

Ramanlal Mohanlal Pandya vs The State Of Bombay on 21 April, 1959

Equivalent citations: AIR1960SC961, AIR 1960 SUPREME COURT 961

Author: J.L. Kapur

Bench: S. Jafer Imam, J.L. Kapur

JUDGMENT

J.L. Kapur, J.

1. This is an appeal against the judgment and order of the High Court of Bombay confirming the conviction of the appellant for an offence under Section 161, I. P. C., for accepting a bribe of Rs. 250/- on June 24, 1954.

2. The appellant was a Police Prosecutor at Anand in the district of Kaira. On July 21, 1953 one Fatesing Somabhai and others brought a complaint against Ramanbhai Harmanbhai of village Ajarpura, the complainant. On the following day the complainant brought a counter-complaint against Fatesing Somabhai and others. The police filed charge sheets in both cases. The cases dragged on and nothing happened till June 17, 1954 when there was a talk of a settlement and compounding the complaints. Complainant Ramanbhai Harmanbhai was prepared to pay a sum of Rs. 100 but Fatesing Somabhai and others demanded Rs. 200 and therefore the talks were unsuccessful. Thereafter three witnesses were examined on June 17, 1954 and the cases were adjourned to June 24, 1954. The appellant was conducting the prosecution on behalf of the State. On the same day the complainant was returning to his village and therefore went to the Railway Station Umreth. The appellant was also at the Railway Station and was going to Anand. The complainant met the appellant at the Railway Station and asked the appellant if it was still possible to have the compromise and the appellant told him to come to his house a day before the next hearing and as the complainant did not know his address the appellant gave him his address. On June 23, 1954 at about 9-30 a.m., the complainant went to the house of the appellant and appellant assured the complainant that he need not worry about his case but that he should pay to him Rs. 250 and he would see that he, the complainant, was acquitted. The complainant expressed his inability to pay that sum but the appellant insisted that he would not take anything less and asked the complainant to see him the following morning between 8 and 9 O'clock. The complainant then went to one Ramanbhai Shankarbhai, the secretary of the Taluka Congress Committee Anand and complained to him about the demand of bribe from him. Ramanbhai Shankarbhai introduced the complainant to Sub-Inspector Kantilal Patel of the Anti-Corruption Branch at Surat and the complainant told him about the demand of the bribe. Sub-Inspector Kantilal Patel went to Dy. Superintendent of Police Pandya of the Anti-Corruption Branch and told him of the complaint of the complainant whereupon

the Dy. Superintendent of Police Pandya came to Anand along with Sub-Inspector Kantilal Patel and the next morning the Dy. S. P. Pandya called the complainant and took down his complaint. Two Panch witnesses Mohanbhai Shankarbhai and Rambhai Dahyabhai were also called and in their presence the complainant was searched and the Dy. S.P. Pandya gave him Rs. 250 consisting of two currency notes of Rs. 100 each and five currency notes of 10 rupee each. One of the panch witnesses Mohanbhai Shankarbhai was asked to accompany the complainant to the house of the appellant. Both the complainant and the witness went to the house of the appellant and they were followed by two Sub-Inspectors Kantilal and Rathod and Dy. S.P. Pandya. There money was paid by the complainant to the appellant who after accepting these notes from the complainant; put them in the pocket of his shirt. On a pre-arranged signal being given the police officers and the other panch witness Rambhai Dahyabhai rushed into the house of the appellant. Sub-Inspector Kantilal caught hold of the hands of the appellant and the Dy. S.P. Pandya asked the appellant to produce the money which he had received from the complainant. At first the appellant was reluctant but when Dy. S.P. Pandya showed him his identity card he took the money from his shirt-pocket and threw it on the ground. The currency notes were picked up by Mohanbhai Shankarbhai and numbers were found to be the same as on the notes which had been given by Dy. S.P. Pandya. The appellant was then prosecuted under Section 161, I. P. C.

3. The defence was that the case had been started against the appellant at the instigation of one Tribhuwandas and a lawyer Bhailalbai with whom it was alleged there was an enmity. The appellant denied the meeting at the Railway Station as well as the going of the appellant to his house on the 23rd. The case was that on the morning of June 24, 1954 he, the appellant, was sitting with his father and one Dr. Mangaldas and the complainant accompanied by another person came to his house and enquired whether his case would be taken up on that day and when the appellant told him that the case would be taken up the complainant asked him to come out and when he went out the complainant started talking with him and went on talking for about 7 or 8 minutes. After that the complainant produced a bundle of currency notes and asked the appellant to accept them. The appellant then gave a slap which struck the complainant on his hands and the notes fell down. Meanwhile the other persons arrived and surrounded the appellant and made him sit on a chair and then he became unconscious.

4. These are the two rival versions and the case of the prosecution depends upon the evidence of the complainant and of the witnesses Mohanbhai Shankarbhai. Rambhai Dahyabhai, Sub-Inspector Kantilal and Dy. S.P. Pandya. Both the Courts have accepted the testimony of these witnesses. The High Court discussed their evidence at great length particularly of Dy. S.P. Pandya.

5. The appellants counsel contended that witnesses in the present case were not only partisan but their testimony must be taken to be in the nature of evidence of-accomplices as the sum of Rs. 250 was provided by Dy. S.P. Pandya. In this connection reference was made to Shiv Bahadur Singh v. State of Vindhya Pradesh, . But that case has been explained in a case reported as State of Bihar v. Basawan Singh, , where in the judgment of S.K. Das, J., it was clearly stated:

"We must make it clear that we do not wish it to be understood that we are deciding in this case that if the money offered as a bribe is provided by somebody other than

the bribe-giver, it makes a distinction in principle....."

It was also stated in that case that in judging the testimony of a witness many considerations arise and the decision of every case must depend upon the facts and circumstances of each case. Again the learned Judge observed that the correct rule was :

"If any of the witnesses are accomplices who are particeps criminis in respect of the actual crime charged, their evidence must be treated as the evidence of accomplices is treated; if they are not accomplices but are partisan or interested witnesses, who are concerned in the success of the trap, their evidence must be tested in the same way as other interested evidence is tested by the application of diverse considerations which must vary from case to case, and in a proper case, the Court may even look for independent corroboration before convicting the accused person."

It does not seem to be the law that if the money given as bribe is provided by a particular officer of the police then the evidence of all the witnesses becomes evidence of accomplices and must be looked at with suspicion. In the present case no doubt Rs. 250 came from the police officer Dy. S.P. Pandya and this money was given to the complainant to be passed on to the appellant purporting to be a bribe but even in Such a circumstance the testimony of the witnesses has to be judged like the testimony of any other witness and all diverse factors which arise for consideration and their relative importance must depend upon the facts of that particular case. In the case before us the money was given to the appellant in the presence of one of the search witnesses Mohanbhai Shankarbhai and when it was thrown on the ground by the appellant it was picked up by that witness at the instance of the Dy. S.P. Pandya. It cannot be said that these two witnesses were not independent witnesses even though they consented to become Search or Panch witnesses. Mohanbhai Shankarbhai has been characterised by the trial Court as a respectable man who has worked as a teacher, was then in business and, was at the time of the occurrence serving in the Agricultural Produce Market Committee. He had no connection whatever with the complainant and he had no connection with the appellant either. The other witness Rambhai Dahyabhai is described as B. Ag. (Honours) and he was in service as Assistant Dairy Superintendent in Kaira District Co-operative Milk Union Ltd. He also had no connection with the complainant or with any other person with regard to whom it could be stated that he was inimical towards the appellant. In regard to these persons the trial Court said:

"It appears to be highly improbable that such persons would be willing tools in the hands of Shri Tribhowandas and Bhailalbai in fabricating false evidence against an innocent man."

Their evidence was accepted by the High Court also. This is not a case where the police or anybody else has done any act in order to oblige any particular person but it is one of those cases where a complaint was made to the police that the appellant was demanding a bribe from the complainant. The police no doubt provided the money and are witnesses to the passing of the money but it is not a case where the police had instigated any one to offer a bribe to the appellant.

6. Even if it was a case where it was necessary to have corroborative evidence, that is supplied by the testimony of Mohanbhai Shankarbhai and Rambhai Dahyabhai and as was pointed out by this Court in Rameshwar v. State of Rajasthan, ; that it is not necessary that there should be independent corroboration of every material circumstance. All that is required is that there must be some additional evidence rendering it probable that the story of the accomplices or the complainant is true and that it is reasonably safe to act upon it and the corroboration need not be direct evidence. It is sufficient: if it is merely circumstantial evidence of the connection of the accused with the crime. In Rameshwar's case (supra), the previous statement of the complainant was held to be evidence of conduct and also as corroborative evidence within the limits of Section 157 of the Evidence Act.

7. In Basawan Singh's case, (supra), at p. 507 it was observed: .

"that corroboration need not be direct evidence that the accused committed the crime; it is sufficient even though it is merely circumstantial evidence of his connection with the crime."

8. In our opinion in this case the Courts below have not proceeded on any wrong principle and the Courts below having accepted all the essential facts which constitute an offence the conviction must be held to be proper and correct. It was submitted that the offence was committed as far back as June 1954 and the appellant has already undergone about three months sentence and it would be very hard to send him back to jail. The appellant first took an appeal to the High Court which was decided on September 10, 1955 when his appeal was dismissed and the sentence passed by the trial Court was upheld. The appellant then obtained special leave in this Court on November 21, 1955 and was released on bail. No doubt since then it has taken some time for the appeal to be heard but in the circumstances the sentence passed by the trial Court cannot be called excessive and this Court would ordinarily not interfere with the quantum of punishment given by the Courts below particularly in the exercise of its jurisdiction under Article 136. For a public servant to be guilty of corruption is a very serious matter and the Courts would not look upon it with undue leniency.

9. We would therefore dismiss this appeal.