

Prithivi Raj Arora @ Netaji vs Cbi on 7 November, 2007

Author: Shiv Narayan Dhingra

Bench: Shiv Narayan Dhingra

ORDER

Shiv Narayan Dhingra, J.

1. The menace of corruption has to be looked into proper perspective. Corruption cannot be considered as a trivial offence. When a defense Inspector, responsible for approving the quality of components of tanks, armed carrier and other vehicles deployed during war time, turns corrupt and procure inferior quality of components, the persons who die because of this corruption are the innocent soldiers who go to the war front fighting for the nation. When an inspector, responsible for removing squatters from the roads, turns corrupt and accepts bribe/hafta from the squatters, driving and walking on the roads becomes nightmare resulting into accidental deaths and loss of lives which could be saved had the person not been corrupt. When a health inspector, responsible for the checking of food adulteration or food being sold in open, turns corrupt and accepts bribe, the person who fell prey to his corruption are those poor persons who eat unhygienic food. When overloaded trucks go beyond control of drivers killing someone, you must be reminded of traffic inspector who turned corrupt and allowed to move the truck, when you find patients having died in hospital because of spurious drugs, you must feel the invisible hands of many involved in the spurious drug racket. When you find that the flat allotted to you has already been sold without your knowledge, you must remember a corrupt Babu in local development authority. When you find no action is taken against criminals despite FIRs, you must be reminded of corrupt police inspector. Tentacles of devil of corruption can be seen everywhere. It has crippled and reduced to naught many a schemes run for the benefit of poor, resulting into death by starvation and malnutrition of the downtrodden.

2. Prevention of Corruption Act was intended to curb this evil of corruption and bribe, but experience shows that corruption has increased manifold day in and day out and now India is considered one amongst the most corrupt nations. Supreme Court in State of M.P. and Ors. v. Ram Singh 2000 SCC (Cri.) 886 observed as under:

8. Corruption in a civilized society is a disease like cancer, which if not detected in time, is sure to malignise (sic) the polity of the country leading to disastrous consequences. It is termed as a plague which is not only contagious but if not controlled spreads like a fire in a jungle. Its virus is compared with HIV leading to AIDS, being incurable. It has also been termed as royal thievery. The socio-political system exposed to such a dreaded communicable disease is likely to crumble under

its own weight. Corruption is opposed to democracy and social order, being not only anti-people, but aimed and targeted against them. It affects the economy and destroys the cultural heritage. Unless nipped in the bud at the earliest, it is likely to cause turbulence - shaking of the socio-economic-political system in an otherwise healthy, wealthy, effective and vibrating society.

3. The instant case reveals a painful and disturbing trend of corrupt persons who even did not spare the riot victims whose nears and dears were killed in 1984 riots and properties were burnt. The Government had awarded compensation of Rs.10,000/- to these riot victims. This was enhanced to Rs.20,000/- per person. Even this compensation, which was to be paid to the riot victims, got eaten up by the corrupt persons in league with each other by hatching a conspiracy whereby fictitious accounts were opened in the name of riot victims and vouchers and challans were diverted to the benefit of accused persons. Trial proceeded and the appellant was convicted by the learned trial court for offences under Sections 420/468 and 471 read with Section 120B IPC and sentenced to RI for an overall term of 5 years.

4. This application has been preferred by the appellant for suspension of sentence during the pendency of appeal.

5. The manner in which the criminal justice system works in this country, ensures that trial takes many a years in concluding. Normally, the accused is granted bail in all corruption cases during trial, either before his arrest or after arrest or after few days of his custody. After trial, the appeals take much more number of years and the entire process, starting from the date of complaint till disposal of the appeal before the highest court, takes around 20- 25 years. After 20-25 years, when a person is finally declared as a convict by the highest court, the Court finds that at the time of commission of crime he was a bachelor or middle aged and by the time conviction is finally upheld, he has become a middle aged person, married, having children and is suffering from various ailments, it is a normal thing that 'trial' of the person is considered a period of 'agony' undergone by the him and this 'agony' is considered by the courts as part of the sentence and the real sentence awarded is the period of imprisonment already undergone, which may be a few days or a few months. We tend to forget the 'agony' of society and the fate of complainant who dared complain. The entire purpose of the Legislature of sentencing the offender stands defeated and that is the one reason why the wages of corruption are considered more attractive in this country. A corrupt man is not complained against because the giver of bribe and taker of bribe both gain advantage. It is only in rare cases where the taker of bribe becomes so bold that he starts demanding bribe without giving any unlawful advantage, even for lawful works that the giver of bribe approaches the law machinery. The person caught is not always a first- timer corrupt. He may have been indulging into corrupt activities for a long number of years. It is to his advantage that the trial is prolonged, hearing of appeals is prolonged. He spends a fraction of the amount, earned by corrupt practices on, litigations and professionals to see that ultimately he makes criminal justice system as a laughing stock. In this process, the entire legislative purpose of punishing a corrupt, stands defeated.

6. A perusal of Section 389 Cr.P.C would show that suspension of sentence during pendency of appeal is not the absolute right of the convict. The discretion to suspend the sentence vests in the

court and it is required to be exercised judicially keeping in view all facts and circumstances and the nature of offence. The Court has to exercise this discretion with utmost care and caution, balancing one's right and liberty on one hand and the interest of the society on the other. It is for this reason that despite the presumption of innocence being there during appeal, the convicts in offences like murder, ransom kidnapping, culpable homicide, rape etc. are not normally granted bail, though some of them may get acquitted after final appeal. In the criminal justice system which we have, delays have entered for various reasons and is a fact of life. Merely because there is delay in hearing of appeals, every person convicted by the trial court is not let loose on the society.

7. I consider corruption cannot be looked upon an ordinary crime and has to be considered as serious crime eating away the national character and national wealth.

8. Looking in the act of the appellant of indulging into cheating and forgery to deprive riot victims of paltry compensation, it is not a fit case for suspension of sentence. The application is hereby dismissed.

List this appeal for hearing on 25th March, 2008.