

Gurdev Singh Vs. State

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Court : Delhi

Decided On : Apr-30-1998

Reported in : 1998IVAD(Delhi)734; 1998CriLJ3580; 1998(4)Crimes676;
76(1998)DLT918

Judge : Dalveer Bhandari, J.

Acts : [Prevention of Corruption Act, 1947](#) - Sections 5(1)(2)

Appeal No. : Criminal Appeal No. 277/77

Appellant : Gurdev Singh

Respondent : State

Advocate for Def. : Mr. M.S. Butalia, Adv.

Advocate for Pet/Ap. : Mr. Mohit Mathur, Adv

Judgement :

ORDER

Dalveer Bhandari, J.

1. This appeal is a sequel to the impugned

JUDGMENT / ORDER

dated 6th July, 1977, passed by the learned Special Judge, Delhi, whereby he convicted the appellant for having demanded and accepted an illegal gratification of Rs.500/- (Rs.100/- received in cash and Rs. 400/- by a money order later on) from one Mohan Singh for getting his pension case finalised.

2. The facts and evidence which formed the basis of conviction of the appellant are that the appellant, a clerk in the Ministry of Home Affairs, New Delhi, was contacted by one Mohan Singh, a retired member of the Indian National Army, for getting his pension case finalised, who in turn, demanded an illegal gratification of Rs. 500/-. Mohan Singh gave a sum of Rs. 100/- which he was carrying with him along with a number of papers relating to the case of the grant of pension , to the appellant. On return to his village, Mohan Singh arranged for funds and remitted the balance of Rs. 400/- by money order which was duly received by Gurdev Singh on 23rd December, 1974. Mohan Singh received a letter dated 27th December, 1974 from Gurdev Singh, demanding a further payment of Rs. 200/-. Mohan Singh felt exasperated and came to Delhi with Mangal Singh (PW-3) and both of them went to the office of Shri Shah Nawaz Khan, the then Minister of State for Agriculture, and apprised him of the whole matter. They also showed the postal receipt, the money order receipt and the letter written by the appellant.

3. The additional Private Secretary to the Minister, under the directions of the Minister Shri Shah Nawaz , made an enquiry. In the enquiry, the appellant, admitted having written the letter, Ex.PW-1/C, and also admitted that he had demanded Rs.500/- out of which Rs.100/- had been paid to appellant in cash and the balance had been remitted by a money order which was duly received by the appellant vide money order receipt Ex.PW-1/B, which admittedly bore the signature of the appellant. It was suggested to the appellant that it would be in his own interest to return the money accepted from Mohan Singh. Thereafter, a case was registered and investigation was conducted by the CBI. The prosecution examined various witnesses, all of whom subscribed to the prosecution story. In defense, the appellant examined one Surjit Singh.

4. The learned Special Judge, after examining the statements of all the prosecution and defense witnesses, by way of the impugned judgment had

convicted the appellant and keeping in mind the minimum sentence, as provided under sub-section (2) of Section 5 of the [Prevention of Corruption Act, 1947](#), imposed a sentence of R.I. for 15 months and a fine of Rs.100/-, and in default of payment of fine, further R.I. for one month for each of the three offences u/s 5 (2) read with Section 5.(1) (d) of the Prevention of Corruption Act,1947, and R.I. for one year for each of the three offences under Section 161 IPC, with the direction that the substantive sentences of imprisonment in respect of all these offences would run concurrently and would meet the ends of justice.

5. The learned counsel for the appellant has submitted that though the trial court has its limitations in awarding the convict a sentence of imprisonment for not less than one year as provided in the Act itself without recording in writing any special reasons, by the appellant courts have the powers to reduce the sentence by recording the special reasons.

6. The learned counsel for the appellant placed reliance on some of the decided cases in which their Lordships of the Supreme Court in the case of B.G.Goswami v. Delhi Administration, 1973 SCC. 796, observed as under:-

'Now the question of sentence is always a difficult question, requiring as it does proper adjustment and balancing of various considerations which weigh with a judicial mind in determining its appropriate quantum in a given case. The main purpose of the sentence broadly stated is that the accused must realise that he has committed an act which is not only harmful to the society of which he forms an integral part but is also harmful to his own future, both as an individual and as a member of the society. Punishment is designed to protect society by deterring potential offenders as also by preventing the guilty party from repeating the offence; it is also designed to reform the offender and reclaim him as law abiding citizen for the good of the society as a whole. Reformatory, deterrent and punitive aspects of punishment thus play their due part in judicial thinking while determining the question. In modern civilised societies, however, reformatory aspect is being given somewhat greater importance. Too lenient as well as too harsh sentence both lose their efficaciousness. One does not deter and the other may frustrate thereby making the offender a hardened criminal. In the present case, after

weighing the considerations already noticed by us and the fact that to send the appellant back to jail now after seven years of the agony and harassment of these proceedings when he is also going to lose his job and has to earn a living for himself and for his family members and for those dependent on him, we feel that it would meet the ends of justice if we reduce the sentence of imprisonment to that already undergone but increase the sentence of fine from Rs.200/- to Rs. 400/-. Period of imprisonment in case of default will remain the same.'

7. This case has been followed in number of subsequent judgments by Supreme Court and various other courts. In Ramesh Kumar Gupta Vs . State of M.P., : 1995 CriLJ3656 , while referring to the judgment of B.G.Goswami v. Delhi Administration (Supra), the sentence of imprisonment was reduced to the period already undergone, in a case where the accused was convicted under Section 161 of the Indian Penal Code.

8. In the instant case, the incident had taken place in 1974. Facts of this case are quite akin to the facts of Ramesh kumar Gupta's case (Supra). The appellant had undergone some part of the sentence and faced trauma of criminal proceedings for almost 24 years. In my considered opinion because of these special reasons, in the instant case the ends of justice shall be met by upholding the conviction of the appellant, however, the sentence of imprisonment of the appellant is reduced to the period already undergone.

9. The appeal is accordingly disposed of.

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