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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 13.05.2025*+ **CRL.A. 1223/2012**

HARI OMAppellant

Through: Ms. Pallavi Vashist, Advocate

versus

STATERespondent

Through: Mr. Manoj Pant, APP for the
State.+ **CRL.A. 1224/2012**

PAWAN KUMARAppellant

Through: Mr. Anurag Rawat, Mr. Sudhir
Kumar, Mr. Manish Kumar
and Mr. Shubham Tyagi,
Advocates

versus

STATERespondent

Through: Mr. Manoj Pant, APP for the
State.+ **CRL.A. 1246/2012**

RAM DAYALAppellant

Through: Mr. Abhishek Sharma,
Advocate

versus

THE STATERespondent

Through: Mr. Manoj Pant, APP for the
State.



CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J

1. By way of the present appeals, the appellants are seeking setting aside of the judgment dated 08.10.2012 [hereafter '*impugned judgment*'] and order on sentence dated 10.10.2012 [hereafter '*impugned order on sentence*'], passed by the learned Special Judge, Delhi [hereafter '*Trial Court*'], in case arising out of FIR No. 16/2022, registered at Police Station Anti Corruption Branch, Delhi for commission of offence under Section 120B of the Indian Penal Code, 1860 [hereafter '*IPC*'] read with Sections 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988 [hereafter '*PC Act*'] and Section 61 of Punjab Excise Act.

FACTUAL BACKGROUND

2. As discernible from the records and the impugned judgment, the case of the prosecution, in brief, is that a secret information was received by ACP D.S. Sandhu of the Anti-Corruption Branch regarding gross irregularities being committed in the sale of liquor at the DSIDC Liquor Vend situated on Najafgarh Road near Natraj Cinema, Moti Nagar, Delhi. Acting on this information, a surprise inspection was conducted at the said liquor vend on 07.12.2001 under the supervision of Inspector M.A. Salam, along with other staff members of the Anti-Corruption Branch and a Panch witness, Deep Chand Pandey. At the time of inspection, Ram Dayal (Incharge of the



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liquor vend), along with Hari Om and Pawan Kumar (attendants and employees of DSIDC), were found present at the premises. The inspection revealed several irregularities. The Stock Register was not being properly maintained, and cash memos were not being issued to customers. A sum of ₹25,466.50/- was found in excess of the amount reflected in the Register. An unexplained sum of ₹870/- was also found in the pocket of Sh. Hari Om, the attendant of the shop. Physical verification of the liquor stock disclosed an excess of liquor of various brands, a shortage in certain other brands, and the presence of empty bottles with loose caps but intact seals. These findings indicated that Ram Dayal and the other staff members had abused their official position and acted dishonestly for pecuniary gain. Based on a complaint, the present FIR was registered on 27.03.2002.

3. During the course of investigation, the Investigating Officer collected relevant documents and recorded the statements of various witnesses. All three accused, i.e. Ram Dayal, Pawan Kumar, and Hari Om were arrested, and their personal searches were conducted. The IO also collected service biodata of the accused persons, obtained a copy of the new license of the liquor vend along with other documents, and seized these as per procedure. A pay-in-slip showing a deposit of ₹99,000/- was also collected. Furthermore, sanction orders for the prosecution of the accused persons were obtained. After completing the investigation, the IO prepared and filed the chargesheet in court.

4. Upon compliance with Section 207 of Cr.P.C., and after



hearing both sides on the point of charge, the learned Trial Court framed charges against the accused persons on 07.12.2007 for the offence punishable under Section 13(2) read with Section 13(1)(d) of the PC Act, read with Section 120B of IPC and Section 61 of the Punjab Excise Act. The accused pleaded not guilty and claimed trial.

5. To bring home the guilt of the accused, the prosecution examined sixteen witnesses. Key prosecution witnesses included Sh. Deep Chand Pandey, Panch witness to the raid proceedings (PW-4); D.S. Sandhu, the then ACP, Anti-Corruption Branch (PW-5); Sh. Bhagwan Dass, the then Chief Manager (Liquor), DSIDC (PW-6); SI Satya Prakash, member of the raiding team (PW-9); M.A. Salam, then Inspector and part of the raiding team (PW-12); Inspector Tilak Ran, last IO of the case (PW-14); and Inspector S.S. Sandhu, also a member of the raiding team (PW-16).

6. After closure of prosecution evidence, the statements of the accused persons were recorded under Section 313 of Cr.P.C. In their statements, the accused denied all allegations, claimed innocence, and asserted that no irregularity existed in the records of their liquor vend. They alleged false implication and disassociation from the alleged offences.

7. Final arguments were heard thereafter and by way of the impugned judgment, the learned Trial Court was pleased to hold the appellants guilty for the alleged offence. Vide the impugned order on sentence, the appellants were directed to undergo rigorous



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imprisonment for a period of two years along with a fine of ₹7,000/- and in default of payment of fine, to undergo simple imprisonment for a period of three months.

8. All the three appellants have assailed the impugned judgment and order by way of the present appeals.

SUBMISSIONS BEFORE THE COURT

Submissions on Behalf of the Appellants

9. The learned counsel appearing for the appellants submit, in unison, that all the appellants are innocent and have been falsely implicated in the present case. It is contended that the appellants were diligently discharging their duties at the DSIDC Liquor Vend, Najafgarh Road, near Natraj Cinema, Moti Nagar, without any complaint from the officials of the Excise Department. It is further submitted that although the raid at the said liquor vend was conducted on 07.12.2001, the FIR was registered after an unexplained and considerable delay on 27.03.2002, which is fatal to the prosecution's case. The learned counsel argue that the alleged excess amount of ₹25,466.50/- found at the shop on the date of the raid was due to the fact that the sale proceeds of 07.12.2001 had not yet been accounted for in the cash book, and prosecution witnesses themselves admitted that sales had commenced since morning. It is not disputed that the cash book had been updated only till 06.12.2001. As per the applicable rules and regulations governing DSIDC liquor vends, the shop in-charge is required to calculate daily



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sales and record cash in hand at the end of the day or on the next working day. Accordingly, unless the sale proceeds of 07.12.2001 were entered in the cash book, no offence can be said to have been committed. The appellants also contend that periodic statements were duly submitted by the accused to the competent authority, and no complaint was ever made against them. In fact, PW-6 Bhagwan Dass, the then Chief Manager (Liquor), DSIDC, categorically deposed that he had not received any complaint against any of the accused persons. It is further argued that there are serious contradictions in the testimony of the raiding team members regarding the calculation of stock and liquor quantity allegedly found in excess or deficit. The prosecution failed to place on record the exact stock available at the vend, nor could the raiding team ascertain on the spot what was in excess or short. Moreover, no excess bottles were seized. The learned counsel further submit that even if, as per the prosecution, certain bottles of liquor were found in excess, the same was due to the omission of the Investigating Officer to account for the stock received on 06.12.2001. There is no allegation that any of the appellants were selling brands of liquor not authorised for sale at the shop. Additionally, there is no plausible explanation as to why another stock chart (Ex.PW12/K) was subsequently prepared, and the same deserves to be discarded.

10. The learned counsel appearing for appellant Pawan Kumar argues that the appellant has been falsely implicated by the Anti-Corruption Branch, as evident from the report dated 15.12.2001,



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which records the presence of four persons – Ram Dayal (shop in-charge), Hari Om (attendant), Girdhari Lal (son of Ram Dayal), and Tarachand (son of Ram Dayal) – at the shop on 07.12.2001. Their personal searches were conducted, and money was recovered from them: ₹120 from Ram Dayal, ₹870 from Hari Om, and ₹2,507 from Girdhari Lal. However, in the FIR lodged more than three and a half months later, the name of the present appellant, Pawan Kumar, was added, falsely showing him as present on the date of the raid. Strikingly, the names of Girdhari Lal and Tarachand were removed from the FIR narrative, despite the fact that recovery had been made from Girdhari Lal's person, indicating manipulation of records to falsely implicate the appellant. Further, he was only an attendant in the shop and was not part of any conspiracy as alleged by the prosecution.

11. For the appellant Hari Om, the learned counsel contends that although ₹870/- was allegedly recovered from the appellant during the raid, the same is a nominal amount which any person can reasonably be expected to carry for personal use under normal circumstances, and the learned Trial Court failed to consider this crucial aspect while appreciating the evidence. Further, he was only an attendant in the shop and was not part of any conspiracy as alleged by the prosecution.

12. The learned counsel appearing for appellant Ram Dayal contends that the alleged excess amount of ₹17,500/- found at the shop was in the denomination of ₹5/- notes, which were kept to



address the recurring issue of shortage of small denomination currency for providing change to customers. It is an admitted position that ₹99,000/- had already been deposited in the bank earlier the same day as the sale proceeds of the previous day. The keeping of ₹17,500/- in small change at the shop only reflects the transparent and customer-friendly functioning of the appellant. Moreover, the meager recovery of ₹120/- from the person of the appellant does not constitute any offence and has been wrongly considered incriminating by the learned Trial Court.

13. Therefore, it is prayed on behalf of the appellants that the impugned judgment and order be set aside and they be acquitted in the present case.

Submissions on Behalf of the State

14. *Per contra*, the learned APP appearing for the State argues that the prosecution has clearly established its case against the accused persons by examining 16 prosecution witnesses, and that the accused deserve to be convicted for the offences charged. It is submitted that, upon receipt of specific information regarding gross irregularities in the sale of liquor at the DSIDC Liquor Vend, Najafgarh Road near Natraj Cinema, Moti Nagar, Delhi, a raid was conducted by officials of the Anti-Corruption Branch along with a panch witness. During the raid, excess cash amounting to ₹25,466.50/- was recovered, along with the discovery of certain brands of liquor found in excess and certain brands found in shortage. After due verification of the



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relevant records, the FIR was registered. The learned APP contends that the delay in registration of the FIR stands justified in view of the time required for verification and scrutiny of records. It is further argued that the accused persons failed to furnish any plausible explanation for the recovery of excess cash or the discrepancies in the stock of liquor, which clearly points to the misuse of their official position for pecuniary gain and the conduct of illegal liquor sales. The learned APP also submits that even during personal search, the accused Ram Dayal and Hari Om were found in possession of money for which they offered no satisfactory explanation. It is further contended that the accused persons were also found selling liquor without issuing cash memos, which reinforces the allegation that they were indulging in unauthorised sales for personal benefit by abusing their official authority. The learned APP emphasizes that the accused persons have not led any defence evidence in support of their claims. Therefore, the learned APP submits that the impugned judgment suffers from no infirmity and the learned Trial Court has passed a well-reasoned and justified order warranting no interference.

15. This Court has **heard** arguments addressed on behalf of the appellants as well as the State, and has perused the material placed on record, including the Trial Court Record.

ANALYSIS & FINDINGS

16. The case of the prosecution, in a nutshell, is that upon receiving information about irregularities at the DSIDC Liquor Vend



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near Natraj Cinema, Moti Nagar, a raid was conducted by the Anti-Corruption Branch officials along with a panch witness. During the raid, excess cash amounting to ₹25,466.50/- was recovered from the vend, and discrepancies were found in the stock of liquor – some brands being in excess and others in shortage. The accused were also found selling liquor without issuing cash memos and were unable to provide any explanation for the excess cash or the stock variation. Based on these findings, the prosecution alleged that the accused had misused their official position for pecuniary gain. The learned Trial Court held that the prosecution was able to prove its case beyond reasonable doubt.

17. Having heard rival contentions raised before this Court at length, this Court is of the view that there are certain aspects of the case which have either been overlooked by the learned Trial Court or the evidence in that regard has not been appreciated correctly.

18. *Firstly*, the appellants have contended that the alleged excess cash amount of ₹25,466.50/- found at the liquor vend during the raid was merely the unaccounted sale proceeds of the same day, which had not yet been entered into the cash book. In support of this argument, they point to the fact – also admitted by the prosecution witnesses – that the sale of liquor had commenced since morning on the day of the raid.

19. Significantly, the relevant rules issued by the Excise Department and DSIDC governing the functioning of L-2 liquor



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vends, which were placed on record by the prosecution itself, clearly stipulate that:

“...All the shop Incharges are required to work out Daily sale at the end of the day as well as Cash in hand which is to be entered in the Cash book. Further they are required to deposit the sale proceeds in the concerned bank daily or on alternative day, as the case may be.

In addition to the above, Shop Incharges are required to submit weekly report and bottle-wise monthly report to the H.Q...”

20. From a plain reading of the rules, it becomes evident that the incharge of the liquor vend, i.e., appellant Ram Dayal, was obligated to reconcile the stock and cash position only at the end of the business day or the following day, and subsequently report the same to the headquarters. The record further shows that the raid in question was conducted as a surprise inspection starting at about 3:00 PM, while the business hours for the shop were still ongoing. Therefore, at the time of the raid, the day’s business had not yet concluded and the deadline for recording and reporting the day’s sales, as prescribed under the rules, had not lapsed. It is thus apparent that the stock and cash reconciliation was still pending, in accordance with the norms.

21. The learned Trial Court, however, in paragraph 20 of the impugned judgment, rejected this explanation on the ground that there were no cash memos found for sales conducted on 06.12.2001 and 07.12.2001, and therefore the excess cash found unexplained. While this reasoning might appear plausible at first blush, the defence has correctly drawn the Court’s attention to the testimony of several



key prosecution witnesses, particularly those who were part of the raiding team, which clearly establishes that sales were actively going on at the shop when the team reached and remained at the location.

22. In this regard, PW-4 (Panch witness Sh. Deep Chand Pandey) testified:

“The team reached Moti Nagar at about 12:00 Noon. At that time, the shop was open and the sale was going on.”

23. PW-4 even acted as a decoy customer and purchased a bottle of liquor, and importantly, was not overcharged by the appellants.

PW-5 stated:

“The surveillance was started at about 11:00 AM. During the period we were doing the surveillance, the sale of liquor was going on.”

24. PW-9 (SI Satya Prakash) similarly confirmed:

“We did surveillance upto 3:00 PM. During this time, sale of liquor was going on.”

25. PW-16 also corroborated this by stating:

“We left AC Branch on 07.12.2001 at about 10:00 AM and had reached at the said liquor shop, Moti Nagar at about 11:00 AM and went inside the shop at about 3:00 PM. In between, we kept surveillance inside the shop. During this period, people had been coming and going at the shop. The liquor sale might had been going on between this period.”

26. Notably, the prosecution witnesses themselves admitted that no effort was made to ascertain or account for the sale proceeds of the day prior to the raid. PW-5 candidly deposed:

“I do not remember as to how much liquor sold on that day



before conducting the raid. I do not remember if I calculated the amount regarding the sale done on that day.”

27. PW-9 also admitted:

“I have no idea about the sale proceeds of the day of raid.”

28. PW-16 also stated in his cross-examination that:

“The liquor sale might had been going on between this period. I do not recollect whether we check the store register or not. I also do not recollect about the issuance of liquor from store to the counter on the 07.12.2001. I do not recollect if members of the raiding party had calculated or not about the sale of liquor on 07.12.2001.”

29. When the entire thrust of the prosecution’s case rests on the allegation that the appellants had accumulated ill-gotten money and derived pecuniary advantage by misusing their official position, it was incumbent upon the prosecution to make at least some effort to ascertain and demonstrate what portion, if any, of the alleged excess cash amount of ₹25,466.50/- represented such unlawful gain. However, no attempt was made – even remotely – to differentiate between the legitimate sale proceeds of the ongoing business day and any alleged unaccounted or unjustifiable surplus.

30. In light of the above, this Court is of the opinion that the core premise of the prosecution’s case – that unaccounted or excess cash was found at the liquor vend – is substantially weakened. The business of the day was still in progress, the cash and stock reconciliation mandated by the rules had not yet taken place, and crucially, the prosecution failed to make any meaningful inquiry into



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the sales that had already taken place that day. As such, the mere presence of excess cash at the time of the raid, without taking these factors into account, cannot by itself be held as conclusive evidence of gross irregularities and abusing the position for gaining pecuniary advantage.

31. *Secondly*, it is the contention of the learned counsel for the appellant – one which this Court finds convincing – that the appellant Ram Dayal, being a licensed vendor authorized to sell liquor, had to conduct daily business transactions like any regular shopkeeper. This naturally involved accepting payments from customers, including high-denomination currency, and returning the balance amount. For this, he was required to keep some cash readily available to facilitate smooth transactions, particularly at the beginning of the business day.

32. It is important to bear in mind that the appellant, as a licensee running a legitimate business, was not under any legal obligation – nor was there any rule under the Excise Act or DSIDC guidelines – that prohibited him from keeping his own personal cash in the shop, separate from the sale proceeds. There is also no provision that required a declaration of personal money stored on the premises. In fact, for the sake of operational convenience, he may have kept his own funds in a separate drawer to enable smooth business operations, such as providing change or handling unexpected needs during the day. Once licensed to operate the shop within the framework of prescribed rules, the appellant was entitled to conduct his business in a practical manner, and in the absence of any rule barring personal



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cash at the shop, the presence of such money cannot, by itself, be treated as suspicious or unlawful.

33. *Thirdly*, this Court finds no material on record to support the contention advanced by the learned APP for the State that the amounts of ₹870/- recovered from appellant Hari Om and ₹120/- recovered from appellant Ram Dayal were proceeds derived from any alleged irregularities in the sale of liquor.

34. No evidence has been placed before this Court to indicate that these sums were earned through unlawful means or were linked to any violation of the Excise rules. PW-12 deposed before the learned Trial Court that “No register was found at the shop which could show the pocket money brought by the employees from their respective houses at the shop in the morning”. However, the learned APP was unable to point out any rule or regulation that required employees of liquor vends to declare in advance how much personal cash they were carrying on their person while on duty. In the absence of such a mandate, the mere presence of ₹120/- and ₹870/- respectively in the personal possession of the appellants cannot be construed as incriminating. It defies logic and reason to suggest, without any supporting evidence, that the small amounts of money found in their pockets were tainted or constituted ill-gotten gains. This Court finds such an inference not only speculative but also untenable.

35. Indeed, in the absence of any legal obligation to declare personal cash, there can be no presumption of impropriety merely



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because the appellants were found in possession of nominal amounts of money. It would be both impractical and absurd to expect that individuals cannot carry personal funds with them while reporting to work. Accordingly, this Court is of the view that the reliance placed by the prosecution on the recovery of these small amounts from the appellants is misplaced.

36. *Fourthly*, it is an admitted fact that the liquor bottles which were allegedly found to be either in excess or in shortage during the inspection were never seized or taken into possession by the raiding team. Although this aspect was not addressed in the impugned judgment, the order on charge dated 07.12.2007 reflects that the learned Trial Court had opined that there was no necessity to seize the said bottles since a paper sheet noting the details of excess and shortage of bottles for each brand had been prepared. This would have been an acceptable proposition, had the list of such bottles been prepared with accuracy and consistency. However, it emerges from the records and the testimonies of prosecution witnesses that there were glaring inaccuracies in the original chart prepared by PW-12, Inspector M.A. Alam, which subsequently necessitated the preparation of a corrected chart by the second Investigating Officer, PW-14 Tilak Ram.

37. PW-14 Tilak Ram, in his cross-examination, admitted that there were discrepancies between the chart he prepared and the one earlier prepared by PW-12 M.A. Alam.



38. Further, the relevant portion of the testimony of PW-12, which is worth noting, is set out below:

“During investigation, difference was found in shortage and excess of bottles as shown in annexure Ex.PW12/C. During the checking of 24 carat whiskey, there was stock of 72 full bottles and there were 13 cartons in store as per receipt register, out of which 13 cartons were noted as of full bottles and due to this, during calculation $72+156 = 228$ was written but in case cartons was containing half bottles, total calculation would come 312 half bottles and due to this, mistake had occurred inadvertently. Piano Whiskey was also left to be written. At page no. 6 of statement, there is mistake of number of total half bottles which had happened inadvertently. During stock checking, entry of Power Rum could not be mentioned inadvertently. Similarly, Oakwat Whiskey and Winner Whiskey which was written in the list maintained on the counter was inadvertently left to be mentioned in the statement. Due to inadvertent mistake, Old Monk, Aristocrat, Premium (500 ml.), Aristocrat Whiskey (500 ml.) was also could not be mentioned. After checking brand - wise stock register, receipt and issue register etc, and after consulting list chart annexure Ex. PW12/K (collectively) was prepared and same is correct and accordingly clerical mistake which had occurred earlier inadvertently were rectified.”

39. The above testimony reflects that for nearly every discrepancy, PW-12 attributes the mistake to an *inadvertent error* – whether in counting, noting down the quantity, or in failing to mention specific brands altogether.

40. PW-16, Inspector SS Sandhu, who was a part of the raiding team, also had deposed on similar lines. The relevant portion of his testimony is as under:

“During investigation the difference which was found in excess/ shortage of bottles and during checking there was 24 carat whisky and 72 full bottles was stocked and in the store



there was 13 cartoon in register and issue register and at that time cartoon as full bottles might had been got noted down and due to this in the calculation $72+156 = 228$ was written. But if the half bottles were in cartoon then total half bottles comes to 312. Piano whisky might have been left during the course of writing. At page 6 of statement there may be mistake about total half bottles. Similarly, during the checking of the stock entry regarding power run was left. Similarly, bak vat whisky and winner whisky in the list at the counter might had been left while preparing the statement.

Similarly, due to forgetfulness old monk, Aristocrat premium (500 ml) might had been left while writing. Chart annexure 1 is correct whizch was prepared after consulting brand wise stock register, receipt and issue register and list. It was learnt that as per receipt and issue register goods alongwith transport permit were sent on 07.12.2001 and transport permit alongwith register was found kept which alongwith register was taken into possession which was part of the same and entry about it had remained to be entered in another register, Aforesaid mistake had occurred inadvertently.”

41. Moreover, PW-16’s own admission in the cross-examination is that he did know how to distinguish between pints, halves, quarters, and full bottles. A witness who was admittedly unable to correctly identify or differentiate basic units of stock has been relied upon as one of the main witnesses in establishing the core allegations relating to the alleged excess or shortage of liquor bottles. This, in this Court’s view, weakens the credibility of the prosecution's allegations.

42. When the entire case revolves around allegations of pecuniary gain through excess or unauthorized sale of liquor, the integrity of the very data that purportedly shows excess or shortage becomes crucial. If the foundation of such a claim rests on charts riddled with mistakes, admitted inaccuracies, and lacking corroboration through



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seizure of actual material evidence (i.e., the liquor bottles), the prosecution's case would become untenable. A case of obtaining pecuniary advantage by abusing the official position as public servant cannot rest on such speculative and error-prone documentation.

43. *Fifthly*, the prosecution has alleged that the appellants had entered into a criminal conspiracy to commit the offences in question and were therefore charged and convicted under Section 13(1)(d) read with Section 13(2) of PC Act, along with Section 120B of the IPC. However, upon careful examination of the evidence on record, this Court finds that the allegation of conspiracy is not supported by any cogent or credible evidence.

44. Conspiracy, by its very nature, requires the existence of a prior meeting of minds – some material indicating that two or more persons came together to agree upon and commit an unlawful act. In the present case, the prosecution has not produced any evidence to show that such a meeting of minds took place between the appellants or that any of them collaborated with one another to commit the alleged offences. There is no direct or even circumstantial evidence, when seen in light of aforesaid observations, to demonstrate that the appellants herein had any prior agreement to act in concert or that they jointly acted with the intention of securing unlawful pecuniary gain.

45. More specifically, in the case of appellants Hari Om and Pawan Kumar, it is admitted that both were working merely as



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Attendants in the liquor shop. There is nothing in the records to suggest that they had any role or responsibility in maintaining the shop's accounts, registers, or stock. They were neither in a position of authority nor did they hold any decision-making power that could suggest misuse of office. There is also no evidence to indicate that they derived any personal or financial benefit as a result of the alleged offence or that they had any knowledge of irregularities, let alone being active participants in a conspiracy.

46. The Hon'ble Supreme Court in case of *Parveen v. State of Haryana: 2021 SCC OnLine SC 1184* has held as under in respect of offence under Section 120B of IPC:

“12. It is fairly well settled, to prove the charge of conspiracy, within the ambit of Section 120-B, it is necessary to establish that there was an agreement between the parties for doing an unlawful act. At the same time, it is to be noted that it is difficult to establish conspiracy by direct evidence at all, but at the same time, in absence of any evidence to show meeting of minds between the conspirators for the intended object of committing an illegal act, it is not safe to hold a person guilty for offences under Section 120-B of IPC. A few bits here and a few bits there on which prosecution relies, cannot be held to be adequate for connecting the accused with the commission of crime of criminal conspiracy. Even the alleged confessional statements of the co-accused, in absence of other acceptable corroborative evidence, is not safe to convict the accused.”

47. Thus, in the absence of any clear, convincing, or even inferential evidence of conspiracy, the invocation of Section 120B of IPC appears to be erroneous. Mere presence at the shop or employment as an attendant cannot be construed as evidence of criminal conspiracy, especially when there is no proof of intent,



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participation, or benefit derived by them. When the case of prosecution itself is fraught with fundamental discrepancies – such as the failure to even attempt to differentiate between any legitimate sale proceeds of the day on which was raid was conducted and alleged pecuniary gain, the doubtful credibility of the key prosecution witness who admitted to committing repeated errors in calculation of the stock of bottles – no inference of a criminal conspiracy can be reasonably drawn

48. Therefore, this Court is of the considered opinion that the prosecution has failed to meet the threshold of proving the offence in question – beyond reasonable doubt – a requirement that is fundamental to the criminal jurisprudence.

49. Accordingly, this Court finds that the appellants have been able to successfully demonstrate that the prosecution has failed to prove its case beyond reasonable doubt. The benefit of such doubt must, therefore, go to the appellants.

50. In view of the foregoing discussion, the impugned judgment and order on sentence is set aside. The appellants herein are acquitted for all the charged offences.

51. Bail bonds stand cancelled; sureties stand discharged.

52. The appeals are disposed of in above terms.

53. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

MAY 13, 2025/ns