

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1496 OF 2015
(Arising Out of SLP (Crl.) No.4907 of 2015)

B.P. GAUTAM

Appellant(s)

VERSUS

STATE OF SIKKIM

Respondent(s)

O R D E R

Leave granted.

We have heard learned counsel for the parties at some length. We have also been taken through the evidence led at the trial as well as the judgment and order passed by the Trial Court and that passed by the High Court. There is in our opinion no perversity in the appreciation of evidence by the courts below who have concurrently found that the prosecution had not only proved the demand of bribe but also its receipt from the complainant. The recovery of the bribe amount in the presence of witnesses who have been found reliable by both the courts has in our opinion fully established the charge against the appellant. It is common ground that the appellant was a member of the Selection Committee and was in that capacity connected with the process of selection and appointment of forest guards while the complainant was a candidate for such an appointment. The fact that a call was made from the telephone number registered in the name of the

daughter of the appellant has also been fully established. The version of the complainant that she was contacted on telephone by the appellant and asked whether she was interested in getting the job and in case she was asking her to arrange a bribe of Rs.50,000/- has been sufficiently corroborated by independent evidence. That apart the version of the appellant that the money was delivered in the house of the appellant by the complainant and her companion on the pretext that the envelope containing the money contained official documents, same also probablised the version of the prosecution. It was his case in this regard that after the money was delivered to the appellant his wife was examined in defence as a witness to remove the envelope containing the amount for being thrown out of the house. She was however prevented from doing so. In the process her hands were also soiled by the phenolphthalein powder with which the envelope and the currency notes were dusted. The hand wash taken by the investigating agency both of the appellant and his wife corroborated that both of them had touched the money. The prosecution case in fact is that the appellant after receiving the money had written the name of the complainant and her roll number on the envelope. This fact also stands admitted by the appellant's wife examined as a defence witness according to whom the name and the roll number of the complainant was written in the hand-writing of the appellant but it was done on the

instructions of the police officials. Both the courts have disbelieved that alleged police manipulation and held that the complainant was a credible witness and that her deposition was free from any blemish to make it suspect. There is no reason much less any cogent one indicated by the defence why the complainant allowed herself to be used for falsely implicating the appellant as was argued at the bar before us. At any rate there was no suggestion to the complainant that she was falsely implicating the appellant at the instance of the telephone operator whose husband was transferred out of Sikkim but was not being transferred back to Gangtok as was argued at the bar before us. In the totality of the above circumstances we do not find the present to be a fit case where we need to interfere or reverse the concurrent finding recorded by the courts below. As far as the question of sentence is concerned, we can only say that the appellant has been given the minimum sentence statutorily prescribed, which cannot be reduced.

In the result, this appeal fails and is hereby dismissed.

.....J
[T.S. THAKUR]

.....J
[KURIAN JOSEPH]

October 28, 2015
New Delhi.

ITEM NO.21

COURT NO.2

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s).4907/2015

(Arising out of impugned final judgment and order dated 10/04/2015 in CRLA No. 1/2014 passed by the High Court of Sikkim at Gangtok)

B.P. GAUTAM

Petitioner(s)

VERSUS

STATE OF SIKKIM

Respondent(s)

(with interim relief and office report)

Date : 28/10/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Petitioner(s)

Mr. Bijan Kumar Ghosh, Adv.

For Respondent(s)

Mr. A. Mariarputham, Adv.
Ms. Aruna Mathur, Adv.
Mr. Avneesh Arputham, Adv.
Ms. Anuradha Arputham, Adv.
Mr. Yusuf Khan, Adv.
Arputham, Adv.
Aruna & Co., Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The criminal appeal is dismissed in terms of the signed order.

(ASHOK RAJ SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER

(Signed Order is placed in the file)