

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO(S).80 OF 2012**

TARSEM LAL CHANDLA **...APPELLANT(S)**

VERSUS

THE STATE OF HIMACHAL PRADESH **...RESPONDENT(S)**

WITH

**CRIMINAL APPEAL NO.81 OF 2012
[ATTAR SINGH VS. STATE OF HIMACHAL PRADESH & ANR.]**

ORDER

1. Both the appeals are directed against the common order of the High Court of Himachal Pradesh by which the acquittal of both the accused appellants under Section 120B of the Indian Penal Code, 1860 and Section 13(2) of the Prevention of Corruption Act, 1988 has been reversed and they have been found guilty of commission of offences under the aforesaid sections. The sentence imposed is one of simple imprisonment for a period of one year which is the minimum sentence at the relevant point of time for commission of the offence under Section 13(2) of the Prevention of Corruption Act, 1988.

2. The case of the prosecution, in short, is that fifty (50) bags of cement was indented for use in the construction of a school building and the accused appellants had misappropriated the same. While the accused appellant - Tarsem Lal Chandla was supposed to receive the cement, the accused appellant - Attar Singh is the person who was supposed to issue/supply the cement. Both the accused were, at the relevant time, public servants holding the office of Junior Engineer in the Public Works Department of the State of Himachal Pradesh.

3. The High Court in reversing the acquittal ordered by the learned Trial Court took into account the receipt signed by the accused appellant - Tarsem Lal Chandla in the indent, as having received the fifty (50) bags of cement in question.

4. Insofar as the culpability of the accused appellant - Attar Singh is concerned, though the Issue Register maintained in the store did not indicate release of the cement, the High Court considered another document that was brought on record by the prosecution, namely, the Bin Entry Card. While the details of the cement issued was mentioned therein in hand-writing which was proved

by P.W. 13 (Dr. Visheshwar Sharma), the hand-writing expert, to be that of the accused appellant - Attar Singh, the Bin Entry Card was, however, not signed. The High Court took the view that even sans the signature on the Bin Entry Card when the expert had proved the hand-writing in the said document to be that of the accused appellant - Attar Singh, he would be liable in law for having shown to have issued the cement which in turn was shown to have been received by the other accused appellant - Tarsem Lal Chandla. On the finding that the cement never reached the school and was not utilized for the purpose for which it was indented, the High Court thought it proper to overturn the verdict passed by the learned Trial Court. On the materials that we have indicated above we are of the view that the High Court was perfectly justified in coming to the impugned conclusions and in convicting and sentencing both the accused appellants as aforesaid.

5. A close consideration of the order of the learned trial Court would go to show that the findings recorded are inconclusive to arrive at a determination of the absence of criminal liability

of the accused. Besides, the learned trial Court also seems to have been influenced by the fact that, in the meantime, by efflux of time both the accused appellants have retired from service and one of them, namely, Attar Singh had severe health problems. In our considered view, such a consideration would not be relevant in determining the criminal liability of an accused, particularly, for an offence under the Prevention of Corruption Act, 1988.

6. Consequently and in the light of the above, we dismiss both the appeals and affirm the order of the High Court. The accused appellants are directed to surrender before the learned trial Court within two weeks from today to serve out the remaining period of sentence.

....., J.
(RANJAN GOGOI)

....., J.
(R. BANUMATHI)

....., J.
(NAVIN SINHA)

NEW DELHI
JULY 12, 2018

ITEM NO.101

COURT NO.2

SECTION II-C

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

C R I M I N A L A P P E A L N O (S) . 8 0 / 2 0 1 2

TARSEM LAL CHANDLA

APPELLANT(S)

V E R S U S

THE STATE OF HIMACHAL PRADESH

RESPONDENT(S)

WITH

CRL.A. NO. 81/2012 (II-C)

(FOR SUSPENSION OF SENTENCE ON IA 22608/2011)

Date : 12-07-2018 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MR. JUSTICE NAVIN SINHA

For parties (s)

Mr. Harsh Jaidka, Adv.
Mr. Ajay Choudhary, AOR

Mr. V.N. Sinha, Sr. Adv.
Mr. Ajay Kumar Singh, AOR
Mr. Satyendra Kr. Srivastava, Adv.

Mr. Abhinav Mukerji, AOR
Mrs. Bihu Sharma, Adv.

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

The appeals are dismissed in terms of the
signed order.

[VINOD LAKHINA]

AR-cum-PS

[ASHA SONI]

BRANCH OFFICER

[SIGNED ORDER IS PLACED ON THE FILE]