appears that Ranjit Singh Amin had joined this circle recently. Badri Dayal said that he took the money to pay to the old Amin. But money was actually paid to the new Amin. Badri Dayal went on to say that he did not know at that time whether the money was to be paid to Ranjit Singh or to the old Amin. When Badri Dayal questioned Pratap Singh on the point, Pratap Singh remarked that Badri Dayal was not concerned with the question whether the Amin is old or new. It appears that Badri Dayal had no talk with Ranjit Singh Amin either on the 27th or on the 28th March 1953. Yet the greater part of the money was paid to the Amin, and not to the Patrol, No other witness was present, when 'Badri Dayal. and Pratap Singh. Patrol talked, about payment of a bribe. No other witness was present when Badri Dayal paid the, money to the Amin and the canal, Patrol.

8. It has already been mentioned that, the money supplied by Ajodhya Prasad to his Mukhtar-am consisted of marked ten-rupee notes. The money thus supplied to the Mukhtar-am amounted to Rs. 250. According to Badri Dayal's statement, the final demand made by Pratap Singh Patrol was Rs. 200 only. But the amount paid by Badri Dayal to the two accused was not Rs. 250 or Rs. 200 but a total amount of Rs. 190 only. Badri Dayal did not explain why the full amount of Rs. 200 was not paid to the two accused jointly. Clearly the Mukhtar-am retained with him a portion of the sum of Rs. 250 supplied by his master.

9. The proper person to issue irrigation slips is the Amin, and not the canal Patrol. But Badri Dayal chose to discuss the question with the canal Patrol rather than

with the Amin. On finding that the canal Patrol was not prepared to issue irrigation slips without a bribe, Badri Dayal did not think it necessary to complain to Ranjit Singh Amin. The witness could not explain why he did not say anything on the point to the Amin. Badri Dayal did not send any message to the Magistrate that money had been paid by the witness to the accused. Badri Dayal said that he did not know at that time whether the Magistrate was expected to come. According to Badri Dayal's statement, he was unaware that a trap had been laid by authorities to catch the accused. According to Badri Dayal's statement, he paid money to the two accused in the ordinary course to obtain irrigation slips for his master.

10. There are several reasons for viewing Badri Dayal's statement with suspicion. Firstly, he does not claim to be a member of the party, which had laid a trap. In other words, the witness was an accomplice of the offence of bribery. Secondly, the witness did not pay the accused even Rs. 200 out of Rs. 250 supplied by Ajodhya Prasad. Apparently, the witness kept a portion of the money for himself. Thirdly, it is rather difficult to believe that, the witnesses, who did not know the two accused till 27-3-1953, paid the two accused bribes on the following day.

11. Exs. P-9 and P-10 are statements of the two accused recorded by Sri R. C. Sharma, Magistrate on 28-3-1953 just after the recovery of the money from their possession. In those statements neither accused admitted having received a bribe. Thus the two statements (Exs. P.-9 and P-10) do not lend much support to the prosecution case. The learned Special Judge does not appear to have relied upon the two statements. It is, therefore, unnecessary to discuss the question whether Exs. P-9 and P-10 are admissible in evidence.

12. Ex. P-2 is the memorandum about the recovery of money from the appellants' possession. Ex. P-2 was signed by 12 persons. One of those persons was Ram Prasad Patrol. The learned Special Judge examined Ram Prasad as a Court Witness under Section 540, Criminal P. C. Ram Prasad (C. W. 2) supported the two accused. According to Ram Prasad witness, money was paid to Ranjit Singh Arnin for payment to Abdul Shakur, Again, Pratap Singh accused refused to take the money offered by Badri Dayal, But Badri Dayal insisted, and threw notes into Pratap Singh's pockets. The learned Special Judge did not believe Ram Prasad

witness on the ground that, this witness and the two accused belong to the same department. It is, however, to be noted that, Ram Prasad signed the recovery note (Ex. P-2). He must have been present at the place, where money was recovered from the two accused. So Ram Prasad's statement is of some importance.

13. The two accused gave different explanations about the money in their possession. It would, therefore, be convenient to discuss the cases of the two accused separately.

14. I-PRATAP SINGH-The main witness against Pratap Singh is Badri Dayal (P. W. 5). According to Badri Dayal's statement, it was Pratap Singh accused who demanded bribe on 27-3-1953, and received Rs. 15 from the witness on the following day. As discussed above, Badri Dayal is an unreliable witness. It is true that it is somewhat difficult to accept the explanation offered by the accused. But the accused has been supported by the Court witness, Ram Prasad, In any case it was for the prosecution to prove the circumstances, under which the money passed from Badri Dayal to Pratap Singh, Pratap Singh should not be convicted on the statement of Badri Dayal alone.

15. II-RANJIT SINGH : - The prosecution case against Ranjit Singh is still weaker. Admittedly, there was no talk between Badri Dayal and Ranjit Singh Amin about payment of any bribe. The case against Ranjit Singh rests upon the fact that currency notes, which were originally with Badri Dayal, were later found with Ranjit Singh. The accused offered an extraordinary explanation about the payment of the money. But the explanation of the accused is supported by the statement of the Court witness, Ram Prasad. There is no particular reason for preferring Badri Dayal's statement to the Statements made by the accused and by the witness Ram Prasad.

16. The learned Special Judge relied upon Section 4 of the Prevention of Corruption Act. Section 4 of the Act runs thus:

Where in any trial of an offence punishable under Section 161 or Section 165 of the Indian Penal Code, it is proved that an accused person has accepted or obtained...any gratification. ... it shall be presumed unless the contrary is proved

that he accepted or obtained, or agree to accept or attempted to obtain, that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in the said Section 161. ...

This section does not lay down a rule that, whenever money is recovered from an accused person, there will be the presumption that the accused received illegal gratification. What the section lays down is that, if it is proved by the prosecution that the accused did receive gratification then there will be a presumption that the gratification was received by the accused as a motive or reward as mentioned in Section 161, Indian Penal Code. Before relying upon the presumption laid down in Section 4 of Act II of 1947, the prosecution must prove that the accused accepted or obtained any gratification other than legal remuneration.

17. The point for consideration in the present case was whether the accused received any gratification at all. According to the prosecution version, money was paid to the Amin as illegal gratification. According to the defence, Badri Dayal handed over the money to the Amin merely for payment to Abdul Shakur. If the defence version is correct, the accused cannot be said to have received any gratification. On that view, there will be no question of raising any presumption against the accused under Section 4 of Act II of 1947.

18. The true scope of Section 4 of Act II of 1947 was discussed in *M.C. Mitra v. The State* : AIR1951 Cal524 . Ordinarily, the prosecution would be liable to prove the motive or reward under Section 161, Indian Penal Code. But by reason of Section 4 of Act II of 1947, that presumption will be made against the accused the moment the prosecution proves that the accused accepted or agreed to accept, or obtained or attempted to obtain, any gratification or valuable thing. This does not mean that the burden of proof on the prosecution to establish the acceptance or the agreement to accept, or the obtaining or the agreement to obtain, the gratification or the valuable thing is at all displaced by this section. That burden still remains on the prosecution. Even if one accepts a gratification or a valuable thing for any other person, he comes within the plain meaning of the words of the section. But an unconscious and an-unknowing transmitter or bearer would not come within the section. There must go along with the idea of acceptance a

conscious mind that the gratification or the valuable thing is for another person before such acceptance can come within the operation of the section.

19. In the present case the parties gave different explanations as to why money was paid by Badri Dayal to Ranjit Singh accused. It is difficult to say which of the two versions is correct. But the defence version appears to be quite as probable as the prosecution version. Upon the defence version, the accused cannot be said to have received any gratification for purposes of Section 4 of Act II of 11)47. On this view, no presumption could be raised against the accused under Section 4 of Act II of 1947.

20. The prosecution has failed to prove that money was paid by Badri Dayal witness to either accused as a bribe or illegal gratification. So the two accused could not be convicted either under Section 161, Indian Penal Code, or under Section 5 of Act II of 1947.

21. The two connected appeals are allowed, Ranjit Singh and Pratap Singh are acquitted of the charges under Section 161, Indian Penal Code, and Section 5 of the Prevention of Corruption Act, 1947. Their bail bonds are discharged. If any fines have already been paid, they shall be refunded.

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