

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

(1) **CRA S-2143-SB of 2006.**
Decided on: 9.12.2015.

Subhash Chand and another
Versus
State of Haryana
... Appellants
... Respondent

(2) **CRA S-2230-SB of 2006.**
Dharam Pal Singh Parmar
Versus
State of Haryana
... Appellant
... Respondent

(3) **CRA S-2238-SB of 2006.**
Yad Ram
Versus
State of Haryana
... Appellant
... Respondent

CORAM : **Hon'ble Mr. Justice Jitendra Chauhan**

Present : Mr. Ashwani Bhardwaj, Advocate,
for the appellants in CRA S-2143-SB of 2006.

Ms. Aditi Girdhar, Advocate,
Amicus Curiae for the appellants in CRA S-2230-SB
of 2006 and CRA S-2238-SB of 2006.

Ms. Neelam Kashyap, DAG, Haryana.

JITENDRA CHAUHAN.J.

This judgment shall dispose of afore-mentioned three
appeals bearing CRA S-2143-SB of 2006 titled as “Subhash Chand and
another vs. State of Haryana”, CRA S-2230-SB of 2006 titled as

“Dharam Pal Singh Parmar vs. State of Haryana” and CRA S-2238-SB of 2006 titled as “Yad Ram vs. State of Haryana” as all the appeals have arisen out of common judgment of conviction dated 14.10.2006 and the order of sentence dated 17.10.2006 passed by the Special Judge, Faridabad vide which the accused-appellants were convicted and sentenced as under:-

Bhim Singh and Dharam Pal Parmar

Offence	Sentence	Fine	In default
7 of PC Act	RI for 2 years	Rs.1000/-	RI for 2 months
13(d)(ii) of PC Act	RI for 3 years	Rs.1000/-	RI for 2 months
120-B IPC	RI for 6 months	Rs.1000/-	--

Subhash Chand

Offence	Sentence	Fine	In default
8 of PC Act	RI for 2 years	Rs.1000/-	RI for 2 months
120-B IPC	RI for 6 months	Rs.1000/-	--

Yad Ram

Offence	Sentence	Fine	In default
465 IPC	RI for 3 years	Rs.1000/-	RI for 2 months
468 IPC	RI for 3 years	Rs.1000/-	RI for 2 months
471 IPC	RI for 3 years	Rs.1000/-	RI for 2 months
420 IPC	RI for 3 years	Rs.1000/-	RI for 2 months
120-B IPC	RI for 6 months	Rs.1000/-	--

All the substantive sentences were ordered to run concurrently.

The brief facts of the case as noticed in the judgment passed by the trial Court are as under:-

“Briefly stated the facts of the prosecution case as alleged are that the employees of The Ballabgarh

Primary Co-operative Agriculture and Rural Development Bank Limited, Ballabgarh are indulging in cheating and to loot the general public on the basis of complaint made by Yogesh Kumar. During the course of investigation, it was found that Yad Ram son of Tirkha had sanctioned a loan of Rs.50,000/- on 24.7.1997. Yad Ram son of Tirkha had purchased the land of 101 sq. yards from Remal Dass on 30.4.1990 for a sum of Rs.30,000/- and he had sold this plot to Yad Ram son of Pritam Singh and Ganga Ram son of Pritam Singh for a sum of Rs.20,000/- but the sale deed was not registered. But they obtained a loan of Rs.50,000/- in collusion with Bhim Singh and Dharampal, Bank officials. Balbir was working as an agent for advancement of fake loan. Yad Ram had fabricated a fake ration card by forging the father's name in the ration card which was bearing No.396. There was over writing in this ration card. During the investigation, it was found that Dharampal Parmar, Manager had advanced the loan for opening an restaurant to Yad Ram son of Tirkha Ram and issued the first installment of Rs.30,000/- after verification and later on, Bhim Singh, LVO verified the said advancement. They obtained the bills for purchase of

the materials which were also found to be forged one as these articles were never supplied by those firms. The bills were fake. Loanee was not doing the work according to the loan amount advanced to him. No registered sale deed was ever executed in favour of the loanee but the loan of Rs.50,000/- has been wrongly advanced by the accused Dharampal and Bhim Singh in collusion with Balbir Singh, Mahender Singh, Ganga Ram and Chhida Singh as well as Sube Singh, Inspector Food & Supplies, Department. The papers were forged and fabricated. Hence, the present case under Section 7/13/49 of the Prevention of Corruption Act, 1988 and 420, 465, 468, 471, 120-B of the Indian Penal Code was registered against the accused. The accused were arrested. Various documents concerning this case were taken into possession by the investigating officer. Statements of the witnesses were also recorded under Section 161 Cr.P.C. The loan papers were also taken into possession. After completion of other necessary formalities, the accused were challaned and sent up for trial in the Court.”

Charges under Sections 419, 420, 465, 468, 471 read with Section 120-B and under Sections 7, 8 and 13(d)(ii) of Prevention

of Corruption Act, 1988 (for short “the PC Act”) were framed against the accused to which the accused did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined the following witnesses:-

PW-1, Abhey Singh, DSP proved the complaint Ex.PA received by him.

PW-2, Amar Singh Dagar, retired DSP has proved the formal FIR Ex.PA/1 recorded by him.

PW-3, Mahabir Singh, Inspector has stated that Yad Ram had received a ration card No. 019401. Ex.PB is the original application Form and he has proved Ex.PC copy of the ration card.

PW-4, Harish Chand has stated that Yad Ram and Ganga Ram had purchased a plot and they constructed two rooms. He had no knowledge that any business was being run by the accused in the said premises. He has, however, admitted that he had taken the DSP to the said premises but he did not enter the premises.

PW-5, Yad Ram son of Tirkha has stated that he had purchased 100 sq. yards plot from Ladha Ram for a sum of Rs.10,000/- about 25 years back and he had sold the plot to the accused Yad Ram for a sum of Rs.10,000/-. He has proved the the sale deed Ex. PE but he states that the sale deed was not executed. He has also stated that accused Yad Ram had raised a loan against their sale deed but he had no knowledge in whose name the accused had taken the loan. He has

also admitted that during the inquiry, he went to the Manager from

whom he came to know that a loan has been advanced in his name but he had never applied for the said loan.

PW-6, Dr. J.P. Panjeta has proved the sanction order Ex.PF to launch the prosecution against the accused Bhim Singh, LVO.

PW-7, Maharaj Singh ASI has stated about the documents handed over by him to Raj Singh Mor, DSP, i.e. Ex.PG, Ex.PH, and the files Ex.P-1 to Ex.P-14 which were taken into possession by the police vide recovery memo Ex.PJ.

PW-8, Ishwar Singh has stated that accused Yad Ram son of Tirkha was running a rehri and used to sell samosa. He has also stated that the accused did not start any restaurant.

PW-9, Jasbir Singh has tendered his affidavit Ex.PK regarding delivering the case property in the FSL at Madhuban vide RC No.115 dated 10.2.2003.

PW-10, Birju Singh has stated that as per the loan file Ex.P-2, the loan was sanctioned by the LVO Bhim Singh and Manager, Dharampal Parmar and he has also identified their signatures on the said file.

PW-11, Balbir Singh has also supported the statement of PW-10 Birju Singh who clearly deposed that the accused Dharampal Parmar, Manager as well as Bhim Singh, LVO had sanctioned a loan to the accused and their original loan sanctioned is Ex.PL by virtue of which Yad Ram son of Tirkha had taken the loan.

PW-12, Raj Singh Mor, DSP has stated about the

taking into possession the record on 13.7.2001 viz. Ex.P-1 to Ex.P-5.

He has also proved the report under Section 173 Cr.P.C prepared by the SHO.

PW-13, Yogesh Kumar has stated about the complaint, Ex. PM, made by him to various officers regarding the irregularities going on in the bank. He has also stated about the statement recorded by the police.

Statements of the accused under section 313 Cr.P.C were recorded in which all the incriminating circumstances appearing in the prosecution evidence were put to them which they denied and pleaded false implication.

In the defence evidence, the accused examined DW-1 Jagpal Singh, Manager who stated that Subhash Chand was elected as Director on 29.8.1997 and he first attended the meeting on 15.9.1997 as per Ex. D-3 and D-4. He has categorically stated that on 29.7.1997 he was not the Director of the bank.

After appraisal of the evidence, the learned trial Court, vide the impugned judgment and the order, convicted and sentenced the accused as narrated above.

Feeling dis-satisfied with the impugned judgment and the order, the present appeal has been filed.

Learned counsel for the appellants contends that no explanation has come forth for non-examination of the Investigating

Officer, DSP Sh. Ram Phal (retired) by the prosecution. The Forensic

Science Laboratory report, Haryana, Madhuban (Ex. PN), does not reflect whether the signatures in question were that of Yad Ram son of Tirkha or Yad Ram son of Pritam Singh. In fact, the specimen signatures of both the persons named Yad Ram ought to have been taken. Lastly, it is argued that DW-1, Jagpal Singh, the Manager has proved on record that accused Subhash Chand was elected on 29.08.1997 and the first meeting of Board was held on 15.09.1997, therefore, accused Subhash Chand cannot be said to have any connection with the sanctioning of loan to the accused on 24.07.1997.

On the other hand, the learned State counsel contends that the accused have been rightly convicted and sentenced by the trial Court. She supports the judgment and the order passed by the trial Court.

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

The case of the prosecution put in narrow compass is that Yad Ram son of Pritam Singh had obtained a loan of Rs.50,000/- while projecting himself as Yad Ram son of Tirkha. Dharampal, the Manager and the LVO, Bhim Singh, were aware of the fact that the accused Yad Ram son of Pritam Singh was not the owner of the property. In fact, Yad Ram son of Tirkha had sold the property to Yad Ram son of Pritam Singh but no sale deed had been executed in that regard. Perhaps, this prompted the accused Yad Ram son of Pritam Singh to present himself as Yad Ram son of Tirkha. To accomplish the

task, the accused even forged the name of his father on the ration card (Ex.PC). The contention of the learned counsel for the appellants that since the Investigation Officer, DSP Ram Phal, was not examined, link evidence in the case of the prosecution is missing, carries no weight because the various aspects of the investigation have been well proved by PW-12, DSP Raj Singh Mor. He has stated that on 13.07.2001, he was posted as DSP and the investigation of the case was undertaken by him. The statements of various witnesses were recorded by him and all the necessary formalities of the investigation were completed by him. The non-examination of DSP Ram Phal, who partly investigated the matter is no reason to throw away the case of the prosecution.

As regards the next contention raised by learned counsel for the appellants that the identity of Yad Ram whose specimen signatures were obtained has not been proved, is inconsequential. As during the course of investigation, the investigating officer had moved an application before the Judicial Magistrate, 1st Class, Faridabad for obtaining the specimen signatures of accused Yad Ram. In response thereto, the accused Yad Ram pleaded no objection in giving his specimen signatures. Further, vide order dated 8.2.2002, Judicial Magistrate 1st Class, Faridabad allowed the application and consequently, the specimen signatures of the accused were obtained and the same were sent to the Forensic Science Laboratory (FSL) for the purpose of comparison. With this overwhelming evidence on record, it is as clear as the light of the day that the signatures of Yad

Ram son of Pritam Singh, who is none else but the accused of the present case, were obtained and vide report Ex.P-N, the same were found to be similar. Therefore, the contentions stand repelled.

As far as the case of accused Subhash Chand is concerned, the election proceedings Ex.D-3 and the record of meeting Ex.D-4 are suggestive of the fact that the accused attended the meeting of board on 15.09.1997 whereas, the loan in the instant case was sanctioned on 24.07.1997 i.e. much prior to his joining the office. The finding of trial Court that Subhash had instigated the other accused to sanction loan is without any foundation as there is no evidence on record to substantiate the finding. The trial court committed an error while recording such finding without there being any evidence on record.

In view the observations made above, the appeal filed by accused Subash Chand is allowed and he is acquitted of the charges framed against him whereas, the appeals filed by the remaining accused appellants, namely, Bhim Singh, Yad Ram and Dharam Pal Singh Parmar are dismissed. The accused are on bail, their bail bonds stand forfeited and they be taken into custody to serve the remaining part of the sentence.

9.12.2015.
SN

(JITENDRA CHAUHAN)
JUDGE