



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRA-S-609-SB-2004 (O&M)

Date of decision: September 19th, 2025

Baldev Singh Gill (now deceased) through his LR Janet Gill

.....Appellant

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. G.K. Mann, Senior Advocate
with Ms. Armandeep Kaur Sidhu, Mr. Sanjeev Sharma
and Mr. Sunil Kamboj, Advocates
for the appellant.

Mr. H.S. Deol, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J.

This appeal is directed against the judgment and conviction dated 12.03.2004 passed by learned Special Judge, Rupnagar, convicting appellant-Baldev Singh Gill (now deceased), Sub Divisional Officer in the Punjab Irrigation Department, under Sections 13(1)(e) and 13(2) of The Prevention of Corruption Act (hereinafter referred to as 'the PC Act), and sentencing him as follows:

Offence under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
13(2) of the PC Act.	RI for two years	₹5,000/-	R.I. for six months

2. The appellant has challenged his conviction and sentence

primarily on the grounds that:

- (i) the prosecution was vitiated for want of a valid sanction,
- (ii) the complainant who set the law in motion was withheld from examination,
- (iii) the investigation was conducted by an officer incompetent in law,
- (iv) the learned trial Court unjustifiably discarded cogent defence evidence of lawful sources of income.

CASE OF THE PROSECUTION:

3. FIR No.112 dated 02.11.1993 was registered at Police Station Mohali, under Sections 13(1)(e) and 13(2) of the PC Act against the appellant. The allegation was that during the check period November 1981 to September 1989, the appellant amassed assets disproportionate to his known sources of income.

4. The Vigilance Bureau, upon inquiry, estimated his total income at ₹1,58,90,671/- and his total assets/expenditure at ₹3,17,00,401/-, thereby alleging disproportionate assets worth ₹1,58,19,730/-. On this basis, challan under Section 173 of the Cr.P.C. was presented.

5. The prosecution examined 17 witnesses and produced several documents, including bank records, sale deeds, salary statements, and verification reports. Prominent witnesses included PW-1 Tejinder Singh (qua purchase of a car), PW-3 Baldev Kishan (Registration Clerk), who produced the relevant sale deeds of immovable property purchased in the name of the appellant and his family, PW-4 P.K. Batra, Assistant Manager, State Bank of Patiala, who proved bank ledger entries relating to loans and deposits, PW-13 Surinder Kumar, Senior Assistant, who produced salary records of

the accused during the check period, PW-16 Indivar, Inspector, Vigilance Bureau, who conducted inquiry into the agricultural land and income of the accused, and PW-17 Durga Dass, Inspector, Vigilance Bureau, who investigated the case and proved the final report.

6. When examined under Section 313 of the Cr.P.C., the appellant denied the allegations and asserted that his lawful income from agriculture, loans, gifts, Will amounts, rental income, tuition by his wife, and maturity of deposits had not been taken into account.

7. To substantiate his stand, the appellant examined 46 defence witnesses including relatives, tenants, commission agents, and bank officials. These witnesses deposed to loans (₹10,68,310/-), Will by mother (₹4,50,00/-), rental income (₹2,09,250/-), agricultural income (₹3,85,274/-), customary gifts (₹2,45,000/-), sale of land, trees and buffaloes (₹34,400/-), tuition by his wife (₹1,07,160/-), and FDRs/interest (₹4,36,250/-). It was contended that when these amounts are considered, his lawful income (₹ 46,32,711/-) exceeds his expenditure (₹31,70,040/-), thereby nullifying the charge.

8. The learned trial Court, on the basis of the evidence on record, convicted the appellant and sentenced him as already observed in the earlier part of this judgment.

SUBMISSIONS BY THE LEARNED SENIOR COUNSEL FOR THE APPELLANT:

9. Learned senior counsel while impugning the judgment of conviction has urged as follows:

(i) the sanction order (Exhibit PF) was issued by the Joint Secretary, Vigilance, and not by the competent authority, i.e., the

Government through the Secretary, Irrigation Department, who alone was the appointing/removing authority of the appellant. It was vehemently argued that in the absence of valid sanction, the very cognizance of the offence against the appellant stood vitiated;

(ii) the complainant, Kamaljit Singh, Superintendent of Police, Vigilance, on whose *ruqa* the FIR was recorded, was withheld without explanation. This omission is fatal, warranting an adverse inference; non-examination of the complainant in the circumstances created a serious dent in the case of the prosecution since initiation of proceedings was left unproved and the genesis of the prosecution case became speculative;

(iii) the investigation was conducted by Inspector Durga Dass (PW- 17), whereas Section 17 of the PC Act mandates investigation by a police officer not below the rank of Deputy Superintendent of Police unless duly authorised. No such authorisation was proved. The challan dated 25.09.1994 was presented by Inspector Durga Dass (PW-17) without jurisdiction and investigation by an incompetent officer, therefore, vitiated the entire proceedings;

(iv) defence evidence demonstrating lawful income was discarded on unsustainable reasoning. The trial Court wrongly excluded *bona fide* sources of income merely because they were not intimated to the department.

SUBMISSIONS BY THE LEARNED COUNSEL FOR THE STATE:

10. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, argued as follows:

(i) the sanction order (Exhibit PF) was validly exhibited by

PW-12 Madan Lal, Senior Assistant, and even if there were irregularities, Section 93 of the PC Act cures them unless prejudice is shown. The appellant failed to establish any such prejudice, and the objection was, therefore, rightly brushed aside by the learned trial Courts,

(ii) the non-examination of Kamaljit Singh, SP, Vigilance, is inconsequential, as FIR (Exhibit PL/1) stands proved and other witnesses fully supported the case of the prosecution leaving the substratum of the prosecution evidence intact; no adverse inference could be, therefore, drawn merely because the complainant was not examined,

(iii) any defect in investigation is curable and investigation without jurisdiction as has been urged in the present case by the learned senior counsel for the appellant, does not *ipso facto* vitiate trial.

(iv) the learned trial Court rightly rejected defence evidence as concocted, self-serving, and unsupported by contemporaneous records.

FINDINGS OF THE COURT:

11. Having considered the rival submissions and examined the material on record, this Court is of the considered opinion that the conviction of the appellant cannot be sustained for the following reasons:

(i) the sanction order (Exhibit PF) emanated from the Joint Secretary, Vigilance. The admitted position is that the appellant, as SDO, was appointed and removable only by the Government through Secretary, Irrigation Department. It is trite that sanction must be accorded by the competent authority authorized to remove the public servant. A sanction from an extraneous department, based on a draft by Vigilance, cannot be treated as valid sanction. The perfunctory rejection of this objection by the learned trial Court is unsustainable. Cognizance of the offence against the

appellant itself stood vitiated;

(ii) the genesis of the prosecution rests on the *ruqa* sent by Kamaljit Singh, SP, Vigilance. He was withheld by the prosecution inasmuch as he was not even cited as a witness in the challan. His evidence was essential to disclose how suspicion arose and on what basis disproportion was computed. Withholding of such a material witness entitles the defence to an adverse inference. The substratum of prosecution is thereby weakened;

(iii) the investigation was admittedly conducted by Inspector Durga Dass (PW-17). Section 17 of the PC Act mandates investigation by an officer not below the rank of Deputy Superintendent of Police unless duly authorized. No such authorization is proved on record. It needs to be emphasized that this requirement is mandatory in nature; investigation by an officer lacking jurisdiction renders the entire proceedings unsustainable.

(iv) each of the above infirmities-absence of valid sanction, withholding of the complainant/lodger of the FIR, unauthorized investigation by Inspector Durga Dass-goes to the root of the case. The conviction cannot rest on such a shaky foundation. In corruption cases, where liberty and reputation are at stake, the prosecution must prove its case beyond reasonable doubt. The appellant has successfully demonstrated not only infirmities in the prosecution but also credible sources of income. The benefit of doubt must, therefore, enure to him.

12. For the reasons recorded above, this Court holds that the conviction and sentence imposed upon the appellant by learned Special Judge, Ropar, cannot be sustained in law.

13. Accordingly, that appeal is allowed. The judgment of conviction and order of sentence dated 12.03.2004 passed by learned Special Judge,

Rupnagar, are hereby set aside. Appellant-Baldev Singh Gill is acquitted of the charges framed against him.

September 19th, 2025

Puneet

(MANJARI NEHRU KAUL)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes