Supreme Court of India
Ram Prakash Singh vs State Of Bihar on 24 October, 1997
Author: S.P.Kurdukar
Bench: M.M. Punchhi, S.P. Kurdukar

PETITIONER:
RAM PRAKASH SINGH

Vs.

RESPONDENT:
STATE OF BIHAR

DATE OF JUDGMENT: 24/10/1997

BENCH:
M.M. PUNCHHI, S.P. KURDUKAR

ACT:

HEADNOTE:

JUDGMENT:

THE 24TH DAY OF OCTOBER, 1997 Present:

Hon'ble Mr.Justice M.M.Punchhi Hon'ble Mr. Justice S.P.Kurdukar U.R.Lalit, Sr.Advs. A.Sharan, A.P.Singh, Advs. with him for the appellant.

H.L.Aggarwal, Sr.Adv. (Kunwar Rajesh Singh) Adv. for B.B. Singh, Adv. with him for the Respondent.

J U D G M E N T The following Judgment of the Court was delivered: S.P.KURDUKAR, J.

This Criminal Appeal by Special Leave is filed by the appellant (accused) challenging the judgment and order of his conviction and sentence passed by the Special Judge, C.B.I., Patna, and on appeal confirmed by the High Court of Patna for offences punishable under Sections 120-B read with 420 IPC read with 5(1)(d) of the Prevention of Corruption Act: 420/511 IPC, 468, 477-A IPC; 4(3A)/5(1)(d) of the Prevention of Corruption act punishable under Section 5(2) of the said Act and under Section 104 of the Insurance Act. The appellant was sentenced for various terms of RI on all these counts and the maximum sentence was being two years. All offences in question were alleged to have been committed by the appellant in 1974.

2. The appellant at the relevant time was working as Development Officer in the Life Insurance Corporation of India (for short 'LIC') Dil Narain Singh who was co-accused was also working with LIC as Assistant Branch Manager, Patna. It was alleged by the prosecution that both these accused hatched a criminal conspiracy and in pursuance thereof introduced some false and take insurance proposals to the Corporation in the name of non-existing person as also without the knowledge and consent of the insurer in order to ear undue credit and promotions in the LIC on the basis of their inflated business.

3. The three proposals introduced by the appellant were the subject matter of criminal trial. (1) The proposal No. 10/913/518 (Ex.6) on the life of Sanjay Prasad son of Ganesh Prasad for a sum of Rs. 2.5 lacs, (2) the proposal No. 107705/518 (Ex.6/1) on the life of Suresh Chandra Bajaj, a non-existent and fictitious person for a sum of Rs. 2 lacs and (3) proposal No. 109417/518 (marked x/3) on the life of Sanjay Kumar son of Gulzarbagh for a sum of Rs. one lac. In the appeal, we re however concerned with the proposal Nos. 1 and 2. It was alleged by the prosecution that proposal No. 107913/518 (Ex.6) on the life of Sanjay Prasad under guardianship of father Ganesh Prasad (PW 10) was for a sum of Rs. 2.5 lacs. The said proposal was introduced without the knowledge and consent of Ganesh Prasad and a signature on the proposal form was forged one. This proposal was faked one. The proposal form (Ex. 8/1), the Moral Hazard Report (Ex.7), the personal statement regarding the health were forged by the appellant, Ganesh Prasad (PW 10) disowned the proposal and signatures thereon. The first premium cheque of Rs. 4575/- drawn on account No. 20/3 on Allahabad Bank was dishonoured for want of sufficient funds. The second cheque of Rs. 4100/- on Punjab National bank was also dishonoured. Since both the cheques towards the First premium were dishonoured, the insurance policy was not issued.

4. The second proposal No. 107705/518 (Ex. 6/1) was in the name of a fictitious person Suresh Chandra Bajaj For Rs. 2 lacs. This proposal was written by the appellant and the signature of a fictitious person purported to be of Bhagwandin Bajaj was also forged. Chinta Kumari was the agent of this proposal. The cheques towards the first premium were dishonoured and accordingly the insurance policy was not issued. It was averred by the prosecution that the dishonoured cheques were issued by the appellant. The introduction of the proposals and Moral Hazard Reports were prepared by the appellant and Dip Narain Sing knowingly that both these proposals were fake. This was done by them with a view to show the inflated business and earn promotions. The LIC after coming to know about these proposals, lodged the FIR against the appellant and Dip Narain Singh. After Completing the investigation, the appellant and Dip Narain Singh were put up for trial for the aforesaid offences.

5. The appellant denied the allegations levelled against him and pleaded that he did not commit any offence of cheating, forgery or prepared the fraudulent documents. he was falsely implicated in the present crime at the behest of Mr. J.P. Shah, the superior officer in the LIC at Patna who was not having good equation with him. While imparting training to the Insurance Agents, he was required to fill in the forms and while doing so, he had filled in the proposal forms which were rough work, Somebody without his knowledge submitted these proposals to implicate him in the present crime. He further states that there was neither any loss to the Corporation nor any pecuniary gain to him from these proposals. He pleaded that he was innocent and he be acquitted.

6. The prosecution in support of its case examined 24 witnesses including the hand writing expert and produced on record the original proposal forms in respect of these two proposals. The appellant examined five witnesses in support of his defence.

7. The Special Judge, Patna, after scrutinizing the oral and other documentary evidence on record by his judgment and order dated December 10, 1990, convicted the appellant for the charged offences and sentenced him on each count for various terms of sentences maximum being three years. All substantive sentences wee ordered to run concurrently. The criminal appeal filed by the appellant before the High Court of Patna was dismissed but, however, the High Court substituted the sentence of three years RI to two years RI. Subject to this modification, the appeal was dismissed. It is against these two concurrent judgments, the appellant has filed this appeal in this Court.

8. We have gone through the judgment of the courts below very carefully and other materials on record. The High Court in its exhaustive judgment has discussed threadbare all the points very carefully and concluded that the judgment and order passed by the Special Judge did not call for any interference subject to reduction of sentence as indicated above. All sentences were ordered to run concurrently.

9. It was contended on behalf of the appellant that the prosecution had failed to prove that the appellant had forged the signatures on these two proposals. The hand writing expert had also opined that the signatures on both these two proposals could not be conclusively said to be that of the appellant. In this view of the matter, it was urged that the appellant could not have been convicted either under Section 420 or under Sections 68, 4/1 or 477A simplicitor or with the aid of Section 120-B IPC. This submission is without any substance because the proposal No. 107705/518 (Ex.6/1) was admittedly in the name of anon- existent person. It was not seriously challenged before us on the basis of the opinion of the hand writing expert that the contents of this proposal were in the hand writing o the appellant, although the signature could not be proved to be in the hand writing of the appellant. This proposal was introduced by chinta Kumari, the agent. Admittedly, the appellant had submitted a Moral Hazard Report under his own signature. It is true that Chinta Kumari, the agent who sponsored this proposal was not examined. This factor was also taken into account by the courts below. The defence of the appellant was that he was then imparting training to the newly recruited agents and in that process, he had filled in the proposal forms. It was a rough work which was not to be used for any purpose much less for sponsoring the proposal. As regards the defence plea of training to be given by Development Officer (the appellant) to the newly recruited agents, both the courts below have concurrently held that it was never the practice nor it was obligatory upon the appellant to give such training nor Fill in the proposal forms. The High Court in its judgment has extensively dealt with this issue and after discussing the evidence of K.S.S.Sinha (PW 4) and other materials on record held that the claim of appellant that he was giving training to the newly recruited insurance agents could not be accepted. We are in agreement with this finding. There was not denial on behalf of the appellant that he had submitted the Moral Hazard Report. The said report did mention the fact that insurer Suresh Chandra Bajaj was a living person at the time of proposal. It could not be accepted that the appellant had made no inquiries about the existence of the insurer. it was, therefore, rightly held that it was a deliberate attempt on the part of the appellant and also a part of conspiracy to introduce such fake proposal with a view to inflate the insurance

business and earn the promotion.

10. As regards proposal No. 107913/518 (Ex.6) on Sanjay Prasad son of Ganesh Prasad, it was found by the courts below that Ganesh Prasad (PW 10) had never consented to such proposal. He, however, admitted that he had issued the cheque for the premium but according to him, he was told by the appellant that this premium was in respect of his own policy. It was contended on behalf of the appellant that Ganesh Prasad (PW 10) had given his evidence in the departmental enquiry stating that he consented to the said policy and on the basis of this evidence, the appellant was exonerated. As against this, in the present trial, Ganesh Prasad pw 10) had given a contrary statement. Taking clue therefrom, if was urged that the evidence of Ganesh Prasad be rejected. We have gone through the evidence of Ganesh Prasad (PW 10). We find that the explanation given by him was acceptable and the courts below have committed no error in accepting his evidence as credible one.

11. It was then contended in support of this appeal that there was no loss to the Corporation since the insurance policies were not issued. It was also urged that the appellant also did not gain any benefit out of these proposals. It is true that policies were not issued and, therefore, no benefit as such was accrued to the appellant but the LIC had led evidence before the Court to show that the Corporation had to spend money on stationery as well as the clearance charge etc. It was in these circumstances, the High Court had held that there was a loss, might be negligible, to the Corporation but the fact remains that the appellant sought to take advantage of his inflated business for the year 1974. We are in agreement with this finding.

12. It was then contended for the appellant that there was no valid sanction to prosecute the appellant. To be more precise, the contention was that the letter of sanction produced on record suffers from non-application of mind to the materials placed before the sanctioning authority. We see no substance in this contention also because sanctioning authority after considering the materials on record accorded the sanction to prosecution the appellant.

13. It needs to be emphasised that the appellant being a Development Officer owed a grater responsibility to the LIC as well as to the clients and any such faked or forged proposals bound to harm the reputation of the LIC. It is in these circumstances, in our opinion, the courts below were right in convicting the appellant for the offences for which he was tried.

14. Coming to the question of sentence, it needs to be noted that the occurrence took place some time in 1974 and the charge sheet was filed in the year 1977. More than twenty years have passed. Besides this, by reason of conviction, the appellant may loose his job and other retrial benefits, if any. From the judgment of the trial court, it appears that the appellant was then 44 years old. By now, he might have been superannuated or likely to be superannuated. Bearing in mind the passaged of time, we are of the opinion that in the facts and circumstances of the case, ends of justice would be met if the sentence awarded to appellant is altered to simple imprisonment for six months on each count for which he was found guilty by the courts below.

15. For the reasons recorded hereinabove, we maintain the conviction of the appellant on each count but altered the sentence to six months simple imprisonment on each count. All sentences to run concurrently. Subject to this modification in the sentence, the appeal to stand dismissed. Appellant to surrender to his bailbonds to serve out the remaining part of the sentence, if any.