

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

(I) CRA-987-SB of 2002 (O&M)
Date of decision: 16.09.2015

Ashwani Kumar and another

...Appellants

Versus

State of Haryana

...Respondent

(II) CRA-1863-SB of 2002 (O&M)
Date of decision: 16.09.2015

Kasturi Lal and another

...Appellants

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. P.S. Sullar, Advocate,
for appellant No.2-Sudershan Kumar
(in CRA-987-SB-2002).

Mr. Rajiv Vij, Advocate,
for the appellants
(in CRA-1863-SB-2002)

Mr. Arun Luthra, AAG, Haryana.

Jitendra Chauhan, J.

As appellant No.1 in CRA-987-SB-2002, namely, Ashwani Kumar, has since died during the pendency of the present proceedings, appeal qua him has already been abated vide order dated 08.04.2015.

The above noted two criminal appeals are being disposed of by this single judgment of mine having arisen out of the common judgment of conviction and order of sentence dated 18/23.05.2002, passed by the learned Additional Sessions Judge, Panchkula, whereby, the accused-appellants, namely, Sudershan and Kasturi Lal, have been convicted and sentenced as under:-

Sudarshan Kumar	Section 120-B IPC	RI for five years
	Section 489-C IPC	RI for five years
Kasturi Lal	Section 120-B IPC	RI for five years
	Section 489-C IPC	RI for five years
Bal Kishan	Section 120-B IPC	RI for five years
	Section 419 IPC	RI for three years
	Section 489-C IPC	RI for five years

However, all the substantive sentences were ordered to run concurrently.

In the present case, charge against Kasturi Lal is to the following effect:-

“That you on 04.12.1999 in the area of Police Station Panchkula you had in your possession forged currency notes worth Rs.700/- of Rs.100/- denomination knowing or having reasons to believe the same to be

counterfeit and intending to use them as genuine and that you thereby committed an offence punishable under Section 489-C of Indian Penal Code.”

Charge against accused-appellant Sudershan is to the following effect:-

“That you on 06-12-1999 in the area of Police Station, Sector 5, Panchkula you had in your possession a forged (Counterfeit) Currency notes worth Rs.800/- of Rs.100/- denomination each knowing or having reasons to believe the same to be forged and intending to use them as genuine and that you thereby committed an offence punishable under Section 489-C of Indian Penal Code and within the cognizance of the Court.”

Accused-appellant Bal Kishan was charged as under:-

“That you on 4.12.1999 in the are of Panchkula you attempted to cheat Satish Mohan S.I. Incharge Security Branch S.P. Office, Panchkula pretending to be Chuni Lal, M.L.A. And Vice-President, BJP Punjab, by intentionally inducing above named S.I. To issue to Javed and Tara Chand a registration permit to stay at

Panchkula at fake address which was likely to cause harm to the reputation of Satish Mohan, S.I. and that you thereby committed an offence punishable under Section 419 of Indian Penal Code and within my cognizance.”

In addition, there is common head of charge against all the accused for the offences punishable under Section 120-B of Indian Penal Code which is to the following effect:-

“That you on or about 04-12-1999 agree to do an illegal act that is forging of Visa application and residential permit, by cheating the public officers, by using the forged documents as genuine, by keeping the forged documents in your possession intending to use the same as genuine, by cheating the authorities by impersonation it keeping in your possession fake currency notes knowing the same to be forged and in pursuance of the said agreement the above offences were committed by same of you. The said offences are punishable for the term exceeding more than two years and thereby committed an offence punishable under Section 120-B of Indian Penal Code and within my cognizance.”

In support of its case, the prosecution examined Sh. Adit Aggarwal, Assistant Manager, Reserve Bank of India, Branch Chandigarh, as PW1; Sh. Om Parkash, Assistant Manager, Reserve Bank of India, Branch Chandigarh, as PW2; Constable Raj Kumar as PW3; Head Constable Ram Nath as PW4; Head Constable Subhash Chand as PW5; Bhagwan Singh as PW6; Constable Subhash Chander as PW7; Sat Pal Singh as PW8; Head Constable Joginder Singh as PW9; SI Satish Mohan as PW10; Inspector (Retd.) Bachan Singh as PW11; ASI Om Parkash as PW12; Inspector Rattan Singh as PW13; and Sh. AS Dhillon, A.D.C. to Governor, Haryana, as PW14.

The statements of the accused under Section 313 Cr.P.C., were recorded, wherein, they pleaded innocence and alleged false implication.

After hearing learned counsel for the parties and perusing the evidence on record, the trial Court convicted and sentenced the accused/appellants, as noticed at the outset.

Feeling aggrieved against the judgment of conviction and the order of sentence passed by the learned trial Court, the instant appeals were filed by the accused/appellants which were admitted on 01.07.2002 and 21.01.2003.

On merits, the learned counsel for the appellants jointly submit that no independent witness was joined at the time of conducting the raid. No machine was used to check the counterfeit currency notes. Appellant Sudershan was arrested two days after the occurrence. No role has been ascribed except that the address was given. As per the prosecution story, 32 notes were recovered, whereas, only 28 notes were sent for checking. The learned counsel further submit that in the event of dismissal of the appeal on merits, a lenient view in the matter of sentence be taken.

On the other hand, the learned State counsel opposed the prayer of appellants/accused and supported the judgment of conviction and order of sentence passed by the trial Court.

I have heard the arguments of the learned counsel for the parties and has carefully gone through the record of the case.

The appellants have been charged and convicted under Section 489-C IPC for possessing counterfeit currency notes. They have been further charged under Section 120-B IPC. Appellant Bal Kishan has been further charged and convicted under Section 419 IPC for having attempted to cheat SI Satish Mohan, Incharge, Secutiry Branch, S.P. Office, Panchkula, pretending himself to be Chuni Lal, M.L.A. And Vice President of BJP Punjab and by intentionally inducing SI Satish Mohan, to issue to Javed and Tara

Chand a registration permit to stay at Panchkula at fake address. The other co-accused/non-appellants, namely, Javed, Tara Chand and Riaz Chand, were Pakistani nationals. As per their custody certificates, they were handed over to the Pakistani Authorities at Wagha/Attari Border, Amritsar (Punjab), after completion of the entire sentence.

On the basis of the documentary and oral evidence on record, the learned trial Court has recorded the conviction of the present appellants in both the appeals and there is no ground to interfere with the same, which is hereby affirmed. Thus, the present appeals as regards the judgment of conviction is concerned, are dismissed.

However, the incident pertains to the year 1999 and the appellants have been suffering the agony of protracted trial for the last sixteen years. The appellants did not misuse the concession of bail during the trial as well as during the pendency of the present appeal. Thus, the learned counsel prays that a lenient view may be taken as regards the quantum of sentence imposed by the trial Court.

In view of the above, the prayer made on behalf of the appellants is accepted. The sentence awarded to the appellant-Sudershan Kumar (in CRA-987-SB-2002) and appellants Kasturi Lal and Bal Krishan (in CRA-1863-SB-2002) is ordered to be reduced to

the period already undergone by them. However, the same shall be subject to the payment of Rs.1,00,000/- each as enhanced fine, over and above the amount of fine already imposed by the trial Court, to be paid within four months after the receipt of certified copy of the order. It is made clear that if the enhanced amount of fine is not paid within the stipulated period, the present appeal shall be deemed to have been dismissed, without any notice.

With the above modification/reduction in the sentence, CRA-987-SB-2002 and CRA-1863-SB-2002 are, hereby, dismissed on merits.

16.09.2015
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(JITENDRA CHAUHAN)
JUDGE