

Som Parkash vs State Of Punjab on 29 November, 1991

Equivalent citations: AIR1992SC665, 1992CRILJ490, 1991(3)CRIMES798(SC), JT1991(4)SC472, 1991(2)SCALE1205, 1992SUPP(1)SCC428, 1992(1)UJ252(SC), AIR 1992 SUPREME COURT 665, 1992 AIR SCW 292, (1992) 2 CURCRIR 146, 1992 UP CRIR 143, (1992) 2 CRILC 156, (1992) ALLCRIR 35, 1992 CHANDLR(CIV&CRI) 586, (1991) 3 CRIMES 798, 1992 SCC (SUPP) 1 428, (1992) 1 RECCRIR 62(2), 1992 UJ(SC) 1 252, 1992 CRILR(SC MAH GUJ) 64, (1992) EASTCRIC 171, (1991) 4 JT 472 (SC), 1992 SCC (CRI) 290

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Bench: Kuldip Singh, R.M. Sahai

ORDER

R.M. Sahai, J.

1. The appellant was Head Master of a Government High School. He was tried for accepting an illegal gratification from a teacher of the same school for showing favour in signing a bill relating to the arrears of his salary. The Special Judge after considering the evidence led on behalf of prosecution held the appellant to be guilty for offence under Section 5(2) of Prevention of Corruption Act and Section 161 of the Indian Penal Code. He was convicted and sentenced to rigorous imprisonment for two years under both the counts which were to run concurrently. A fine of Rs. 500/- was also imposed on him. In appeal the substantive sentence of imprisonment on both the counts was reduced to one year R.I. which were to run concurrently. The fine was maintained.;

2. The High Court found that the witnesses who were associated in the conduct of the raid for recovery of tainted money from the appellant could not be termed as independent who could be associated with such raids. The High Court further expressed doubt about veracity of the witness who claimed that money was actually handed over in his presence. The High Court, however, drew an adverse inference against the appellant from the circumstance that the bill which was delayed for unreasonable period had suddenly been passed by the appellant. On an overall assessment the High Court entertained some suspicion about the credibility of the prosecution witnesses but at the same time did not find the suspicion to be strong enough to raise doubt about the guilt of the appellant. We agree with the learned Counsel for the appellant that in the face of the finding that the witnesses who formed part of the raiding party were not independent and the evidence regarding handing over

money to the appellant being unbelievable, the conviction of the appellant cannot be sustained. The guilt of the appellant has not been proved beyond reasonable doubt and as such the benefit must go to him.

3. In the result, this appeal succeeds and is allowed. The conviction and sentence passed against the appellant is set aside. His bail bonds are discharged