

(2025-1)216 PLR 815 (SN) = PLRonline ID#425858

Punjab and Haryana High Court

Before: Justice Manjari Nehru Kaul.

PARVINDER JEET SINGH - Appellant(s)

Versus

STATE OF PUNJAB - Respondent(s)

CRA-S-1555-SB of 2018 *Alongwith* CRA-S-1412-SB-2018

(i) Prevention of Corruption Act, 1988 (49 of 1988), Section 13(1)(d)(ii) — Indian Penal Code, 1860 (45 of 1860), Section 120-B — Criminal Conspiracy - Burden of Proof - Meeting of Minds - In a prosecution under The Prevention of Corruption Act, especially in a case of alleged criminal conspiracy, the prosecution is duty bound to prove by cogent, credible, and admissible evidence that the accused persons had a meeting of minds and participated in a common design - A conspiracy must be established by evidence of agreement and not merely by inference from disconnected circumstances - Section 120-B of the IPC cannot be invoked without establishing any overt act, link, or common intention. [Para 14, 16, 17]

(ii) Prevention of Corruption Act, Sections 13(1)(d)(ii) and 20 - Presumption - Demand and Acceptance - In the absence of demand and acceptance, the presumption under Section 20 of the P.C. Act does not arise and conviction cannot be sustained - Court cannot shift the burden on the appellants to prove their innocence when there is no prima facie case against them. This reversal of burden, in a trial under Section 13(1)(d)(ii) of the P.C. Act and Section 120-B of the IPC, where prosecution has not discharged its primary burden is not permissible in law. [Para 18]

(iii) Prevention of Corruption Act, 1988 (49 of 1988), Section 13(1)(d)(ii), 20 — Indian Penal Code, 1860 (45 of 1860), Section 120-B - Presumption - Reversal of burden — Acquittal - Association or Presence - Misappreciation of Evidence - The mere association or presence of a person in a place where a crime is committed does not ipso facto establish participation or conspiracy - Where the prosecution fails to prove any overt act, either of demand or acceptance of illegal gratification, against the appellants and there is no evidence to suggest any conspiracy involving the appellants with the main accused, the trial Court's conviction based on misappreciation of evidence and unwarranted inferences contrary to settled principles of law must be set aside and the appellants acquitted. [Para 18, 19]

Mr. Anand Chhibbar, Senior Advocate with Mr. P.S. Guliani and Mr. Utkarsh, Advocates for

the appellant (in CRA-S-1555-SB-2018). Mr. Vikas Bali, Advocate for the appellants (in CRA-S-141-SB-2018). Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

Manjari Nehru Kaul, J. - (03.05.2025) - The present appeals are directed against the judgment of conviction and order of sentence dated 23.03.2018 passed by learned Special Judge, Ludhiana, whereby the appellants Parvinder Jeet Singh and Bhim Singh, have been convicted and sentenced as follows:

Offence under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
13(2) of the P.C. Act.	RI for two years	Rs.1,000/-	Imprisonment for 15 days.
120-B of the IPC	RI for one year	Rs.1,000/-	Imprisonment for 15 days.

2. The conviction of the appellants is premised on the finding that they, being public servants, conspired with co-accused Bunty Kumar to obtain illegal gratification from aspirants of registration of sale deeds, thereby abusing their official position.

CASE OF THE PROSECUTION IN BRIEF:

3. The prosecution case was initiated on the complaint of Neeraj Rattan, alleging that on 04.04.2013, he visited the office of the Sub Registrar (West), Ludhiana, for registration of a sale deed pertaining to a plot measuring 75 square yards at Flower Enclave, Ludhiana. There he was approached by one Bunty Kumar, who claimed to be the Lambardar of Village Sunet and acted as an agent in the Sub Registrar's office. Bunty Kumar allegedly informed the complainant that he had been deputed by the Tehsildar and was authorized to append codes on registration documents and collect ? 2,000/- from each buyer for smooth registration. The complainant, while pretending to agree, reported the matter to the Vigilance Bureau.

4. A trap was laid on 05.04.2013. Phenolphthalein powder was applied to the tainted currency notes, and shadow witness Kirandeep Singh accompanied the complainant. Upon the pre-arranged signal, the raiding party apprehended Bunty Kumar with Rs.43,150/- including tainted notes. Additional sums were allegedly recovered from his vehicle and a concealed locker in the office of Tehsildar. On investigation, Tehsildar Arvindarpal Singh and Clerks Parvinder Jeet Singh and Bhim Singh were arraigned as co-accused. However, sanction to prosecute Tehsildar Arvindarpal Singh was not accorded; challan was, however, presented against Parvinder Jeet Singh, Bhim Singh and Bunty Kumar. Charges under Section 120-B of the IPC and Section 8 of the P.C. Act (against Bunty Kumar), and Sections 13(1)(d)(ii) and 13(2) of the P.C. Act against Parvinder Jeet Singh and Bhim Singh were framed,

5. The prosecution examined 13 witnesses, including the complainant, who deposed as PW-1, PW-2 Kirandeep Singh, shadow witness, and the Investigating Officer DSP K.D.

Sharma, who deposed as PW-12. The prosecution also tendered documentary evidence. After closure of prosecution evidence, the accused were examined under Section 313 of the Cr.P.C. Both the appellants denied the allegations and claimed false implication. In defence, DW-1 Devinder Bawa and DW-2 Manjit Singh were examined by the appellants.

6. The learned trial Court, while acquitting the appellants of the charge of actual receipt of illegal gratification, convicted them for criminal conspiracy and misconduct as public servants under Section 13(1)(d)(ii) of the P.C. Act read with Section 120-B of the IPC and Section 13(2) of the P.C. Act.

SUBMISSIONS ON BEHALF OF APPELLANT PARVINDER JIT SINGH:

7. It was contended by the learned counsel that the trial Court grossly erred in convicting the appellants despite complete absence of allegations or evidence against him. The learned counsel in particular drew the attention of this Court to the following extract from the deposition of the complainant:

"I do not know accused Parvinder Jeet Singh. He never demanded any illegal gratification from me nor I ever met him. He has no concern whatsoever with this case."

8. It was submitted that all the accused had been made scapegoats to save the Tehsildar. Learned counsel further submitted that PW-2 Kirandeep Singh, shadow witness, admitted that the appellant was not present at the spot on the day of the raid and did not deny the suggestion that the appellant had gone to the High Court on official duty. This fact was conclusively established through DW-2 Manjit Singh, who produced official records (Exhibit DW2/A) from the office of the Advocate General, Punjab, confirming the presence of the appellant there for vetting reply in CWP No.7215 of 2012.

9. It was further argued that the Investigating Officer DSP K.D. Sharma PW-12, also conceded that no complaint had been received against the appellant from the complainant or any other person. The prosecution failed to prove any connection between the appellant and the alleged bribe, recovery or even the co-accused. The learned counsel asserted that the trial Court, while acknowledging absence of any demand or acceptance, convicted the appellant solely on conjecture and surmise.

SUBMISSIONS ON BEHALF OF APPELLANT BHIM SINGH:

10. Learned counsel for appellant-Bhim Singh argued that the appellant was a Receipt Clerk (RC-II), whose role commenced only after the completion of registration. The prosecution could not prove that he was involved in any stage of demand, acceptance or facilitation of bribe. His presence at the scene on the date of raid was itself doubtful as he was on half-day leave, which the prosecution did not rebut.

11. Learned counsel argued that the only reason for his implication was the alleged recovery of registered documents (wasikas), bearing his initials from co-accused Bunty Kumar. However, the prosecution failed to examine any of the document holders or the alleged beneficiaries to prove that such documents were routed through or influenced by

appellant Bhim Singh. No kutchra register was produced to substantiate entries. Still further, it was asserted that DW-1 Davinder Bawa, Senior Assistant in the office, produced document Exhibit D-4, which clearly delineated appellant's limited official duties, none of which pertained to approval of registration or attestation of any document.

SUBMISSIONS BY THE LEARNED STATE COUNSEL:

12. The learned state counsel, on the other hand, sought to support the conviction of both the appellants on the ground that co-accused Bunty Kumar was operating on behalf of all the accused, including the appellants, and was collecting money for document registration. However, he could not deny that no direct or circumstantial evidence had been led to link the appellants with either the demand or receipt of bribe, or with the alleged illegal activities of co-accused Bunty Kumar.

FINDINGS OF THE COURT:

13. I have heard learned counsel for the parties and perused the relevant material on record.

14. The foundational principle in criminal jurisprudence is that suspicion, however, grave, cannot take the place of proof. In a prosecution under The Prevention of Corruption Act, especially in a case of alleged criminal conspiracy, the prosecution is duty bound to prove by cogent, credible, and admissible evidence that the accused persons had a meeting of minds and participated in a common design.

15. In the instant case, both the complainant and shadow witness exonerated the appellants entirely. The complainant, far from alleging any conspiracy, emphatically ruled out any role of the appellants. There is no whisper of any demand or acceptance from either of them. No recovery was effected from them. The appellants were not present at the time and place of the raid. The evidence of DW-2 Davinder Bawa and Exhibit DW2/A unambiguously proved that appellant Parvinder Singh was in the office of Advocate General, Punjab, Chandigarh, on the date of the raid. Similarly, the half-day leave of appellant Bhim Singh was not rebutted by the prosecution.

16. The learned trial Court itself recorded a finding that there was no evidence of demand or acceptance by the appellants. Yet, it erroneously invoked Section 120-B of the IPC without establishing any overt act, link, or common intention. The evidence relied upon to draw inference of conspiracy is entirely speculative and lacks the foundational requirement of unity of purpose or concerted action.

17. It needs to be emphasized that a conspiracy must be established by evidence of agreement and not merely by inference from disconnected circumstances.

18. Furthermore, in the absence of demand and acceptance, the presumption under Section 20 of the P.C. Act does not arise and conviction cannot be thus sustained. The same principle would apply in the instant case also. It would also be imperative to note that Tehsildar Arvindarpal Singh, who employed co-accused Bunty Kumar and was shown to be

one of the primary beneficiaries, was not accorded sanction and therefore, did not face trial. However, the appellants, despite not being shown to be actual beneficiaries or participants, were convicted on a generalized theory of “connivance”. The mere association or presence of a person in a place where a crime is committed does not ipso facto establish participation or conspiracy. The learned trial Court clearly erred in shifting the burden on the appellants to prove their innocence, despite there being no prima facie case against them. This reversal of burden, in a trial under Section 13(1)(d)(ii) of the P.C. Act and Section 120-B of the IPC, where prosecution has not discharged its primary burden is certainly not permissible in law.

19. In the light of the above discussion, this Court has no hesitation in holding that the prosecution failed to prove any overt act, either of demand or acceptance of illegal gratification, against the appellants. There is no evidence to suggest any conspiracy involving the appellants with the main accused Bunt Kumar. The trial Court misappreciated the evidence on record and drew unwarranted inferences contrary to settled principles of law.

20. Accordingly, the appeals are allowed and the impugned judgment of conviction and order of sentence dated 23.03.2018 are set aside qua the appellants. The appellants are acquitted of all the charges framed against them.