Surendra Kumar Singh Vs. State of Jharkhand

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Court : Jharkhand

Decided On : Apr-09-2015

Appellant : Surendra Kumar Singh

Respondent : State of Jharkhand

Judgement :

Criminal Appeal (S.J.) No.30 of 2004 ----------- Against the judgment of conviction and order of sentence dated 08.12.2003 passed by the learned Special Judge, C.B.I.-cum- 1st Additional Sessions Judge, Dhanbad in R.C. Case No.23(A)/95(D). ----------- Surendra Kumar Singh son of Shri Kameshwar Singh, resident of Hospital Colony, Bagmara, P.O. & P.S.- Nawagarh, District- Dhanbad . . . Appellant --Versus-- The State of Jharkhand . . . Respondent For the Appellant : Mr. P.P.N. Roy, Sr. Advocate Mr. A.K. Sahani, Advocate Ms. Amrita Banerjee, Advocate For the State : Mr. Abhishek Kumar, Advocate For the C.B.I. : Mr. K.P. Deo, Advocate PRESENT HONBLE MR. JUSTICE RAVI NATH VERMA

JUDGMENT
C.A.V. ON:

20. 03/2015 PRONOUNCED ON:

09. 04/2015 The appellant Surendra Kumar Singh suffered conviction under Sections 7 and 13(i)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 (The Act) by the court of Special Judge, C.B.I.- cum-1st Additional Sessions

Judge, Dhanbad in R.C. Case No.23(A)/95(D) whereby and whereunder the appellant has been convicted under the aforesaid Sections of Prevention of Corruption Act and sentenced to undergo rigorous imprisonment for one year on each count with fine of Rupees One thousand each under Section 7 and under Section 13(2) with default clauses to suffer further imprisonment.

2. In order to appreciate the grievance of the appellant, relevant facts, which lie in a narrow compass, is given herein:- On the basis of a written complaint dated 27.12.1995 filed before Superintendent of Police, C.B.I., Dhanbad by one Ratan Napit (P.W.9) working as Cap Lamp Helper in Jogidih Colliery, Govindpur Area, BCCL, Dhanbad, the present case was instituted on the allegation that BCCL has acquired the joint family land of the complainant of Mouza Barmasia, Barora and though his father was compensated with the cost of land but an assurance was also given to give employment to one of the family member but as the complainant was already in employment, his father proposed the name of his brother-in-law Sudhir 2 Cr. Appeal (S.J.) No.30 of 2004 Napit for employment and all the required papers were submitted with the BCCL, Barora area office and was pending in the office of Surendra Kumar Singh (in short S.K. Singh) the appellant, who was Revenue Inspector, Estate Department, Barora Area-I of BCCL, Dhanbad. The said S.K. Singh on enquiry about the progress in the matter demanded Rupees two thousand as illegal gratification from the complainant for processing the papers relating to the employment of his brother-in-law. It is also alleged that finally on 26.12.1995 when P.W.9 met him, he flatly refused to proceed in the matter unless the money is paid. As P.W.9 was not interested in paying the bribe amount, the instant complaint was filed. Thereafter, the S.P., C.B.I., directed the Inspector of C.B.I., Dhanbad Shri A.K. Jha to verify the complaint and submit the verification report. It appears from the record that the said A.K. Jha, after discreet verification and finding the same to be true and genuine submitted the report on 27.12.1995. Thereafter, the First Information Report was lodged on the direction of S.P., C.B.I., Dhanbad. The C.B.I. officials of Dhanbad alongwith two independent witnesses (P.W.2 and P.W.3) and the complainant (P.W.9) after completing the formalities, got a trap conducted on 28.12.1995. During the trap, the accused-appellant was caught red handed while taking bribe money of Rs.2000/- from the complainant and the said sum of Rs.2000/- was recovered from him. After

completion of all the formalities, sanction order was obtained from the competent authority and charge sheet was submitted. Accordingly, cognizance was taken and charges were framed as abovesaid. The charges were explained to the appellant to which he pleaded not guilty and claimed to be tried.

3. The prosecution, in order to substantiate the charge against the appellant during trial examined altogether 11 witnesses which are as follows:- P.W.1-Hira Lal Dey, this witness being the Secretary to the then Chief General Manager of BCCL Area -I has proved the sanction order for the prosecution order for the prosecution of the appellant which has been marked as Ext.-1. P.W.2-Vinay Kumar, an independent shadow witness of the trap team has given in detail the pre trap and post trap proceedings laid down by C.B.I. officials. 3 Cr. Appeal (S.J.) No.30 of 2004 P.W.3- Ramjee Ram, another independent shadow witness has also confirmed the prosecution story regarding pre trap and post trap proceedings. P.W.4- Bimlendu Das is Chemical Analyst, C.F.S.L., Calcutta and has proved his report Ext.3 and from record (Ext.3) it appears that four seized glass bottles were sent for chemical examination which were marked as 164A, 164B, 164C and 164D and after examination Phenolphthalein and Sodium Carbonate could be detected in the contents of each bottle marked as 164A, 164B, 164C and 164D. P.W.5- Ajay Kumar Jha, Inspector of C.B.I., who had submitted the verification report on the basis of the complaint petition filed by the complainant Ratan Napit is also a witness of pre and post trap proceedings. P.W.6- Sudhir Napit, the brother-in-law of the complainant. P.W.7- Ram Chandra Mahto was also working as Revenue Inspector in the same Barora Area, Estate Department in the year 1995 along with the appellant. P.W.8- Manohar Singh was posted as Personnel Manager (Administration) Barora Area on the relevant date and in his presence P.W.2 Vinay Kumar had recovered the tainted notes of Rupees two thousand from the pocket of the appellant. P.W.9- Ratan Napit is the complainant and he has proved the complaint and has also given the evidence how the trap was arranged and how the appellant demanded and took the bribe from him. P.W.10- Arjun Singh, who was working as Assistant Revenue Inspector, BCCL was posted there in the relevant year 1995 and he had given a letter and map of land acquired in Barmasia Mouza. P.W.11- Tapan Jyoti Ghosh is I.O. of this case and member of the pre trap party.

4. After closure of the prosecution evidences, the statement of the appellant was recorded under Section 313 of the Code of Criminal Procedure and separate questions of each material circumstance were put before him which he denied by saying that he was never posted in the Barora Area-I, BCCL. The appellant further stated that as the land of the complainant was sold before its acquisition by BCCL, the brother-in-law of the complainant was not intended for any employment and hands 4 Cr. Appeal (S.J.) No.30 of 2004 were never washed by any one and the appellant also claimed to be innocent.

5. The trial court after considering the entire evidence on record held that mandatory requirements of Section 7 read with Section 13 namely demand of illegal gratification, its acceptance and recovery have been proved beyond any reasonable doubt by the prosecution. Hence the appellant was convicted and sentenced as indicated above.

6. Mr. P.P.N. Roy, learned senior counsel appearing for the appellant while assailing the legality and correctness of the impugned judgment contended that the demand of illegal gratification has not been proved by the prosecution. Learned senior counsel elaborated the submissions by taking the court through the evidence on record. Learned counsel further relying upon the judgment Shaikh Maqsood Versus State of Maharashtra (2009) 6 SCC583seriously contended that while recording the statement of the appellant under Section 313 of the Code of Criminal Procedure separate questions on each material circumstance were not put before him and on this ground alone the conviction cannot be maintained. Further, assailing the impugned judgment submitted that the member of pre trap party, cannot be the I.O. of the case but in the instant case P.W.11, who was I.O. of the case was leading the trap party and in support of his contention learned counsel has relied on judgments reported in Hari Deo Sharma V. The State 1971 [Cr.L.J.

1615 (Delhi)] and Tryambak Lilaji Binnor V. State of Maharashtra [2002 Cr.L.J.

3059 (Bombay)]. It was lastly submitted that for the said allegation the appellant, who has already remained in custody for more than a month and lost his job, has also suffered the ordeal of long pendency of trial as well as the appeal, hence the sentence awarded to the appellant may be suitably reduced to the period already undergone.

7. Per contra, learned counsel appearing for the respondent C.B.I. in reply contended that mandatory requirements of Sections 7 and 13 of the Act have been proved beyond all reasonable doubt by the prosecution. No case is made out to interfere with the impugned judgment and all the materials were put before the appellant while trial court was recording the statement under Section 313 of the Code of Criminal Procedure. Learned counsel further submitted that the appellant in his statement under Section 313 of the Code of Criminal Procedure has though stated that he was never posted in the area of the 5 Cr. Appeal (S.J.) No.30 of 2004 complainant, but this plea of the appellant cannot sustain. It would be evident from the sanction order (Ext.-1) that on the relevant date the appellant was posted as Revenue Inspector in the Estate Department, Area-I, BCCL, Dhanbad.

8. Now the question for consideration before this court is as to whether a case of demand and acceptance of illegal gratification which are Sine Qua Non for sustaining conviction under Section 7 read with Section 13 of the Act against the accused are made out and whether the finding of guilt recorded by the trial court is based on correct appreciation of evidence on record? 9. The law on the issue is well settled that demand of illegal gratification is Sine Qua Non for constituting an offence under the said Act. Mere recovery of tainted money is not sufficient to convict the appellant when the substantive evidence is not reliable. Unless there is cogent evidence to prove payment of bribe or to show that the money was taken voluntarily as bribe, mere receipt of amount by the accused is not sufficient to fasten the guilt in the absence of any evidence with regard to demand and acceptance of the amount as illegal gratification. However, in view of the statutory presumption raised under Section 20 of the said Act, the burden rests on the accused either directly or circumstantially, to establish with reasonable probability, that the money was accepted by him, other than as a motive or reward as referred to in Section 7 of the said Act but before the accused is called upon to explain as to how amount in question was found in his possession, it is the duty of the prosecution to establish the foundational fact.

10. In view of the settled view, I shall now examine the evidence of the prosecution witnesses regarding the foundational facts and the facts relating to pre trap and post trap formalities. Before that, for the sake of convenience, the entire prosecution evidence is divided into two parts. The first part of the evidence relates to verification of the complaint, which was submitted by the complainant to the S.P., C.B.I., Dhanbad. P.W.5 Ajay Kumar Jha, Inspector of C.B.I. was directed by the S.P., C.B.I. to verify the contents of the complaint made by the complainant (P.W.9). This witness has testified that after verifying the veracity of the complaint, he submitted the report and the said verification report has been marked as Ext.4 wherein the allegation was 6 Cr. Appeal (S.J.) No.30 of 2004 found true and genuine. Thereafter, the F.I.R. was lodged by P.W.11, the I.O. of this case. The second part of the evidence which has been led by the prosecution, relates to pre and post trap formalities. How the trap was conducted; how the recovery was made and how the appellant took illegal gratification. P.W.2 Vinay Kumar, an independent shadow witness being member of the trap party, has narrated about the entire proceedings; how the trap was laid down; how the demand was made; how the money was handed over to the accused-appellant Surendra Kumar Singh and how it was recovered by P.W.3 on the direction of P.W.11. The witness has testified that on the request of the C.B.I. officials he visited the office on 28.12.1995 at 9.00 a.m. where 10-11 persons were already there including Ratan Napit (P.W.9), the complainant, who was introduced with all the persons present there. The contents of the complaint was read over before all the persons. One tainted paper was given to a person Ramjee Ram (P.W.3) with a direction to touch the same with his right hand. Thereafter, his hand was washed in a solution of Sodium Carbonate which turned into red (pink) colour. The said solution was kept in a bottle and sealed and signed by all the persons present there. The tainted paper was also kept in an envelope. The witness has further testified that the notes of Rupees two thousand, which were brought by complainant, were also treated with the powder and were returned to the complainant with direction to offer the said money to the appellant only on his demand. The witness has also explained that a preliminary memorandum was prepared and the number of currency notes were incorporated in the said memorandum. Thereafter, the trap team visited the Barora Area office and found the appellant present in his office

room. The complainant Ratan Napit went to the office of the appellant. The witness (P.W.2) also followed him and both were standing near the appellant. The complainant enquired from the appellant about the progress in his work whereupon the appellant demanded money. The complainant (P.W.9), on his demand and query answered in affirmative and handed over the tainted currency notes to the appellant, who after counting the same, kept inside the pocket of his full paint. P.W.9 and the witnesses thereafter came out of the room and gave signal to the trap team. Consequently, the C.B.I. officials entered into the office and caught both the hands of the appellant. The 7 Cr. Appeal (S.J.) No.30 of 2004 complainant (P.W.9) informed the C.B.I. officials that the appellant has kept the money in his pocket whereafter on the direction of C.B.I. officials Ramjee Ram (P.W.3) took out the bribe money from the pocket of the full paint of the appellant and the same were tallied with the numbers of notes incorporated in the preliminary memorandum. The tainted notes were kept in a separate envelope and sealed by the members of the trap team and they all put their signatures. The witness has further testified that both the hands and pocket of the full paint of the appellant were thereafter dipped in the solution and washed and colour of the solution became pink. Solutions were separately kept in three bottles and were sealed and signed by all the trap members present there. However, during cross examination the witness has stated that when C.B.I. officials entered into the room he was standing in the veranda.

11. P.W.3 Ramjee Ram while confirming the steps taken during pre trap formalities, has also confirmed that he along with trap party proceeded Barora area office and found Surendra Kumar Singh sitting in his office. The complainant Ratan Napit met him first and he was followed by P.W.2 Vinay Kumar and this witness stood on the veranda. After some time Vinay Kumar came and gave signal as directed by the C.B.I. officials and thereafter he along with C.B.I. officials entered into the office of the appellant and the appellant was challenged by C.B.I. officials. The appellant confessed his guilt. Thereafter, the C.B.I. officials caught the hands of the appellant and the Manager (P.W.8) of the office was called and in his presence on the direction of C.B.I. officials this witness took out the bribe money from the right pocket of the appellant. The numbers mentioned on the notes were tallied and were kept in a separate envelope. This witness also put his

signature on the said envelope. The witness has also testified that both the hands of the appellant were dipped in the solution kept in three separate bottles and the colour of the solution became pink. The right pocket of the full paint of the appellant was also dipped in the solution and the said solution also became pink and all the bottles containing solution were sealed and signed by the all the persons present there. This witness was subjected to extensive cross examination but nothing was elicited from him by the defence rather this witness during cross examination further confirmed that Ratan Napit firstly entered into the room followed by P.W.2 Vinay Kumar. The other members of trap team were standing outside. The 8 Cr. Appeal (S.J.) No.30 of 2004 witness denied to know what happened inside the room. P.W.5 Ajay Kumar Jha and P.W.11 Tapan Jyoti Ghosh, the I.O. of this case, the two members of raiding trap team, have consistently corroborated the evidences of P.W.2 and P.W.3. regarding pre trap and post trap formalities. P.W.8- Manohar Singh, who was posted as Personnel Manager (Administration) Barora Area on the relevant date has also testified that Mr. Ghosh, one of the C.B.I. officer came in his chamber at 9.30 a.m. and informed him about the arrest of Surendra Kumar Singh (the appellant) while taking bribe whereafter he accompanied to the adjacent room of the Estate Department office and in his presence one of the member of trap team namely some Kumar had recovered tainted notes from the appellant which were tallied with the numbers entered in the memorandum. The witness has also confirmed that two thousand rupees were recovered and they were kept in an envelope and the same was sealed. The witness while confirming that the hands of the appellant were washed in a solution which became pink and the solution was kept in a separate bottle further confirmed that some files kept in the table, drawer and almirah of the appellant were seized by C.B.I. officials. Whereafter seizure list was prepared and his signature was also obtained on that. The witness has also confirmed that the application filed by Kartik Napit which was endorsed to S.K. Singh the appellant and one Arjun Singh for processing, was also seized from the office of the appellant.

12. P.W.9 Ratan Napit, the complainant has also fully corroborated the prosecution story of pre and post trap formalities by saying that C.B.I. officer Mr. Ghosh had returned the 20 G.C. notes of the denomination of Rupees 100/- after

treating the same with powder and directed him to hand over the money to the accused-appellant on his demand only. Thereafter he along with trap team proceeded to the Area no.1 and he entered into the Chamber of accused-appellant followed by one man namely Vinay Kumar and other C.B.I. officials were standing in veranda. This witness enquired from the appellant regarding progress in his work, upon which the appellant demanded money whereafter this witness gave the tainted notes to the accused-appellant, who after counting the same kept in his full paint. The witness has further confirmed that he came out and flashed the signal whereafter C.B.I. team 9 Cr. Appeal (S.J.) No.30 of 2004 entered into the room and caught the hands of the appellant and the tainted money was recovered in presence of Manohar Singh (P.W.8).

13. Learned counsel for the appellant at this juncture contended that the evidence on the point of demand of money is not credible and cogent as P.W.2 during his cross examination has testified that when C.B.I. officials entered into the room, he was standing outside in veranda. Here, I would like to say that though the witness P.W.2 in his chief has clearly stated that firstly the complainant Ratan Napit entered into the room and he followed him and stood near him and heard their conversation and when C.B.I. team entered into the room, he remained in veranda. P.W.3 has also confirmed that immediately after Ratan Napit entered into the room, P.W.2 Vinay Kumar followed him. From the evidences, it is also clear that there were number of witnesses present at the time of recovery of tainted notes. This fact has been admitted by the prosecution witnesses P.W.3, P.W.5, P.W.8, P.W.9 and P.W.11.

14. The ground advanced on behalf of the appellant donot appears to be convincing. It is not disputed that the appellant was assigned with the work of processing the claim application of the complainant. Though in his statement under Section 313 of the Code of Criminal Procedure, the appellant has denied that he was ever posted in the concerned area but the said denial has been demolished by P.W.8, who clearly testified that the application filed by the complainant P.W.9 was marked to this appellant and another Revenue Inspector Arjun Singh. There is a clear endorsement (Ext.2/98) of P.W.9 and other officials on the application filed by the complainant Kartik Napit. The said Arjun Singh

(P.W.10) has also testified that the application filed by the complainant Kartik Napit to the General Manager, Barora Area was endorsed to him and to S.K.singh and the endorsements were made by the General Manager of the area Shri Goyal and also by P.W.8. This witness in Paragraph 5 of his evidence has further confirmed that he alongwith R.C. Mahto and S.K. Singh were posted in the Revenue Department of the area and the matter relating providing employment to land losers were dealt with by him and by S.K. Singh. The sanction order Ext.1 further confirms that S.K. Singh (the appellant) was posted in the concerned area on the relevant date. The evidences of P.Ws.2, 3, 5, 8, 9 & 11 are consistent on the point of demand of bribe and recovery of the tainted money. The evidence clearly shows that when P.W.9 10 Cr. Appeal (S.J.) No.30 of 2004 enquired from the appellant about his work, he reminded of his demand of Rupees two thousand whereafter the witness told him that he has brought the money as directed by the appellant and on his demand he gave the same to him. When it is proved that there was voluntary conscious acceptance of the money, there is no further burden cast on the prosecution to prove by direct evidence, the demand or motive rather the same has to be deduced from the facts and circumstances obtained in the particular case. In a judgment Madhukar Bhaskarrao Joshi v. State of Maharashtra, (2000) 8 SCC571the Honble Supreme Court has held as follows:- The premise to be established on the facts for drawing the presumption is that there was payment or acceptance of gratification. Once the said premise is established the inference to be drawn is that the said gratification was accepted as motive or reward for doing or forbearing to do any official act. So the word gratification need not be stretched to mean reward because reward is the outcome of the presumption which the Court has to draw on the factual premises that there was payment of gratification. This will again be fortified by looking at the collocation of two expressions adjacent to each other like gratification or any valuable thing. If acceptance of any valuable thing can help to draw the presumption that it was accepted as motive or reward for doing or forbearing to do an official act, the word gratification must be treated in the context to mean any payment for giving satisfaction to the public servant who received it. There is no case of the appellant that the said money was received by him as the amount which was legally entitled to receive or collect from P.W.9 or that incident in question did not occur. In a judgment of State of Andhra Pradesh v.

Kommaraju Gopala Krishna Murthy (2000) 9 SCC752the Honble Supreme Court has held that when amount is found to have been passed to the public servant, the burden is on public servant to establish that it was not by way of illegal gratification. In the instant case, that burden has not been discharged by the appellant. The trap proceedings have also not been challenged by the appellant during cross examination of the witnesses. The recovery of tainted notes from the pocket of full paint of the appellant and the fact that when the hands of the appellant were dipped in Sodium Carbonate solution had turned pink, are clear and positive indications that the appellant had accepted the tainted notes which he had no authority to receive from P.W.9 (the complainant). The twin mandatory requirement 11 Cr. Appeal (S.J.) No.30 of 2004 of Sections 7 and 13 of the said Act i.e. demand of gratification and recovery has been consistently proved by the prosecution witnesses. Even if there is some omission or discrepancies in the evidence of prosecution witnesses, the same is due to lapse of time. The raid was conducted in the year 1995 while the evidence of the witnesses were recorded almost after four years in the year 1999. The discrepancies due to lapse of time are bound to creep in the testimony of truthfull witnesses. I have not been able to find any plausible explanation of defence to discard the evidence of the prosecution witnesses on this material issue.

15. The attention of the Court was drawn to the two decisions of Hari Deo Sharma V. The State (supra) and Tryambak Lilaji Binnor V. State of Maharashtra (supra) wherein it has been held that when the author of the raiding party has assumed the role of an Investigating Officer, it would be safe in such cases if the investigation at the earliest is handed over to another officer. From perusal of one of the above referred judgment Tryambak Lilaji Binnor V. State of Maharashtra (supra), it appears that relying upon a judgment Megha Singh V. State of Haryana reported in 1995 AIR SCW3477 (1995 Cr.L.J.

3988), the above view that the very same police officer, who registered the case by lodging a First Information Report ought not to have investigated the case, was taken by the Honble Court. However, the same issue was raised in a similar situation, in a case of State represented by Inspector of Police Vs. V. Jayapaul reported in 2004 (2) East Cr. C. 235 (SC) wherein after considering Megha Singh

V. State of Haryana (supra), the Honble Supreme Court in Paragraphs 5 and 11 held as follows:-

5. Though there is no such statutory bar, the premise on which the High Court quashed the proceedings was that the investigation by the same officer who lodged the FIR would prejudice the accused inasmuch as the investigating officer cannot be expected to act fairly and objectively. We find no principle or binding authority to hold that the moment the competent police officer, on the basis of information received, makes out an FIR incorporating his name as the informant, he forfeits his right to investigate. If at all, such investigation could only be assailed on the ground of bias or real likelihood of bias on the part of the investigation officer. The question of bias would be depend on the facts and circumstances of each case and it is not proper to lay 12 Cr. Appeal (S.J.) No.30 of 2004 down a broad and unqualified proposition, in the manner in which it has been done by the High Court, that whenever a police officer proceeds to investigates after registering the FIR on his own, the investigation would necessarily be unfair or biased. In the present case, the police officer received certain discreet information, which according to his assessment, warranted a probe and, therefore, made up his mind to investigate. The formality of preparing the FIR in which he records the factum of having received the information about the suspected commission of the offence and then taking up the investigation after registering the crime, does not, by any semblance of reasoning, vitiate the investigation on the ground of bias or the like factor. If the reason which weighed with the High Court could be a ground to quash the prosecution, the powers of investigation officer conferred on the police officers would be unduly hampered for no good reason. What is expected to be done by the police officers in the normal course of discharge of their official duties will then be vulnerable to attack.

11. At first blush, the observations quoted above might convey the impression that the court laid down a proposition that a Police Officer who in the course of discharge of his duties finds certain incriminating material to connect a person to the crime, shall not undertake further investigation if the F.I.R. was recorded on the basis of the information furnished by him. On closure analysis of the decision, we donot think that any such broad proposition was laid down in that case. While

appreciating the evidence of the main witness, i.e., the Head Constable (P.W.3) this Court referred to this additional factor- mainly, the Head Constable turning out to be the investigator. In fact, there was apparent reason why the Head Constable proceeded to investigate the case by passing the Sub-Inspector who recorded the FIR. The facts situation in the present case is entirely different. The appellant-Inspector of Police, after receiving information from some sources, proceeded to investigate and unearth the crime. Before he did so, he did not have personal knowledge of the suspected offences nor did he participate in any operations connected with the offences. His role was that of investigator-pure and simple. That is the obvious distinction in this case. That apart, the question of testing the veracity of the evidence of any witness, as was done in Megha Singhs case, does not arise in the instant case as the trial is yet to take place. The High Court has quashed the proceedings even before the trial commenced.

12. Viewed from any angle, we see no illegality in the process of investigation set in motion by the Inspector Police (appellant) and his action in submitting the final report to the Court of Special Judge.

1. Cr. Appeal (S.J.) No.30 of 2004 16. Similarly in another case of S. Jeevanantham Versus State through Inspector of Police, T.N, (2004) 5 SCC230the Honble Supreme Court had the occasion to consider Megha Singh Versus of Haryana (supra) when submission was made that P.W.8 of that case was the complainant and he himself conducted the investigation, the entire investigation of the case was vitiated, the court in Paragraph 3 held as follows:- In the instant case, PW8conducted the search and recovered the contraband article and registered the case. Thereafter as part of his official duty he investigated the case and filed a charge-sheet. He was not in any way personally interested in the case. There is no bias in the process of investigation. The appellants also could not point out any circumstances by which the investigation caused prejudice or was biased against them. The appellants were thus rightly convicted and sentenced by the courts below.

17. In the instant case, the learned counsel for the appellant has not pointed out any circumstance that due to investigation by the same Police Officer who had

lodged F.I.R., any prejudice has been caused to the appellant. Apparently, the verification report after preliminary inquiry was submitted by P.W.5 and thereafter being prima facie satisfied with the genunity of the allegation, direction was given by S.P., C.B.I., Dhanbad to P.W.11 to lodge F.I.R. So even no preliminary investigation was done by P.W.11. After lodging the F.I.R., he proceeded to investigate and unearth the crime being a member of trap team. In Megha Singh Vs. State of Haryana, the Head Constable (P.W.3) found a country made pistol and live cartridges on search of the person of the accused and seized the articles and on the basis of which F.I.R. was recorded. Thereafter, the said Head Constable (P.W.3) himself took investigation. So the facts of both the cases are distinct.

18. So far as the submission of learned counsel for the appellant that no material circumstances were put before the appellant when his statement under Section 313 of the Code of Criminal Procedure was recorded is concerned, from mere perusal of the statement of the appellant, it would be clear that separate questions based on material circumstances, which are required to constitute the offence under Section 7 read with Section 13 of the said Act, were fairly followed by the trial court. 14 Cr. Appeal (S.J.) No.30 of 2004 19. For the reasons aforesaid, I do not find any illegality or impropriety in findings of the trial court. However, coming to the question of sentence awarded to the appellant, it is to be noted that nature of accusations and the age of the appellant, who after twenty years of protracted trial, is more than sixty years, the ends of justice would be met if the sentence of imprisonment awarded to the appellant is reduced to the period already undergone by him. Accordingly, by confirming the conviction of the appellant, the sentence awarded to the appellant by the trial court is hereby reduced to the period already undergone by him. So far as the sentence of fine of Rupees One thousand under Section 7 and Rupees One thousand under Section 13 (i)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, by the trial court are concerned, the same are hereby affirmed. The above fine amounts have already been deposited by the appellant on 08.12.2003 as stated by the learned counsel for the appellant. Hence, the appellant, who is on bail, is discharged from the liabilities of his bail bonds.

20. With the above modification in sentence, this appeal, being devoid of any merit, is hereby dismissed. (R.N. Verma, J.) Jharkhand High Court, Ranchi Dated, 9th April, 2015 Anit/N.A.F.R.