

Independent Commission Against Corruption (ICAC) V Mehvin Kumar Bhunjun

Facts:

On or about the aforesaid date and place, the said Mehvin Kumar BHUNJUN, whilst being a Police Constable on official duty, solicited from one Ashwini Hurpaul the sum of Rs 1500/- in order to record a declaration in favour of the said Ashwini Hurpaul against one Swata Mungrah. The Accused has been charged for bribery by public official in breach of **Section 4 (1) (b) & (2) of the Prevention of Corruption Act**.

The facts which were disputed by the accused were in relation to the following aspects:

- (a) The accused disputes having solicited money from witness 7 (the complainant).
- (b) The accused disputes the identity of the person who was accompanying witness 7 at the material time on the 11th April 2019 namely whether it was the father or mother of witness 7.
- (c) The accused disputes the conversation which took place between him and witness 7; namely whether a heated discussion arose between him and witness
- (d) The accused disputes having written on a page the name of Swata Mungrah.
- (e) The accused disputes that he wrote on the rear of a book the name and phone number of witness 7.

The accused's defence is that the complainant is motivated by frustration.

Held:

Issues (a) to (d) mentioned above are important in order to demonstrate the contemporaneity of the acts done in furtherance of the act of alleged bribery of the accused as a public official and to determine whether there has been a breach of section 4(1)(b) of the Prevention Of Corruption Act (POCA).

The court had struck a balance between the testimony of the witnesses who are members of the same family and that of the accused in order to decide on the weight to attach to their respective versions.

In order to discard the possibility of concoction on the part of the witnesses who are members of the same family the court had to carefully assesses the version of the witnesses

First of all the court pointed out that although witness 7 who is the main prosecution witness testified about the incident that occurred however the latter omitted to say in examination in chief things that she had mentioned in her out of court statement. Moreover, in cross-examination she was confronted with the fact that she had failed to mention "*policier la fine ecrire mo nom lor ene livre par derriere et mo numero telephone?* She said "*mo tini mo declaration, li pane pran li, li pane ecrire nanier.*" Later on, witness 7 goes on to say that she did not understand what was being asked and that "*oui li ti ecrire mo nom*" and "*mo numero.*" But she again does not mention where it was written exactly. In fact, the general impression that the court had of witness 7 is that the latter's testimony cannot be relied upon because the possibility of concoction cannot be overlooked.

The accused was given the benefit of doubt and the charge was dismissed against the accused.