

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Appeal No. 445/1987

Madan Lal, S/o Achal Das, R/o Christian-ganj, Ajmer

----Accused-Appellant

Versus

The State of Rajasthan

----Respondent

For Appellant(s)

: Mr. Rinesh Kumar Gupta with
Mr. Sourabh Pratap Singh,
Mr. Kapil Bhardwaj,
Mr. Anoop Meena,
Mr. Garuav Sharma

For Respondent(s)

: Mr. Ghanshyam Singh Rathore, GA-
Cum-AAG with
Mr. Riyasat Ali, PP

HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL

Order

30/11/2022

This criminal appeal has been filed by the accused-appellant against the judgment dated 16.10.1987 passed by the learned Special Judge, Anti Corruption Bureau Case, Jaipur in Special Criminal Case No.16/1984 whereby, the accused-appellant has been convicted and sentenced as under:

“Section 161 IPC:- Simple imprisonment for six months + Fine of Rs.50/-; in default, simple imprisonment for one month.

Section 5(1)(d) read with Section 5 (2) of the Prevention of Corruption Act, 1947 (for brevity, “the Act of 1947”):- Simple imprisonment for six months + Fine of Rs.50/-; in default simple imprisonment for one month.”

The facts in brief are that a written report dated 26.03.1984 was filed by the complainant Shri Lekhraj with the Additional Superintendent of Police, Anti Corruption Bureau, Jaipur alleging therein that for forwarding his application for loan to the bank, the appellant, an employee with the District Rural Development Agency, was demanding a bribe of Rs.50/-. After his arrest in the aforesaid case, the police after investigation filed charge-sheet against the accused-appellant under Section 161 IPC and Section 5(1)(d) read with Section 5(2) of the Act of 1947. After his trial under the aforesaid provisions, the appellant has been convicted and sentenced vide judgment impugned dated 16.10.1987, as stated hereinabove.

Although, inviting attention of this court towards the cross-examination of the complainant Shri Lekhraj (PW-2) and Shri Krishan Kumar Dubey (PW-9), the Credit Planning Officer in the District Rural Development Agency at the relevant time, learned counsel for the appellant submits that neither any work of the complainant was pending with him as his loan application was already forwarded to the concerned bank nor, the demand is established; but, eschewing merits of the case, he submits that he would feel contended if, while maintaining the conviction, substantive sentence awarded to him vide judgment impugned is set aside. He, in support of his submission, relied upon a judgment of this court in case of **Ram Lal Vs. The State of Rajasthan, 1982 (7) R.Cr.C., 120.**

Learned Government Advocate-cum-AAG did not seriously oppose the prayer in view of life of the case and age of the accused-appellant.

Heard. Considered.

The accused-appellant, who at present, is aged about 70 years, is facing the instant criminal case for last more than 28 years. The allegation against him is of accepting bribe of a petty amount of Rs.50/-. In identical circumstances, this Court has, in case of **Ramlal (supra)**, held as under:

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"In the result, the appeal is partly allowed. The sentence of imprisonment awarded to the accused appellant both under Section 161 IPC and 5 (1) (d) read with 6 (2) Prevention of Corruption Act are set aside. The accused appellant is sentenced to a fine of Rs. 600/- under section 161 IPC and also to a fine of Rs. 600/- under Section 5/ (1) (d) read with section 5 (2) of the Prevention of Corruption Act. He shall undergo simple imprisonment for three months each in default of payment of fine on both the counts. Two month's time is allowed to deposit the fine in the trial Court. In case the amount is not deposited within the aforesaid period, the trial Court shall take necessary steps to serve out the sentences awarded to the accused in default of payment of fine."

In view of the aforesaid, the appeal is partly allowed. While maintaining the conviction of the appellant, substantive sentence of imprisonment awarded to him under Section 161 IPC and Section 5 (1)(d) read with Section 5 (2) of the Act of 1947 is set

aside. The accused-appellant is sentenced to a fine of Rs.1000/- under Section 161 IPC and also to a fine of Rs.1000/- under Section 5(1)(d) read with Section 5(2) of the Act of 1947. He shall undergo simple imprisonment for one month each in default of payment of fine on both the counts. Two month's time is allowed to deposit the fine in the learned trial Court failing which it shall take necessary steps to serve out the sentences awarded to the accused in default of payment of fine.

(MAHENDAR KUMAR GOYAL),J

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