

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 22.07.2015

CRM-A-1145-MA of 2014

Kirpal Singh

...Appellant

Versus

State of Punjab & another

...Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE LISA GILL**

Present : Mr. N.S.Sodhi, Advocate, for the appellant.

HEMANT GUPTA, J.

The present appeal is directed against an order dated 24.01.2013 passed by the Additional Sessions Judge, Moga, accepting the appeal, whereby accused-respondent No.2 was convicted by the trial Court for preparing a forged pronote and receipt relied upon by the accused in a civil suit.

The present-appellant filed a complaint alleging that pronote and receipt has been forged to be dated 11.06.1999 and on the basis of such pronote filed a civil suit for recovery of amount of pronote. Such document was not genuine, therefore, the accused has committed an offence punishable under Sections 465/467/468/470/471/474/477/420/193 IPC.

Apart from examining himself as CW-3, the complainant examined CW-1 Surjan Singh, document writer; CW-2 Jagdev Singh, attesting witnesses of the pronote & receipt as well as CW-4 Balwinder Singh, Clerk of an Advocate.

In his defence, apart from examining Jagjit Singh, attesting witness of the pronote and receipt as DW-1, accused-respondent No.2 himself stepped into witness box as DW-2.

After going through the evidence on record, the learned trial Court rejected the contention of the accused that there is no evidence on the file to show that when the pronote was tampered with and what was the objective behind tampering and thus, convicted the accused. However, the learned Additional Sessions Judge accepted the argument raised on behalf of accused-respondent No.2 and after granting him benefit of doubt, accepted the appeal and dismissed the complaint.

The learned Addl. Sessions Judge noticed that the complainant while appearing as CW-3 admitted that he received Rs.54,000/- at the time of execution of pronote Ex.P1 and receipt Ex.P2 dated 12.5.1996. He also admitted his signatures on pronote Ex.P1 and receipt Ex.P2 and that Jagdev Singh and Jagjit Singh were the witnesses of the pronote and receipt. The Additional Sessions Judge also noticed that CW-1 Surjan Singh has stated that the pronote and receipt were executed on 12.05.1996, but no consideration was paid on that day. The original pronote was taken by the complainant and that Nachhattar Singh – respondent No.2 told him that the transaction had taken place on 12.06.1996. It was also noticed that DW-1 Jagjit Singh, the attesting witness of the pronote and receipt, has stated that the pronote and receipt were written on 12.05.1996, but since the money was not ready with Nachhattar Singh – respondent No.2, the pronote and receipt were handed over to Kirpal Singh – complainant. DW-1 Jagjit Singh also stated that the date on pronote and receipt was changed from 12.05.1996 to 12.06.1996 in his presence and in presence of both the parties, when the consideration was passed. The date was changed by Surjan Singh at the instance of Kirpal Singh. Thus, it was found that there is no

evidence on record that when pronote was tampered with and who tampered the same, but keeping in view the fact that money was obtained from the accused vide pronote Ex.P2 in question, therefore, the prosecution has not been able to prove the guilt of the accused beyond shadow of reasonable doubt.

We have heard learned counsel for the appellant at length and perused the record carefully. As per the complainant, he accepts pronote and receipt were executed, but on 12.05.1996. The allegation is that respondent No.2 changed the same to 12.06.1996 so as to bring his suit for recovery of the amount of pronote within the period of limitation. The evidence on record does not show that the change in date was carried out by respondent No.2. One of the attesting witnesses of the pronote has deposed that the change was made by the scribe, when actually the money was given by respondent No.2 to the complainant. There is no clear and categorical evidence that it is respondent No.2, who committed forgery so as to bring the suit within the period of limitation. Mere fact that accused-respondent No.2 is a beneficiary, therefore, he is presumed to be guilty, cannot form basis of conviction. In a criminal case, the allegations have to be proved beyond reasonable doubt and not on the basis of any presumption. Therefore, the findings recorded by the learned Additional Sessions Judge that the complainant has failed to prove that who conducted the forgery in the pronote and when, cannot be said to be warranting any interference in the present appeal against acquittal.

Consequently, the present appeal is dismissed.

(HEMANT GUPTA)
JUDGE

22.07.2015
Vimal

(LISA GILL)
JUDGE