



the Dy. S.P. A.C.D. Sikar alleging that he had purchased the tractor HMT Jeeter in his father's name on 02.05.1979 and he wanted to change the registration of tractor. He submitted the documents before D.T.O. and D.T.O. wrote an order and sent to Hari Narain clerk. When he went to Hari Narain, he told him that there was no work with him to be done. The D.T.O. would do. Then again he went to Moolchand D.T.O. but Moolchand said that Hari Narain would do it. Then he again went to Hari Narain and the appellant Hari Narain told him that the complainant will have to pay Rs.150/- (Rs.50/- for himself, Rs.50/- for Ashok Jain and Rs.50/- for Moolchand D.T.O.). The complainant did not want to give the bribe. So, he complained before the ACD. After completion of trap proceedings and investigation, charge-sheet was filed against the appellant.

After hearing the arguments, charges were framed against the appellant under Section 161 IPC and Sections 5 (1) (d) read with Section 5 (2) of the Prevention of Corruption Act, 1947.

Accused appellant denied the charges levelled against him and claimed for trial.

In order to prove its case, prosecution examined 12 witnesses. Appellant was examined under Section 313 Code of Criminal Procedure, 1973. He prayed that he was innocent and had been falsely implicated in this case. Appellant examined 5 witnesses in his defence.

Learned counsel for the appellant submits that learned trial court wrongly convicted the appellant under Section 161 IPC and Sections 5 (1) (d) read with Section 5 (2) of the Prevention of Corruption Act, 1947. Learned counsel for the appellant also



submits that learned trial court had not read the prosecution evidence in right perspective. Learned counsel for the appellant also submits that prosecution witnesses are highly interested, so, their evidence was unreliable. Learned counsel for the appellant also submits that prosecution failed to prove the demand and acceptance of bribe because evidence of the complainant Sutanaram was contradictory and he had also submitted the affidavit. Learned counsel for the appellant also submits that Investigating Officer wrongly investigated the case and left the Moolchand and Ashok Jain. Learned counsel for the appellant also submits that trial court wrongly framed the charges against the appellant because as per the averments of the prosecution, appellant had taken Rs.50/- for Ashok Jain and Rs.50/- for Moolchand but charges framed against him were without mentioning of these facts. Learned counsel for the appellant also submits that there is no evidence that appellant had ever demanded rupees from Sultanaram. So, appellant be acquitted.

Learned counsel for the appellant has placed reliance upon the judgment passed by the Hon'ble Supreme Court in the case of **P. Satyanarayana Murthy Vs. District Inspector of Police, State of Andhra Pradesh & Anr.** reported in **(2015) 10 SCC 152.**

Learned Public Prosecutor has opposed the arguments advanced by learned counsel for the appellant and submitted that there is no illegality or infirmity in the judgment and order of learned trial court. Hence, the appeal is devoid of merits and liable to be dismissed.



I have considered the arguments advanced by learned counsel for the appellant as well as learned Public Prosecutor.

As per the story of prosecution, Rs.150/- were given by Sultanaram to the appellant but prosecution failed to prove the demand and acceptance of the bribe. Only recovery of money could not be a ground to consider it as a bribe. Investigating Officer deliberately left Ashok Jain and Moolchand. Learned trial court in its order mentioned about these lacuna. So, in my considered opinion, learned trial court wrongly convicted the appellant under Section 161 IPC and Sections 5 (1) (d) read with Section 5 (2) of the Prevention of Corruption Act, 1947. Hence, the judgment and order of the learned trial court deserves to be set aside.

Accordingly, this appeal is allowed. Impugned judgment/order passed by the learned trial Court dated 28.01.1985/02.02.1985 is set aside. Appellant is acquitted of the charges framed against him.

In view of the provisions of Section 437-A Code of Criminal Procedure, 1973, appellant-**Hari Narayan son of Rameshwar Prasad** is directed to furnish a personal bond in the sum of Rs.25,000/-, and a surety in the like amount, before the Registrar (Judicial) of this Court, which shall be effective for a period of six months, with stipulation that in the event of Special Leave Petition being filed against this judgment or on grant of leave, the appellant aforesaid, on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

(NARENDRA SINGH DHADDHA),J