

MANGAT RAI
VS
CBI

Present: Mr. S. K. Garg Narwana, Sr. Advocate with
Mr. Vishal Garg Narwana, Advocate
for the applicant-appellant.

(Through Video Conferencing)

This is the second application, filed under Section 389 Cr.P.C.,
for staying the operation of judgment of conviction dated 20.04.2013.

Learned senior counsel for the applicant-appellant submits that
the first application, vide CRM-44294-2013, was dismissed on 22.10.2013,
however, now due to changed circumstances, the applicant-appellant has
moved the present application.

Learned senior counsel submits that the changed circumstances
are that in a complaint given by applicant-appellant Mangat Rai against Sh.
Hemant Gopal, Additional District & Sessions Judge-cum-Special Judge,
CBI, Patiala (under suspension with headquarters at Faridkot), who has
passed the impugned judgment of conviction and order of sentence, is found
guilty of grave misconduct by the Enquiry Officer-cum-District & Sessions
Judge, Panchkula, vide enquiry report dated 31.03.201 (Annexure P-21).

Learned senior counsel refers to the allegations of charges,
which reads as under:

“That you, while posted as Special Judge, CBI
Court, Patiala, dealt with Case C.C. No. 10/12.08.2003,
titled as ‘CBI Versus M. S. Tomer and others.’

Shri Sushil Kumar Singla, Law officer in the
office of Legal Remembrance, Punjab was known/related

to you. In above mentioned case, you remained in constant touch with Shri Sushil Kumar Singla as is divulged from the call details of your mobile phone No. 9463007515 and mobile phone No. 9251700184 of SHri Sushil Kumar Singla.

At your instance and on your asking Shri Sushil Kumar Singla met Shri Mangat Rai Bansal accused in the above mentioned case pending trial in your Court with the offer of favour to him in the trial.

At your instance and on your asking Shri Sushil Kumar Singla demanded amount of Rs. 1,00,00,000/-/Rs. 1,25,00,000/- (Rupess one Crore/One Crore twenty five lacs) from accused Sarvshri Mangat Rai Bansal on various dates including 17.04.2013 and 18.04.2013. Initially, Sarvshri Mangat Rai Bansal, Kulwant Rai and Parminder Singh gave part amount of Rs. 40,00,000/- (Rupees Forty Lacs) to Shri Sushil Kumar Singla on 17.04.2013 at the residence of Shri Mangat Rai Bansal, as part payment of the illegal gratification demanded by you through Shri Sushil Kumar Singla, for payment to you to secure their acquittal.

Shri Sushil Kumar Singla visited your house on 18.04.2013 by taxi arranged by Shri Mangat Rai Bansal and handed over the amount of Rs. 40,00,000/- (Rupees Forty Lacs) to you as illegal gratification for acquittal of Sarvshri Mangat Rai Bansal, Kulwant Rai and Parminder Singh. However, after receipt of the above said amount you further demanded amount of Rs. 80,00,000/- (Rupees Eighty Lacs) through Shri Sushil Kumar Singla from Sarvshri Mangat Rai Bansal, Kulwant Rai and Parminder Singh.

Shri Mangat Rai Bansal and Shri Kulwant Rai refused to pay any amount, whereas Shri Parminder Singh agreed that the Rs. 40,00,000/- (Rupees Forty lacs) already paid to you be treated as having been paid

towards his share for his acquittal. As a result of this deal, you acquitted Shri Parminder Singh but convicted Shri Mangat Rai Bansal and Kulwant Rai vide judgment dated 20.04.2013.

The above-said judgment had been passed by you by extraneous considerations. Thus, you committed gross misconduct, acted against the judicial cannons, lowered the image of judiciary in the eyes of public and acted in a manner unbecoming of a judicial officer.”

The operative part of the enquiry report reads as under:

“Per discussion and findings recorded above, I hold that all the allegations as contained in Article of Charge, are proved against the delinquent Officer, Shri Hemant Gopal, Additional District & Sessions Judge (under suspension with headquarters at Farikdot).”

Learned senior counsel has referred to another enquiry, vide which, Sushil Kumar, Law Officer of the Department of Legal & Legislative Affairs, who is in relation of Shri Hemant Gopal, was also chargesheeted as an conduit who facilitated the payment of illegal gratification, was found guilty in a departmental enquiry dated 05.12.2014 by the Enquiry Officer-cum-Additional District & Sessions Judge (Retd.), Mohali.

Learned senior counsel further submits that in pursuance to enquiry report, said Sushil Kumar is already dismissed from service, however, the High Court has not taken any final decision on the enquiry pending against Sh. Hemant Gopal, who has passed the impugned judgment despite a lapse of three years.

Learned senior counsel further submits that since it is an established fact that Sh. Hemant Gopal, the Presiding Judge, Special Court, CBI, Patiala has accepted illegal gratification of Rs. 40 Lakh from

co-accused Parminder through aforesaid Sushil Kumar and has demanded Rs. 1 Crore from the present applicant-appellant and others, however, Parminder Singh was acquitted because he had paid the gratification of Rs. 40 Lakh, whereas the applicant-appellant and other accused were convicted as they did not pay any amount to him.

Notice of the application.

Ms. Shubhra Singh, Advocate, who is also appearing through video conferencing, accepts notice on behalf of the respondent-CBI and on her request, learned senior counsel undertakes to supply her a complete set of the paperbook during the course of the day.

Reply, if any, be filed on or before the next date of hearing with a copy in advance to learned counsel opposite.

List again on 24.08.2021.

In the meantime, the Registrar General of this Court is directed to submit a status report this Court as to why no final decision has been taken against the said Officer on the basis of the enquiry report dated 31.03.2018.

06.08.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE