

Jai Ram Lakhe vs State Of Punjab on 22 March, 1978

Equivalent citations: 1978CRILJ180, (1978)3SCC133, 1978(10)UJ266(SC)

Bench: P.N. Shinghal, S. Murtaza Fazal Ali

JUDGMENT

P.N. Singhal, J.

1. This appeal by special leave arises from the judgment of the Punjab and Haryana High Court dated November 24, 1971, upholding conviction of appellant Jai Ram Lakhe of an offence under Section 5(2) of the Prevention of Corruption Act and the sentence of rigorous imprisonment for year and a fine of Rs. 100/-.

2. The appellant was posted as Tehsil Welfare Officer, Samrala, district Ludhiyana, from November, 1968. Shadi Ram (P.W. 3), who was a Harijan, applied and obtained a subsidy of Rs. 800/- from the welfare Department in August, 1968 for raising a piggery. It was alleged that the appellant went to Shadi Ram's village and told him that as he had not purchased pigs of the prescribed standard, he should either purchase them from the government farm or refund the subsidy. It was alleged further that the appellant ultimately asked for a sum of Rs. 100/- as illegal gratification for dropping of the matter, & it was settled that Shadi Ram would pay him Rs. 50/-. He gave him Rs. 19/- then and there, and promised to pay the rest later on. Shadi Ram received a letter on behalf of the appellant asking him to appear in his office on January 6, 1969 but he went there on January 14, 1969, and paid another Rs. 10/- and one kilogram meat to the appellant. It was further alleged that the appellant again visited Shadi Ram on January 26, 1969 and asked for the balance of Rs. 21/- which Shadi Ram promised to give the next day. Shadi Ram however contacted Vigilance Inspector Tirath Singh (P.W. 9) who was known to him, at Ludhiyana on January 27, 1969. The Inspector went to Samrala to organise a trap the same day. The raiding party consisted of Shadi Ram (P.W. 3) and Bhag Singh (P.W. 5), Gurdial Singh (P.W. 6) and Inspector Tirath Singh, (P.W. 9). The number of currency notes of Rs. 21/- were noted by the party, & Shadi Ram (P.W. 3) and Bhag Singh (P.W. 5) were instructed to go to the office of the appellant, which was done by. It was settled that Bhag Singh (P.W. 5) would give to signal to Gurdial Singh (P.W. 6) after the money had been paid to the accused. Shadi Ram and Bhag Singh went and found the appellant sitting alone in his office, and it is alleged that Shadi Ram gave Rs. 24/- to the appellant, on his asking for (he same, in the presence of Bhag Singh. Bhag Singh (P.W. 5) went upstairs and gave the signal. It is the case of the prosecution that the appellant who became suspicious, got down from his office, went to the shop of Sarwan Chand (P.W. 7) and handed over Rs. 21/- to him there for adjustment against his account. Bhag Singh followed the appellant when he was going down stairs and claimed that he had seen him giving the money to Sarwan Chand. He then went upstairs and the appellant followed him. Inspector Tirath Singh reached the office of the appellant, and when Bhag Singh told him that the money had

been given to Sarwan Chand, he went to him and recovered the same currency notes in the absence of the appellant. The trial Judge and the High Court rejected the defence of false implication because of enmity, and that is why the appellant has come up to this Court in appellant.

3. We have gone through the evidence on record and find that there is justification for the argument of the appellant's learned Counsel that the trial Court and the High Court have not taken the following facts and circumstances into consideration even though they had been established by the evidence on record and had a direct bearing on the guilt of the appellant.-

(i) Inspector Tirath Singh (P.W. 9) has stated that he sat down under a Peepal tree and made all the preliminary arrangements there, including the taking of the money from Shadi Ram and the preparation of the memorandum for the trap. Bhag Singh (P.W. 5) who joined the raiding party, has also stated that all that was done under a tree, where a cattle fair was going on, & that 5.10 persons had collected there at that time besides the raiding party, when the currency notes were handed over by Shadi Ram to the Inspector Tirath Singh (PW 9). Gurdial Singh (PW 6) has also stated that the raiding party sat under the tree and that the currency notes were handed over there and a memorandum in that respect was prepared in the open. The statement of Shadi Ram (PW 3) is much to the same effect. It was therefore well established that no secret was made of the intention and the preparation of laying a trap and making a raid, which in fact took place within a matter of minutes thereafter in the office of the appellant, which was nearby. This was an unusual way of laying a trap and organising a raid, unless the Vigilance Inspector had some other reason to think that the trap would be successful in spite of the publicity which was being given to it.

(ii) It is also a matter of significance that Bhag Singh has stated that Shadi Ram showed him "each and every note separately" and stated that he (witness) should see that those were the same notes which the police had handed over to him, and that, they were "sitting on the bench near the accused when all this talk took place" between him and Shadi Ram. Counsel for the State was unable to explain this part of the prosecution evidence, which is sufficient to discredit the prosecution case for obvious reasons.

(iii) Besides Inspector Tirath Singh (PW 9) the prosecution has examined Shadi Ram (PW 3), Bhag Singh (PW 5) Gurdial Singh (PW 6) and Sarwan Chand (PW 7) as its main witnesses for the purpose of establishing the guilt of the accused. Inspector Tirath Singh has stated that while he was sitting under the tree, Bhag Singh (PW 5) and Gurdial Singh (PW 6) "came there and they were joined in the raiding party." Bhag Singh, has also admitted that he was a previous convict and he has also admitted that Shadi Ram (PW 3) was his tenant. Gurdial Singh (PW 6) has stated that he knew Bhag Singh earlier and that he knew Sarwan Chand (PW 7) for the last 30 years. Sarwan Chand (PW 7) has stated that he knew Shadi Ram for the last four or five months. It cannot therefore be said that the trap was laid with the help of disinterested or independent witnesses.

4. As has been stated, the currency notes were recovered from Sarwan Chand (PW 7) and not from the possession of the appellant, and there was no evidence to show that there were any visible marks which could show that they had been handled by the appellant.

5. In these circumstances, the above facts, which were fully established by the evidence of the prosecution, were sufficient to raise a serious doubt about the guilt of the appellant, had they were not taken into consideration by the High Court. We therefore allow the appeal and acquit the appellant. He is on bail and need not surrender.