

Laxman Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Feb-18-2000

Reported in : 2001CriLJ1150

Judge : V.G. Palshikar, J.

Acts : [Prevention of Corruption Act, 1947](#) - Sections 5(1) and 5(2); Indian Penal Code (IPC) - Sections 376

Appeal No. : Criminal Appeal No. 332 of 1984

Appellant : Laxman

Respondent : State of Rajasthan

Advocate for Def. : S.L. Joshi, Public Prosecutor

Advocate for Pet/Ap. : Sanjay Mathur, Adv.

Disposition : Appeal allowed

Judgement :

V.G. Palshikar, J.

1. Being aggrieved by the judgment dt. 14-9-1984 passed by the Special Judge, Anti-Corruption Cases, Bikaner in criminal case No. 10/1979 convicting the appellant accused under Section 5(1)(d) read with Section 5(2) of the [Prevention](#)

[of Corruption Act, 1947](#) to suffer one year's R. I. and to pay a fine of Rs. 500/-, this appeal is preferred on the grounds mentioned in the memo of appeal as also verbally canvassed before me when the appeal came for hearing.

2. The prosecution story stated briefly is that one Surat Singh was Conductor with the Rajasthan State Road Transport Corporation and was serving in Sri Ganganagar Depot. On 17-4-1979, first information report was lodged before Additional Superintendent of Police, Anti-Corruption, Sri Ganganagar that one Laxman present appellant-accused was Accountant in the Ganganagar Depot of the Corporation. Three months prior to the lodging of the F.I.R., the complainant Surat Singh as Conductor was plying bus on the Delhi -- Ganganagar route and while so travelling, he issued certain tickets for journey between Delhi -- Sapla but the corrected carbon copy of the tickets showing the tickets for the journey before Sarsa, the fare being less than that for Sapla. It was alleged that Surat Singh had misappropriated the sum of the difference between factual fare rent collected and then deposited, then this aspect was noticed by the accountant present appellant-accused. It is alleged that he demanded bribe of Rs. 300/- from the complainant Surat Singh who reported the matter as aforesaid to the Additional Superintendent of Police, Anti Corruption, Sri Ganganagar. The Police laid a trap and reached at the bus stand where it was agreed that the sum of Rs. 300/- could exchange hands in the morning. However, when the police party reached the bus stand, the accused was not there and he was on half day's leave, the police party therefore, came to the bus stand at 2.00 p.m. When it is alleged that the accused accepted the money and a sum of Rs. 300/- was taken out from the pocket of the accused and pant was seized. The pant where the pocket was situated was also treated to sodium carbonate and it gave positive indication proving thereby that the money was in the pocket of the accused. After due investigation, the challan was filed and the accused-appellant was prosecuted under Section 5(1)(b) read with Section 5(2) of the Prevention of Corruption Act. The prosecution has examined as many as 7 witnesses in support of its case and on appreciation of the evidence as led by the prosecution, the learned Special Judge came to the conclusion of guilt and accordingly convicted the accused as aforesaid. It is this order of conviction which is assailed in this appeal.

3. The defence of the accused is total denial and he alleged that he has been falsely implicated in this case as he belongs to the rival union and complainant Surat Singh had previous enmity with the accused.

4. He stated in his defence that he had gone to latrine and had to put his pant outside the latrine and the sum of Rupees 300/- was thus planted in his pant. A witness in support of his defence was also examined.

5. With the assistance of the learned Counsel for the appellant and the learned Public Prosecutor, I have scrutinised the record of the case and reappraised the evidence on record. The main witness in this case is P.W. 1 Surat Singh on whose testimony, heavy reliance was placed by the learned Judge for coming to the conclusion of guilt. The reappraisal of evidence of this witness, however, shows that even if the evidence is to be accepted, case as alleged by the prosecution cannot be held to be proved. It is the case of the prosecution that three months prior to the lodgment of the first information report, Surat Singh was plying as a Conductor at Delhi-Ganganagar route and had misappropriated a sum of money by manipulating tickets issued by him, it has come on record and P.W. 1 Surat Singh has admitted that at the relevant time i.e. three months prior to 17-4-1979, he was not working as Conductor on Delhi-Ganganagar route. If this is the factual position, there cannot be any question of Surat Singh issuing a different ticket and misappropriating money of difference as he was not at all working as Conductor on that line. If this aspect is taken into consideration, the entire structure of the prosecution case falls to the ground. Even if this aspect is ignored, it will be seen from the evidence on record that even according to the complainant P.W. 1, the amount of bribe to be paid was negotiated for a period of more than one month which in itself is improbability. The demand of the complainant in this regard in cross-examination deserves to be noted :--

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6. It is improbable that negotiation for deciding the amount of bribe to be accepted would give (sic) on for a month and half. This witness was prosecuted under

Section 376 of the Indian Penal Code and was in jail for about 4 months, he admits this also in his cross-examination. He has also admitted concealment of this prosecution and conviction of his from the corporation. In such circumstances, his evidence cannot be accepted as trustworthy.

7. Taking into consideration the rivalry between the parties, the improbability admitted by the complainant, the fact that Surat Singh the complainant was not working on Ganganagar sector at the relevant time creates reasonable doubt that what has been stated by the witness is not truth, that being the position. Taking into consideration the attending circumstances, it is unsafe to convict the accused in the present case.

8. In the result, the appeal succeeds and is allowed. The conviction is set aside. The bail bonds are cancelled.

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