

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

(1)

**Crl. Appeal No.D-169-DB of 2010
Date of Decision: April 01, 2015.**

Satwinder Singh @ Mintu

.....APPELLANT(s).

VERSUS

State of U.T. Chandigarh

.....RESPONDENT(s).

(2)

Crl. Appeal No.S-3123-SB of 2009

Lalit Verma

.....APPELLANT(s).

VERSUS

Union Territory of Chandigarh

.....RESPONDENT(s).

**CORAM:- HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. B.S. Sewak, Advocate
for appellant Satwinder Singh @ Mintu
in Criminal Appeal No.D-169-DB of 2010.

Mr. H.S. Gill, Senior Advocate with
Mr. KBS Mann, Advocate
for appellant Lalit Verma
in Criminal Appeal No.S-3123-SB of 2009.

Ms. Ashima Mor, Addl. Public Prosecutor
for State of UT Chandigarh.

SURINDER GUPTA, J.

Two Criminal Appeals (Criminal Appeal No.D-169-DB of 2010
and Criminal Appeal No.S-3123-SB of 2009) have been taken up together for

disposal as both the appeals arise from judgment of conviction dated 25.11.2009 and order of sentence dated 30.11.2009, whereby appellants were sentenced as follows:-

APPELLANT-SATWINDER SINGH @ MINTU

Convicted for the offence punishable under Section	Sentence	
	Imprisonment	Fine
302 IPC	Imprisonment for life.	₹50,000 in default of payment of fine to further undergo rigorous imprisonment for three years.
392 IPC	Rigorous imprisonment for seven years	₹10,000 in default of payment of fine to further undergo rigorous imprisonment for one year.
460 IPC	Rigorous imprisonment for ten years	₹25,000 in default of payment of fine to further undergo rigorous imprisonment for two years.
468 IPC	Rigorous imprisonment for three years	₹10,000 in default of payment of fine to further undergo rigorous imprisonment for one year.
471 IPC	Rigorous imprisonment for three years	₹10,000 in default of payment of fine to further undergo rigorous imprisonment for one year.

APPELLANT-LALIT VERMA

Convicted for the offence punishable under Section	Sentence	
	Imprisonment	Fine
411 IPC	Rigorous imprisonment for one year	₹10,000 in default of payment of fine to further undergo rigorous imprisonment for six months.

As per prosecution version, Sukhdev Kaur wife of Joginder Singh was found murdered in her house No.652/2, Sector 38-A, Chandigarh

on 14.09.2000. She along with her daughter Lakhbir Kaur, complainant and husband Joginder Singh was living in that house. On the fateful day, Lakhbir Kaur, daughter of deceased left home at 08.00 am to attend her duties while her father had gone for taking his truck. On return, Lakhbir Kaur found her house bolted from outside. She opened the door, went inside and found the dead body of her mother lying on the floor. She had been killed by inflicting injuries on her neck by sharp edged weapon. The household articles were lying scattered in the room and the almirah was also lying open. Lakhbir Kaur apprehended that some unidentified persons have killed her mother while committing theft in the house.

On telephonic message received in Police Station Sector-39, Chandigarh, Inspector Mani Ram along with his team comprising of SI Ved Parkash, SI Harjit Singh, ASI Karam Chand, Constable Sham Kumar and Constable Karan Singh reached the spot and recorded the statement of complainant-Lakhbir Kaur (Ex.PA) on which he made his endorsement (Ex.PQ) and sent the same for registration of the FIR, whereupon formal FIR bearing No.380 dated 14.09.2000 was registered at Police Station Sector-39, Chandigarh. Central Forensic Science Laboratory Team was called at the spot. The team, on reaching the spot, picked up hair, which were in the right hand of deceased Sukhdev Kaur, one swab from the right hand of deceased Sukhdev Kaur and another from the plastic table. It also lifted blood stains from bed, *diwan*, took hair sample of deceased Sukhdev Kaur and also the blood samples from the body of deceased. Two glasses of steel were lying on the table in the area of drawing-cum-dining hall on which finger prints were developed and collected. The glasses were put in a plastic jar and sealed with seal of Inspector Mani Ram bearing impression 'MR'. A key-

ring having two keys in it on which '*Friendship Shimla*' was written with black paint, broken leg of the table along with blood swabs taken from the dining table's plastic cover and another sample from blood lying near the dead body were taken into possession vide memo Ex.PT. One brass ring worn by deceased Sukhdev Kaur was taken in possession vide memo Ex.PU. In the kitchen sink, a blood stained knife was found lying in the uncleaned utensils, which was lifted and after preparing its sketch Ex.PV, the same was taken into possession vide recovery memo Ex.PW. Rough site plan of the place of occurrence Ex.PX was prepared. Finger prints of deceased Sukhdev Kaur were taken and sealed with seal impressions 'BS' and the same were taken into possession vide memo Ex.PAC.

Thereafter the dead body was sent to General Hospital, Sector-16, Chandigarh for post-mortem, which was conducted by medical board comprising of Dr. R.S. Sachdeva (PW12) and Dr. Pawan Kansal. The doctors found five injuries which were on the neck region and the face of the deceased. In the opinion of doctor, the cause of death was haemorrhage and shock due to the injuries on vital organs i.e. head and neck vessels which were sufficient to cause death in ordinary course of nature. Post-mortem report Ex.PJ was prepared. A separate parcel containing nails of the deceased was also prepared. Another parcel containing blood samples and the parcel containing nails of deceased were sealed with seal of Chief Medical Officer, Chandigarh and handed over to Constable Mohinder Singh along with copy of FIR and belongings on the dead body.

On 16.09.2000, Inspector Mani Ram again visited the spot of occurrence and on inspection, found one empty nip of liquor brand '*Officer's Choice*' from the veranda of the house, which was taken into possession vide

recovery memo Ex.PB. Further investigation of the case was conducted by SI Harmeet Singh and SI Harbhajan Singh.

On 19.09.2000, Joginder Singh, husband of the deceased gave a list (Ex.PC) of stolen jewellery from his house. Appellant Satwinder Singh was missing from his house and he was apprehended by police party headed by SI Harmeet Singh at Chandigarh-Punjab Boarder on 21.09.2000 along with Nirmal Singh (since acquitted). At that time, they were travelling in car bearing registration No.PB-10M-9833, which was a stolen car having fake number plate. The car was taken into possession vide recovery memo Ex.DD. From the car, apparels i.e. three pants, one black coloured T-shirt, one shirt, undergarments, leather belt and rope of coconut tree were recovered and taken into possession vide recovery memo Ex.DE.

Both the accused were arrested. On 25.09.2000, appellant Satwinder Singh suffered a disclosure statement Ex.PDD stating therein that the gold ornaments worn by Sukhdev Kaur i.e. one gold bangle, one pair of ear-ring, one ladies gold ring were sold by him with the help of his co-accused Nirmal Singh to Lalit Jewellers, Ahmedgarh, District Sangrur. The police party then proceeded towards Ahmedgarh on 26.09.2000 along with appellant, who led the police party to the shop of appellant-Lalit. Appellant-Lalit was arrested from his shop and his personal search memo Ex.P-A1 was prepared. Appellant Lalit disclosed that he had purchased three gold items from appellant Satwinder Singh and Nirmal Singh and produced three gold articles i.e. one gold bangle, one pair of gold ear-rings and a ladies gold ring, which PW2 Joginder Singh identified as belonging to his wife. The golden jewellery was put in a box, sealed and taken into possession vide recovery memo Ex.PE. Rough site plan of place of recovery Ex.PAJ was also

prepared.

On 10.12.2000, PW2 Joginder Singh produced receipt Ex.PG of purchase of golden ornaments which was taken into possession vide recovery memo Ex.PF. PW25 SI Harbhajan Singh moved an application for taking hair sample of the head, mustasch, beard and blood sample of appellant Satwinder and his co-accused Nirmal Singh. The same were taken by the doctor at General Hospital, Sector 16, Chandigarh and sealed with seal of CMO CAPITAL CHANDIGARH. The sealed parcel containing the above samples were handed over to Constable Balwant Singh and these were taken into possession vide recovery memo Ex.PH. Maruti Car No.PB-10M-9833 on verification was found to be belonging to one Ashok Kumar of Ludhiana and the actual number of Maruti car was PB-04E-1133. The number plate of the car having fake number PB-10M-9833 was removed and taken into possession vide recovery memo Ex.PAL. The car was taken to Ludhiana by ASI Balkar Singh under the order of the Court for the purpose of investigation of the theft case relating to that car. On 20.11.2000, SI Harbhajan Singh PW25 moved an application before Illaqa Magistrate for obtaining specimen writing/signature of appellant Satwinder Singh and his co-accused Nirmal Singh but both denied to give their specimen writing/signature. After completion of investigation, challan was presented in the Court of Judicial Magistrate 1st Class, Chandigarh.

Vide order dated 22.02.2001, the case was committed to the Court of Sessions for trial, where appellant Satwinder Singh and co-accused Nirmal Singh were charge-sheeted for the offences punishable under Sections 302, 392, 420, 460, 468 and 471 of Indian Penal Code (IPC-for short) while appellant Lalit Verma was charge-sheeted for the offence punishable under

Section 411 IPC. Both the appellants and co-accused Nirmal Singh pleaded not guilty to the charge and claimed trial.

To bring home the charge against the appellants and their co-accused Nirmal Singh, prosecution examined complainant Lakhbir Kaur as PW1. Joginder Singh, husband of deceased as PW2; Ashok Kumar, whose stolen car was recovered from appellant Satwinder Singh and co-accused Nirmal Singh, as PW4; Naresh Kumar, Goldsmith, from whom Joginder Singh claimed to have purchased the jewellery for his wife, which was recovered from appellant Lalit Verma, as PW6, but he did not identify the jewellery recovered in this case as prepared or polished by him; Kishan Chand, resident of House No.600 Sector 38-A, Chandigarh as PW7, but he also turned hostile and did not support the prosecution case; Constable Balwant Singh, who had taken appellant Satwinder Singh and his co-accused Nirmal Singh to General Hospital, Sector-16, Chandigarh for taking the samples of their hair and blood, as PW8; Constable Manjit Singh as PW9, who had taken the photographs of the place of occurrence after the incident and had produced the same on file as Ex.P18 to Ex.P34 and negatives of the same as Ex.P1 to Ex.P17; Saudagar Ali as PW11, who on verification had reported vide endorsement on the application for verification Ex.PI that the licence of appellant Satwinder Singh recovered from him was fake; SI Tarlochan Singh as PW13, who had conducted part investigation relating to verification of ownership of car bearing No.PB-04E-1133 and driving licence No.3774/99; PW14 Constable Yash Pal, police draftsman, who had prepared the scaled site plan of the place of occurrence Ex.PM; PW15 HC Baljeet Singh posted as MHC, Police Station Sector-39, Chandigarh with whom the case properties were deposited from time to time; Constable Prahlad as

PW17, who remained associated with the investigation when appellant Satwinder Singh was apprehended by the police on 20.09.2000; ASI Balkar Singh as PW19, Inspector Mani Ram as PW20, SI Harbhajan Singh as PW25 who conducted the investigation/part-investigation in this case; Investigating Officer Harmeet Singh as PW21 but his statement could not be completed as he stated that due to accident, he remained in comma and his memory had faded (He was ultimately given up by the prosecution); Mahesh Kumar as PW22 to prove that Maruti car No.PB-04E-1133 was registered in the name of M/s Raj Fertilizers, Faridkot; PW23 Mahender Singh, who was posted as Chief Judicial Magistrate at Chandigarh on 20.11.2000 and has stated that appellant Satwinder Singh and Nirmal Singh were produced before him for giving their specimen signature and writing which they refused; PW24 Neeraj Kumar, Clerk, DTO Office, Muktsar to prove that the vehicle bearing registration No.PB-04E-1133 was transferred in the name of Ashok Kumar PW4. The other witnesses examined by the prosecution were formal witnesses.

On completion of prosecution evidence, statement of appellant Satwinder Singh as required under Section 313 Cr.P.C. was recorded, wherein he denied the incriminating evidence appearing against him and pleaded his false implication. He, in his defence, has stated as follows:-

“I have been falsely implicated in this case. The case regarding theft of car No.PB04-E-1133 on 26.09.2000 was registered as per the statement of ASI Balkar Singh. Moreover, Balkar Singh has stated in his evidence that the car was transferred in the name of Ashok Kumar only on 21.09.2000 as per the registration certificate of Car No.PB04-E-1133. Moreover, ASI Balkar Singh also stated that no information regarding theft of car was

received prior to 26.09.2000. Not only this Mahesh Kumar PW-22 stated that car PB04-E-1133 stands in the name of Ashok Rattan in the record of DTO Muktsar till date.

The alleged jewellery recovered from the possession of accused Lalit Kumar alleged to have been sold by me and my co-accused was not manufactured or repaired by Naresh Kumar Jeweller PW-6. The receipt Ex.P-G was handed over to the police by the complainant not on the date of occurrence but much later and therefore, receipt is also fake and forged. No recovery was effected from me. Naresh Kumar jeweller has stated that the jewellery Ex.P-1 to Ex.P-4 was not prepared or polished by him. The car and documents were foisted on me.

The real culprit in this case is Mandhir Singh son of the deceased who was having strained relations with his mother and father who has not been produced in this Court by the prosecution despite more than 25 opportunities given for evidence. It is a false case.”

Appellant-Lalit Verma also denied the incriminating evidence appearing against him and pleaded his false implication in this case.

We have heard learned counsel for the appellants, learned State counsel and have perused the paper book and record of the trial Court with their assistance.

It is a case relating to blind murder of Sukhdev Kaur. The occurrence took place during the day time between 08.00 AM to 5.00 PM. In order to make out a case against the appellants, prosecution had examined PW7 Kishan Chand, a retired senior Clerk from Irrigation Department, who lives in house No.600, Sector 38-A, Chandigarh. During investigation, his statement was recorded that he had seen appellant Satwinder Singh and his co-accused Nirmal Singh, entering the house of complainant on 14.09.2000

at about 11.30 AM, when he was sitting in a park. This witness did not support the prosecution case. He was declared hostile and the prosecution failed to bring any fact or circumstances, supporting its case in his cross-examination.

Bereft of any direct evidence, prosecution has relied on circumstantial evidence to prove its case. During investigation, finger prints were lifted from the spot and sent for examination but this evidence was not relied upon by the prosecution. The team of forensic experts had taken into possession hair from the right hand of Sukhdev Kaur. They have also taken the sample of hair of Sukhdev Kaur. The sample of the hair from the head, mustasch and beard of Satwinder Singh and Nirmal Singh were also taken and sent to Forensic Science Laboratory for examination. This evidence was discarded by the trial Court as no conclusive report came on record to match the hair of appellant Satwinder Singh or co-accused Nirmal Singh with the hair found in the right hand of deceased. While discarding the above evidence, the trial Court has observed in para 68 of the judgment as follows:-

“68. Learned PP contended that hair from the right hand of deceased Sukhdev Kaur was recovered. That hair was got compared from the hair of the head, beard and mustaches (sic mustasch) of both the accused. In this regard, reports Ex.P38 and Ex.P39 were sought. Dr. Sanjeev, Senior Scientific Officer from the department of Biology, CFSL, Chandigarh as PW-25 deposed that the similarities were more in comparison of exhibit-1 (hair recovered from the right hand of deceased) of Ex.P38 with exhibit 1 to 3 and 5 to 7 (hair of the head, mustaches (sic mustasch) and beard of both the accused) than the differences. As such, since similarities were more in number, therefore, for this reason as well the accused are

connected with the crime. This contention of the learned PP does not carry any weight as in the report Ex.P39 it finds mention that the results of matching the hair sample of exhibit-1 with hair samples of exhibit 1 to 3 and 5 to 7 were found to be inconclusive. Simply because the expert has stated that the similarities were more in number as compared to the dis-similarities, it cannot be concluded that the hair recovered from the right hand of the deceased matched with the hair of the accused in any manner. There is no law on the point to say that if the similarities are more in number it can be concluded that the hair in question was matched with the hair samples. In my view if there are dis-similarities, particularly when the expert himself given the report that the result of matching hair sample was inconclusive, it cannot be concluded that the hair in question matched with the hair of the accused. In the absence of any detailed report on the file as to what exactly were similarities and what were the dis-similarities, also nothing can be said about the nature of the both and in fact, no conclusion can be drawn in this respect.”

The blood samples were also taken from the spot and sent for chemical examination along with blood samples of appellant Satwinder Singh and co-accused Nirmal Singh but this evidence also did not help the prosecution case as blood group of the deceased was ‘B’ and of appellant Satwinder Singh was also ‘B’. The prosecution failed to prove that the blood found on the clothes of the deceased or on the nails of the deceased was that of the appellant. Appellant Satwinder Singh and his co-accused Nirmal Singh were apprehended by the police on the basis of suspicion. Joginder Singh, husband of deceased Sukhdev Kaur, who had retired from Army in the year 1984, has stated that on 20.09.2000, Hakam Singh father of Satwinder

Singh had received a telephonic call from Satwinder Singh and Nirmal Singh

informing him of their return from Jaipur. They called Hakam Singh to Doraha to meet them. Hakam Singh informed Joginder Singh about the call of Satwinder Singh and Nirmal Singh received by him and went to Doraha bridge to meet them. Joginder Singh has given the reason for his suspicion qua Satwinder Singh and Nirmal Singh while appearing as PW2 that at the time of cremation of his wife, only Hakam Singh had come while his entire family was not present, while family of Nirmal Singh was present at that time san Nirmal Singh himself. Hakam Singh had told him that his brother-in-law (wife's brother) Nirmal Singh and son Satwinder Singh were missing for the last 5-6 days. Nirmal Singh is son of real sister of deceased Sukhdev Kaur while appellant Satwinder Singh is husband of sister of Nirmal Singh.

Hakam Singh, who was called by appellant Satwinder Singh and Nirmal Singh, reached at Doraha bridge, met the duo and asked them to come home but they refused and abused him. Hakam Singh intimated Joginder Singh about the incident. Joginder Singh immediately contacted the police, which was in search of the accused and accompanied the police party. They first went to *Rahra Sahib Gurudwara* but could not find appellant Satwinder Singh and co-accused Nirmal Singh there. The house of Hakam Singh was also searched but of no avail. Ultimately, the appellant was apprehended while travelling in the Maruti car bearing No.PB-10M-9833 near nursery at Maloya-Chandigarh road. The story as narrated by Joginder Singh PW2 reveals that arrest of appellant was only on the basis of suspicion. It was after his arrest that the police took his hair and blood samples and recorded his disclosure statement leading to the recovery of jewellery from goldsmith Lalit Verma-appellant.

Learned counsel for appellant Satwinder Singh has argued that

in this case, the only evidence left with the prosecution to prove the charge framed against appellants is the recovery of a pair of gold ear-ring, a gold bangle and a ladies ring, which were allegedly sold by appellant Satwinder Singh to goldsmith Lalit Verma-appellant. These ornaments were identified by Joginder Singh as belonging to his wife.

Joginder Singh PW2 had brought a receipt from Naresh Jewellers, Mani Majra on 10.12.2000 and stated that he had got these three ornaments prepared from this jeweller. However, Naresh Jeweller when examined in this case as PW6 denied that jewellery recovered in this case Ex.P1 to Ex.P4 was either prepared or polished by him.

Learned counsel for appellant-Lalit Verma has argued that in the absence of any evidence to connect the jewellery taken into possession by the police in this case as belonging to the deceased, the charge for the offence punishable under Section 411 IPC is not made out against appellant-Lalit Verma. The prosecution has failed to prove the ingredients to prove charge for the offence punishable under Section 411 IPC against appellant-Lalit Verma. There is no evidence produced on record that appellant-Lalit Verma had dishonestly received or retained the golden jewellery, knowing or having reason to believe the same to be stolen property.

On giving a careful thought to the submissions of learned counsel for the appellants, we find substance therein to agree with the same. After having failed to connect the other evidence produced by prosecution with the crime for which appellants were charged, the prosecution to prove the charge for the offence punishable under Section 302/411 IPC against the appellants has relied on recovery of jewellery allegedly belonging to the deceased from appellant-Lalit Verma, on the basis of disclosure statement of

appellant Satwinder Singh. In the facts and circumstances of this case, the above evidence is neither reliable nor authentic or can be relied upon to bring home the charge for the offence punishable under Section 302 IPC against appellant Satwinder Singh. The occurrence took place on 14.09.2000. The list of stolen article was supplied to the police on 19.09.2000. Joginder Singh has stated that he has brought the receipt from Naresh Jewellers, Mani Majra from whom he got prepared the golden ornaments of his wife on 10.12.2000. Naresh Kumar Goldsmith when examined as PW6 has stated that he never prepared or polished ornaments Ex.P1 to P4 recovered in this case. In this manner, the above evidence produced by the prosecution stand shattered and the prosecution has failed to prove that the jewellery item taken into possession vide recovery memo Ex.PE belonged to the deceased. Complainant, who is daughter of deceased, has not identified the jewellery items recovered from appellant-Lalit Verma as belonging to her mother. Statement of Joginder Singh finds no support from Naresh Jeweller (PW6) who denied preparing or polishing these jewellery items.

The entire case of the prosecution is based on circumstantial evidence. It is a settled proposition of law that when the prosecution has to bring home the charge on the basis of circumstantial evidence, it is required to complete the chain of circumstances to reach a conclusion about probability of an accused's guilt or his involvement in the commission of crime based on circumstantial evidence Hon'ble Supreme Court in the case of *Dhan Raj @ Dhand versus State of Haryana, reported as (2014) 6 SCC 745* has observed as follows:-

“18. For establishing the guilt on the basis of circumstantial evidence, it is also to be taken into account

that the chain of circumstantial evidence must be completed. xxx xxx.....

19. We would refer to the decision of this Court in *Munish Mubar v. State of Haryana* wherein Dr. Chauhan, J. has very aptly and succinctly stated the following (SCC p.473, para 28).

“28.... The circumstantial evidence is a close companion of factual matrix, creating a fine network through which there can be no escape for the accused, primarily because the said facts, when taken as a whole, do not permit us to arrive at any other inference but one indicating the guilt of the accused.”

A court has to examine the entire evidence in its entirety especially in case of circumstantial evidence and ensure that the only inference drawn from the evidence is the guilt of the accused. If more than one inference can be drawn then the accused must have the benefit of doubt as it is not the court's job to assume and only when guilt beyond reasonable doubt is proved then it is fair to record conviction. In case of circumstantial evidence, each circumstance must be proved beyond reasonable doubt by independent evidence, and the circumstances so proved must form a complete chain without giving any chance of surmise or conjecture and must also be consistent with the guilt of the accused.”

In case titled *State of Goa versus Sanjay Thakran and other*, reported as 2007(2) RCR (Criminal), 458, Hon'ble Supreme Court observed as follows:

“13. The prosecution case is based on the circumstantial evidence and it is a well-settled proposition of law that

when the case rests upon circumstantial evidence, such evidence must satisfy the following tests:

- (1) The circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;*
- (2) those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused;*
- (3) the circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and*
- (4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence.”*

Learned trial Court recorded the conviction of appellant Satwinder Singh for the offence punishable under Section 302 IPC holding that recovery of the golden jewellery is such a circumstance which forms a chain so complete that there is no escape from the conclusion that in all human probabilities, the crime was committed by the accused and none-else and further that it is incapable of explanation on any other hypothesis than that of guilt of accused Satwinder Singh so far as causing of murder of deceased Sukhdev Kaur is concerned. In view of our discussion of prosecution evidence in the foregoing paras, the above observation recorded by learned trial Court in para 65 of the judgment can be termed as an over-reach and giving undue importance to a fact which is not proved and is

riddled with discrepancies and infirmities. The prosecution in this case has utterly failed to bring home any evidence to prove the charge for the offence punishable under Section 302, 392 and 468 IPC against appellant Satwinder Singh. Consequently, the offence under Section 411 IPC is also not proved against appellant-Lalit Verma.

Appellant Satwinder Singh has also been convicted for the offences punishable under Section 460 and 471 IPC. The allegation against him is that he used fake number plate on the Maruti vehicle in which he was travelling. The original number of the vehicle was PB-04E-1133 while the number plate of Maruti car recovered from appellant was displaying the number as PB-10M-9833. Using the fake number plate does not make out an offence punishable under Section 460 IPC which deals with forgery of valuable security, Will etc. or under Section 471 IPC. The offence disclosed against appellant Satwinder Singh is under Section 482 IPC, which read as follows:-

“482. Punishment for using a false property mark.—

Whoever uses any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.”

As a sequel of our discussion above, the appeal filed by appellant-Lalit Verma i.e. Criminal Appeal No.S-3123-SB of 2009 is accepted and he is acquitted of the charge framed against him. The appeal filed by appellant Satwinder Singh i.e. Criminal Appeal No.D-169-DB of 2010 is partly accepted. Giving the benefit of doubt, appellant Satwinder Singh is acquitted of the charge framed against him for the offence punishable under Section 302, 392 and 468 IPC. The sentence awarded to

him for the offence punishable under Section 460 and 471 is modified and he is convicted for the offence punishable under Section 482 IPC and is sentenced to undergo rigorous imprisonment for one year. The period of sentence awarded to the appellant is set off against the period of sentence already undergone by him. The sentence of fine to appellant Satwinder Singh as awarded by the trial Court, is also set aside. Satwinder Singh appellant according to the custody certificate dated 08.12.2014, has undergone actual imprisonment of about 8 years, therefore, he be set at liberty, if not wanted in any other case.

**(S.S. SARON)
JUDGE**

**(SURINDER GUPTA)
JUDGE**

April 01, 2015.
Sachin M.