

Ramjanam Singh vs The State Of Bihar on 2 November, 1954

Equivalent citations: AIR1956SC643, 2001(49)BLJR2282, 1956CRILJ1254, AIR 1956 SUPREME COURT 643

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Bench: B.K. Mukherjea

JUDGMENT

Bose, J.

1. The appellant Ramjanam Singh was prosecuted under Section 161, Penal Code, read with Section 5, Prevention of Corruption Act, 1947, for having accepted a bribe. He was acquitted by the trying Magistrate but was convicted by the High Court on an appeal against the acquittal and was sentenced to one year's rigorous imprisonment. He was given special leave to appeal by this Court.

2. The appellant was a Sub-Inspector of Police at all material times. He was in charge of the Dinapore Police Station and was investigating dacoity charges against the complainant Sitaram Dusadh (P. W. 2) under Sections 395 and 399/402, I. P. C. on the relevant dates. The prosecution story is that during the course of the investigation the appellant demanded Rs. 100/-for himself and Rs. 25/- for his Assistant Sub-Inspector as a bribe for dropping the proceedings against the complainant whom we shall hereafter call P.W. 2. On 17-10-1951 he is said to have been offered and to have accepted the Rs. 100/-.

3. It will be necessary to examine the facts in detail and first we will consider those which are said to have proceeded and led up to the actual taking of the bribe.

4. There are three police investigations to bear in mind : Dinapore Case No. 21 (8) 51, Dinapore Case No. 19 (8) 51 and Khagaul Case No, 9 (7) 51. It will be enough to call them Cases Nos. 21 and 19 respectively and Case No. 9. The following facts are admitted :

5. The police received information in the first half of August, 1951 about the commission of a dacoity within the jurisdiction of the Dinapore Police Station and Cases Nos. 19 and 21 were registered, the former for dacoity under Section 395, I. P. C. and the latter under S, 399/402 for making preparation for the commission of a dacoity and assembly for that purpose, Sitaram Dusadh (P.W. 2) a resident of Khagaul, was named by one of the suspects and accordingly he was arrested by the Assistant Sub-Inspectors of Khagaul and Dinapore on 17-8-1951 and was sent in custody to the Dinapore Police Station in connection with both cases. He was handed over to the appellant (the Dinapore Sub-Inspector) and was kept in the police lock-up there.

6. Next day (18-8-1951) he was forwarded to the Sub-Divisional Officer, Dinapore, by another Dinapore Sub-Inspector R. Nath with a recommendation that he be not released on bail, but two days later (20-8-1951) he was released on bail. This was in Case No. 21.

7. A few days later, the police wanted him for an identification parade and so obtained orders for his re-arrest and detention by the Sub-Divisional Officer in charge of these cases on 29-8-1951. It seems that despite that he was not arrested till 17-9-1951 because an order sheet of that date in Case No. 19 reads as follows :

'As ordered the following two accused are taken into custody today: (1) Sitaram Dusadh (P. W. 2)..... They were not taken into custody as prayed by the S. I. Dinapore since they were on bail in the other case and today they appeared in Court."

The following day (18-9-1951) he was again released on bail. In his evidence Sitaram Dusadh (P.W. 2) indicates that this was on 21-9-1951 but the correct date as ascertained from the order sheet is 18-9-1951.

8. Next we turn to matter which is controversial. According to Sitaram Dusadh (P.W. 2), when he was arrested on 17-9-1951, the appellant said to him that he had not seen him after he was released on bail and that he should do so. The suggestion is that this was a hint that he should pay the appellant some money to secure his release.

But the curious part of this portion of the story is that Sitaram Dusadh was under arrest when this was said and was under the control of the appellant. He was not a free agent and the appellant could have sent for him or interviewed him at any time he (the appellant) pleased. It is also to be observed that in cross-examination Sitaram Dusadh, speaking of the incident of 3-10-1951, to which we shall presently refer, said :

"Except on that day I had no talk with the S. I. of Police accused or with any other police officer about the bribe."

Reading the two statements together we do not think that this was an invitation for a bribe or that it was so understood by Sitaram Dusadh and in fact we do not think the appellant said anything of the sort,

9. Next follows a significant fact which is admitted by both sides. The Dy. S. P. of Dinapore (P.W. 7) tells us that on or about this very date the appellant "reported to me that he had received information from his spy that one intrigue was going on in Khagaul against him and other police officers", apparently because of these two Dinapore dacoity cases which he was investigating. It is evident that police officers who try to break up a large gang of dacoits are bound to be unpopular with the gang and their friends and with those who back them. Their unpopularity will not be any the less if the persons they suspect are in fact innocent. So the appellant's fears that trouble against him was brewing cannot be brushed aside as groundless. In any- case, he told his superior officer that this was what he had heard, and what he feared, just about the time he was making

arrangements for rounding up the suspects, including Sitaram Dusadh (P.W. 2), for an identification parade.

10. Turning back to Sitaram Dusadh (P.W. 2), he tells us that two days-after the date of his release (that would be 20-9-1951) he went to the Dinapore Police Station and met the Assistant Sub-Inspector of Police and asked him why he was being arrested again and again when he was innocent. The appellant was in the Police Station at the time but neither asked to see the other and there was no hint or suggestion of a bribe by anyone, If what Sitaram Dusadh says the appellant told him on 17-9-1951 was actually said and was intended to be a hint, no attempt was made to follow it up by any one of the parties concerned.

11. This differs from the statement made in the letter which Sitaram Dusadh sent to the Anti-Corruption Department on 17-10-1951. There he said that the Assistant Sub-Inspector said to him on this occasion that the appellant had asked the Assistant Sub-Inspector why Sitaram Dusadh came to him "empty handed." This was not repeated in evidence and we again stress the fact that Sitaram Dusadh was emphatic in his cross-examination that except on 3-10-1951 "I had no talk with the S. I. of Police or any other police officer about the bribe"

We can only proceed on the evidence given on oath in the witness box and not on the statement made in the letter.

12. Sitaram Dusadh (P. W. 2) next tells us that after he had protested his innocence to the Assistant Sub-Inspector on 20-9-1951 he went to see his friend Hiralal Parnat (P. W. 5) and told him "what he had told the Assistant Sub-Inspector. Hiralal Parnat advised him "to see the S. I. of Police personally and to request him to do the needful as I was being immensely harassed by the Police and he also told me to settle up if any money was demanded by him from me"

13. Now it will be seen from this sequence of events that the first real hint or suggestion about a bribe emanated from Hiralal Parnat (P.W. 5) and not from the police officers. This is significant when taken in conjunction with the appellant's complaint to his superior officer, the Dy. S. P. (P. W. 7), that there were people in Dinapore who were conspiring to get him into trouble.

14. It will be relevant at this stage to pause for a moment and investigate Hiralal Parnat (P. W. 5). He calls himself a businessman but it turns out that he is a journalist. He also boasts about his local influence and says that he has "got access and familiarity with big Congressmen and also with the Hon'ble Ministers of his province"

He has taken an unusually keen interest in this case and in the dacoity charges against Sitaram Dusadh, P. W. 2. He says that Rs. 200/- to Rs. 250/-were collected locally to defend Sitaram Dusadh but says that he had no hand in those collections. He admits that he attended some of the Court hearings and on one occasion came with Rs. 5/- as his contribution towards the defence. He also admits that he spent his own money for attending these hearings in the dacoity cases and that on another occasion he paid not only his own railway fare but also that of Sitaram Dusadh. He

admitted that--

"I was very much aggrieved at the arrest of P. W. Sitaram Dusadh. I was also very much annoyed with the actions and acts of the police because P. W. Sitaram was innocent in the cases."

We have seen the shape that one phase of his annoyance took : to advice Sitaram Dusadh to go to the appellant and offer him a bribe when up to that time no one else had made any such suggestion.

15. We now proceed from the 20th, when Hiralal Parnat (P. W. 5) advised Sitaram Dusadh to bribe the appellant, to the 22nd when Sitaram Dusadh says he followed up his friend's suggestion. He says that two days later he went to the Police Station and met the Assistant Sub-Inspector and the appellant. The appellant then openly asked for a bribe and said that in cases of that kind people paid Rs. 1,000/- to Rs. 2,000/- to the police.

16. On hearing this, Sitaram Dusadh went back to his friend Hiralal Parnat for further advice and told him what had happened but neither Sitaram Dusadh nor Hiralal Parnat tells us what Hiralal then advised.

17. From here we proceed to narrate some further facts which both sides accept. On 27-9-1951 the investigating officer in Khagaul Case No. 9 asked that certain accused, including Sitaram Dusadh (P. W. 2) who was on bail, in Dinapore Case No. 21 be detained. The Magistrate ordered them to be taken into custody on 29-9-1951 and that was done. Sitaram Dusadh was again arrested on that date, this time in the Khagaul case. The appellant had no hand in this.

18. On the same day the senior Superintendent of Police made a report in Dinapore Case No. 21 that only four accused could reasonably be charge-sheeted though most of them would be required in Case No. 19. Sitaram Dusadh was not among the four. This report was initialled by the appellant on 15-10-1951. This meant that on 27-9-1951 the police recommended that Sitaram Dusadh be discharged in Case No. 21.

19. An identification parade was held on 30-9-1951 in Case No. 19. This was the day following the arrest in Case No. 9. No witness identified Sitaram Dusadh and so, on the same day, the appellant sent a report to the Sub-Divisional Officer and recommended his release in this case as there was no evidence against him though he added that he might be wanted in the Khagaul case. But that has no significance because Khagaul was outside the appellant's jurisdiction and was in charge of another official.

So far as his two cases in Dinapore were concerned, the police, including the appellant, made a recommendation to the Magistrate in both cases that Sitaram Dusadh (P. W. 2) be discharged. This is hardly the conduct of a man who has demanded, and presumably hoped to receive, at least a Rs. 1000 as a bribe, for that is the sum he is said to have demanded on 22-9-1951.

20. This recommendation was put up before the Sub-Divisional Officer on 1-10-1951 and he said it would be considered on the date fixed (18-10-1951). But on the same day (1-10-1951) he released Sitaram Dusadh on bail in the Khagaul Case (No. 9) and either on that or the following day in the two Dinapore Cases (Nos. 19 and 21). Anyway, Sitaram Dusadh was free on 2-10-1951. We think it unlikely that Sitaram Dusadh, who must have been present in Court, as he was under arrest, did not know on the 1st and 2nd why he was being granted bail and did not know of the recommendation for release made by the appellant, especially as it was made in open Court.

21. We now go back to Sitaram Dusadh's story. According to him, after he was released (either on the 1st or the 2nd), he went to the Dinapore Police Station on 3-10-1951 with Hiralal Parnat (P. W. 5) and saw the appellant who demanded Rs. 1000/- to Rs. 2000/- but ultimately settled for Rs. 100/- for himself and Rs. 25/- for the Assistant Sub-Inspector. The witness says--

"and it was agreed between me and Mm that I would be let off if I paid the same amounts to him."

Sitaram Dusadh still protested, but he says that the appellant told him that if he did not pay he would have to go to jail. Hiralal Parnat (P. W. 5) accompanied him and Hiralal says that "I told Mm that we would make arrangement for the same." This is the examination-in-chief. But in cross-examination both witnesses go back on their stories and both are emphatic that there was never any agreement to pay anything and that on the contrary they point blank refused to pay. Thus, Sitaram Dusadh (P. W. 2) says that first he talked with the Assistant Sub-Inspector.

"I had talked with him... for about two minutes only about the bribe when he demanded and to which I refused. P. W. Hiralal Parnat was also present."

Then they went in and saw the appellant, and P. W. 2 says--

"I also told Mm that I will not pay the bribe to him... I never agreed to pay any bribe nor was there any idea in my mind to pay it to the accused or to any police officer."

22. Hiralal Parnat (P. W. 5) is equally emphatic. First of all, he contradicts what he had said in his examination-in-chief and said--

"I did not take any part in the said talk or in the said transaction", and then said--

"P. W. 2 Sitaram Dusadh had told in my presence during the course of the talk that he would not pay the amount as bribe under any circumstances."

23. Having made this decided and emphatic refusal Sitaram Dusadh (P. W. 2) says the two of them returned home and, naturally, no further details were discussed. Therefore, no assignation was arranged and no date, time, place and mode of payment for payment of the bribe was fixed.

24. Now, standing by itself it would have been difficult for any Court to accept this evidence. Consider the facts. The appellant was directed by his superior officer to make the investigation. He

acted in the ordinary course of his duties and not only is there no evidence of harassment but we know that the moment the witnesses failed to identify P. W. 2 at the parade the appellant at once recommended their discharge from the only two cases he was investigating.

From 17-8-1951 down to 20-9-1951 there was no hint or suggestion of a bribe from any of the police officers. The idea originated with Hiralal Parnat (P. W. 5) and, strangely enough, just about this time the appellant reported to his superior officer that there was an intrigue on foot against him by persons who were trying to get him into trouble because of the investigation in these very cases.

Then, on 22-9-1951, Sitaram Dusadh and his friend Hiralal Parnat go to the police station of their own accord and without any invitation from the police, and without any thought of offering a bribe despite the advice of Hiralal Parnat on the 20th, but suddenly a bribe is demanded as if in telephatic answer to the thoughts of Hiralal Parnat; but the demand is firmly rejected and the two friends at once walk away and go home. The learned trying Magistrate has examined their evidence in greater detail and has given strong reasons for showing how untrustworthy they are.

25. Now to proceed with the evidence. Sitaram Dusadh (P. W. 2) says that on or about 11-10-1951 the appellant sent a head constable to him and asked him to come and see him. But as this information is not included in the first information report given by Sitaram Dusadh on 17-10-1951 and as neither Court has relied on it we can ignore it.

26. On 15-10-1951 the appellant initialled the recommendation of the senior Superintendent of Police that Sitaram Dusadh could not be reasonably charge-sheeted in Case No. 21.

27. Two days later, 17-10-1951, Sitaram Dusadh accompanied by Hiralal Parnat (P. W. 5) went to K. N. Chatterjee (P. W. 1) of the Anti-Corruption Department and then things moved swiftly. Whether it was the fear of Hiralal Parnat with his boasted backing of big Congressmen and Ministers, or whether it was just the inherent efficiency of the local officials, they certainly "hustled".

To start with, Chatterjee (P. W. 1) says that Hiralal Parnat came to him early in October and complained that the appellant was harassing his friend Sitaram Dusadh and implicating him in several dacoity cases with a view to extort money from him. Chatterjee told him to bring Sitaram Dusadh to him in person. It is curious that despite this Hiralal Parnat should not have taken Sitaram Dusadh to see Chatterjee before 17-10-1951 or even suggested that he should make a complaint, Sitaram Dusadh is clear about this and says that "prior to 17-10-1951 I had never gone to any officers of the Anti-Corruption Department at any place and prior to this date none had asked me to file report about it."

28. Sitaram Dusadh (P. W. 2) and Hiralal Parnat (P. W. 5) went to Chatterjee at 8 a. m. on the 17th. He examined Sitaram Dusadh and at once took them both to Mukherjee (P. W. 3), the Deputy Secretary of the Anti-Corruption Department, in his jeep. Mukherjee thereupon examined Sitaram Dusadh and got him to write down his statement and he then deputed Chatterjee to "do the needful in the matter" and also to contact the District Magistrate of Patna for the deputation of a Magistrate. This was done and I. K. Saran (P. W. 4) was deputed.

29. Next the usual formalities about noting the numbers of the notes to be used in the trap were gone through and at 5 or 6 p. m. the party set out for the Dinapore Police Station in a car and a jeep. Sitaram Dusadh and Hiralal Parnat went with the Magistrate Saran in his car and Mukherjee and Chatterjee followed in a jeep. Mukherjee (P. W. 3) says that he deputed Hiralal Parnat to find out where the appellant was "and ascertain from him when he would take the money."

Hiralal discovered that the appellant was at a meeting of the Socialist Party in the D. A. V. School in plain clothes. So, after the officials had changed into mufti, all proceeded to the school. Sitaram Dusadh and Hiralal Parnat sat close to the appellant and the three officers mingled with the crowd, Chatterjee and Saran keeping together with Mukherjee a little behind them.

30. Shortly after Sitaram Dusadh and Hiralal-Parnat took their seats and while the meeting was still in progress, Sitaram Dusadh says that "I went to the S. I. Police and saluted him and told him I had come, on winch he asked me to wait. After this we again went and sat at the same place."

Chatterjee (P. W. 1) improves on this and says he saw Sitaram Dusadh tender something to the appellant.

31. When the meeting was over and the crowd began to disperse --there is only one exit so they all made for that--Sitaram Dusadh and Hiralal Parnat went close up to the appellant : Hiralal says "in close contact", Sitaram says "one span"; and the three officials closed in on them too. Chatterjee (P. W. 1) says that they were "just behind" and that there was no one between them. Mukherjee (P. W. 3) says he was "immediately behind" Chatterjee. Saran says he followed "one step" behind the appellant and that Mukherjee was "two steps" behind."

32. There was considerable argument before us about the state of light. Hiralal Parnat (P. W. 5) says--

"There was no bulb light or any light at the place where the money was paid nor was there also near about it. The lights were only near the gate or at the place where the President of the meeting was sitting,"

but he says that there was enough light for all the faces to be visible. Saran, (P. W. 4) says--

"I swear that there was sufficient light for me to see that they were notes as I was immediately behind the accused at that time." If this was so, there was obviously light enough for people to recognise one another. The point of this is that Saran tells us that "The S. I. of Police looked backwards for a while and then I saw Sitaram 'Dusadh passing on G. G. Notes in the left hand of the accused who quickly put them in the left bottom pocket of his Kurta."

33. Now the appellant knew at least two of these officers and it is evident that he was exercising caution before taking the bribe and looked behind him for that purpose. We find it very difficult to

believe that he would not have recognised those officials when they were only one and two paces behind him. Their disguises did not extend to their faces and when a person is only one or two paces away in a crowd it is his face that attracts attention and not his clothes.

34. As regards the actual handing over of the money, Sitaram Dusadh says that when they were leaving, the appellant asked him whether he had brought the money and on his saying 'yes' he asked him to go over to his left side and put the money into his left hand. This also is a curious question from a man who could hardly have been expecting a bribe after the emphatic refusal of them both to pay him one and when he knew that he could no longer do anything to them because he had already recommended their discharge on the ground that there was no evidence against them and when, so far as he knew, they must have known that fact also because Sitaram Dusadh was released on bail on the strength of the police recommendations made in open Court on 1-10-1951.

35. Another curious feature is that Hiralal Parnat (P. W. 5) gave the pre-arranged signal of lighting a bidi when the money was handed over. This seems strange if the three officials were only one and two paces behind. And another point is that Sitaram Dusadh and Hiralal Parnat bolted from the scene as soon as the notes changed hands, Sitaram says he cannot give any reason why they did that and Hiralal says they left "without any rhyme or reason."

36. We need not travel further than this, for we have said enough to indicate that the whole affair was most unusual, There is however one more comment which we wish to make. It will be seen that Sitaram Dusadh did nothing between 3-10-1951, when the bribe is said to have been demanded, and 17-10-1951 when it is said to have been paid, but on the 17th events moved at almost breakneck speed. It is perhaps significant that when the appellant recommended their discharge in open Court on. 1-10-1951 the Magistrate fixed the next date for 18-10-1951. It is evident that if the matter had been delayed for another day it might have been too late.

37. Now, whatever the truth of this tale may be, it is evident from the prosecution case that this was not a case of laying a trap, in the usual way, for a man who was demanding a bribe but of deliberately tempting a man to his own undoing after his suggestion about breaking the law had been finally and conclusively rejected with considerable emphasis and decision.

Whatever the criminal tendencies of a man may be, he has a right to expect that he will not be deliberately tempted beyond the powers of his frail endurance and provoked into breaking the law; and more particularly by those who are the guardians and keepers of the law. However regrettable the necessity of employing agents provocateurs may be (and we realise to the full that this is unfortunately often inevitable if corruption is to be detected and bribery stamped out), it is one thing to tempt a suspected offender to overt action when he is doing all he can to commit a crime and has every intention of carrying through his nefarious purpose from start to finish, and quite another to egg him on to do that which it has been finally and firmly decided shall not be done.

The very best of men have moments of weakness and temptation, and even the worst, times when they repent of an evil thought and are given an inner strength to set Satan behind them; and if they do, whether it is because of caution, or because of their better instincts, or because some other has

shown them either the futility or the wickedness of wrongdoing, it behoves society and the State to protect them and help them in their good resolve : not to place further temptation in their way and start afresh a train of criminal thought which had been finally set aside. This is the type of case to which the strictures of this Court in Shiv Bahadur Singh v. State of Vindhya Pradesh, (A) apply.

38. The learned trying Magistrate disbelieved the story about the demand on the 3rd October and reached the conclusion that the notes were planted on the appellant in pursuance of a well planned conspiracy, and he suggests that the officials were duped by Hiralal Parnat (P. W. 5) and that in their zeal to catch the appellant they have not been too careful either in what they did or what they said. There can be no doubt that there were many irregularities in the investigation which followed and even the High Court has been constrained to remark that at least one part of their conduct was "unfortunate".

39. Now we are dealing here with a case in which the High Court has interfered with an acquittal. The law about this has been laid down repeatedly and it is needless to say that no modification of what was said in. Narayan Ittiravi v. State of Travancore-Cochin, (B), Wilayat Khan v. U. P. State, (C), Surajpal Singh v. The State, (D), and Sheo Swarup v. King-Emperor, AIR 1934 PC 227 (2) (E) is intended here. But the presumption of innocence still remains and the fact that one Court has doubted or disbelieved the evidence strengthens the hands of the accused. It behoves the High Court in such cases to furnish strong reasons why the benefit of the doubt should not go where it has already been placed in the lower Court.

40. In considering the story about the demand for Rs. 1,000/- and ultimate acceptance of Rs. 100/-, the learned trying Magistrate twice stressed the fact that both Sitaram Dusadh (P. W. 2) and Hiralal Parnat (P. W. 5) are definite in their cross-examination that the demand was firmly and flatly rejected. The High Court do not get to grips with this at all and merely say that even though Sitaram Dusadh might have been unwilling to pay, the appellant could still hope that he might at some future time be able to compel it. But that is hardly the point.

The fact is that the witnesses, after saying that there was a definite settlement, go back on it and are emphatic in the end that there was never any agreement. The High Court think, in connection with two other contradictions of a like nature regarding the same incident, that there must have been either a slip on the part of the witnesses or a mistake in the recording of the statement because, in the case of Hiralal Parnat (P. W. 5), "it cannot seriously be urged that he meant to go back in this fashion on the very story which he had come into the witness box to support"; and in the case of Sitaram Dusadh (P. W. 2) --

"As I have observed in the case of Hiralal there is nothing to suggest that Sitaram was going back on the case that he had made out from the very beginning".

But it was seriously urged, and what is more, the Magistrate who recorded the evidence and heard the witnesses did not think there was any slip. He relied on this very strongly and we also are unable to regard it as lightly as the learned High Court Judges; nor are we able to dismiss as trivial the circumstance that the appellant had already recommended the discharge of Sitaram Dusadh from

the two dacoity cases, a fact which the High Court accepts.

41. What really seems to have weighted the scales in the High Court against the appellant is the fact that the learned Judges felt that they could not disbelieve the three official witnesses. But they have not weighed the fact that there is such a thing as over-zealousness even in responsible officials. Take Chatterjee (P. W. 1) for example. When telling us what occurred during the meeting he says --

"After a while I noticed that Sitaram Dusadh went and approached the said S. I. of Police and tendered to him something." This is nobody's case, and Sitaram Dusadh and Hiralal Parnat who were directly concerned do not support anything of the kind. All that Sitaram Dusadh says they did was that "I went to the S. I. of Police and saluted Mm and told Mm that I had come on which he asked me to wait."

If this witness can draw on his imagination to see a wholly imaginary tender which never took place he can just as easily do so when he says that he saw the handing over of the notes.

42. Then take Saran (P. W. 4). He says --

"At the time P. W. Sitaram gave the notes to the accused they looked folded up.....I swear that there was sufficient light for me to see that they were notes as I was immediately behind the accused at that time." That is an evident exaggeration because the notes could hardly have been flourished in a large crowd as flagrantly as that without arousing the appellant's suspicion.

43. There is another important point on which the High Court have slipped up. They say --

"There is, besides, another consideration, namely, that if we are to believe these witnesses they were immediately behind Ramjanam Singh and close to him. He would, therefore, be unlikely to see them unless he turned round and looked directly behind him. In the circumstances of the case before us it is extremely unlikely that he would do so. He would not want to make himself conspicuous."

With all due respect to the learned High Court Judges, we think that that is just what a man would be likely to do in a case like that. He would want to make sure that he would not be caught. But apart from that, Saran (P. W. 4) says that that is exactly what the appellant did do. He says that before taking the notes the appellant "looked backwards", with, not merely a passing glance, but "for a while".

44. In our opinion, the High Court has not displaced the conclusion of the learned trying Magistrate that this is a case of careful conspiracy against the appellant in which the notes were planted on him and in which the three Government officials have been misled and duped by Sitaram Dusadh and Hiralal Parnat and that their zeal outrunning their discretion led them to draw on their imagination for facts which they believed must have occurred and thus induced them to touch up their stories just enough to make what they honestly believed to have been the fact fool-proof in the witness box.

This is not to say that we hold this to be the fact because that is not our function.

We are only deciding whether the High Court has given true effect to the principles which must guide a Court in an appeal against an acquittal. In our opinion, the reasons given by the High Court are not enough to justify the setting aside of the acquittal. The strong presumption of innocence and the doubts which the numerous circumstances to which we have adverted and which are given in greater detail in the first Court raise have not been displaced.

45. We allow the appeal and set aside the conviction and sentence.