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

**CRM-A-1935-MA-2015**
**Date of Decision: December 24,2015**

State of Punjab

...Appellant.

Versus

Kuldeep Singh and others

...Respondent

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA**
**HON'BLE MRS.JUSTICE RAJ RAHUL GARG**

*1. Whether Reporters of the local papers may be allowed to see the judgment?*
*2. To be referred to the Reporters or not?*
*3. Whether the judgment should be reported in the digest?*

Present: Mrs. Manjari Nehru Kaul, Addl. AG, Punjab
for the appellant.

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**<u>RAJ RAHUL GARG, J.</u>**

State of Punjab has filed the application for grant of leave to appeal against the judgment of acquittal dated 16.04.2015 rendered by the Special Judge, Gurdaspur.

Vide the aforesaid judgment, the learned Special Judge acquitted respondents-accused Kuldeep Singh son of Shri Kunan Singh, Baljit Singh son of Shri Lakhwinder Singh, Vijay Kumar son of Shri Parkash Chand and Parminder Singh son of Shri Ajit Singh in FIR No. 17 dated 05.03.2009. under Sections 420, 467, 468, 471, 120-B IPC and Section 13(1) (d) of Prevention of Corruption Act, Police Station Vigilance Bureau, Amritsar, registered against the respondents-accused.

Brief facts of the case are like this; that respondents-accused Kuldeep Singh, who was Secretary of Sahowal Cooperative Society, Mokhe in connivance with Baljit Singh, Vijay Kumar and Parminder Singh obtained loans from the Cooperative Bank, Gurdaspur to the tune of Rs.7,01,116/- in the names of Daljit Kaur, Chanchal Singh, Kuljit Singh, Pargat Singh and Jassa Singh by preparing forged loan files on the basis of forged signatures of the aforesaid persons to get benefit, as out of said loans, some amount was to be waived off under "Karza Maafi Scheme" of the government. Respondent-accused Vijay Kumar verified the loan files under KCC Sugarcane Scheme whereas respondent-accused Parminder Singh got all the loan files sanctioned from the Bank. It was alleged that Kuldeep Singh-accused got benefits under the "Karza Maafi Scheme" by the loans sanctioned in the names of aforesaid persons

After completion of necessary investigation, challan was filed against respondents-accused.

On finding a prima-facie case the charge under Sections 467,468,471,420,120-B IPC and Section 13(1)(d) Read with Section 13(2) of Prevention of Corruption Act was framed against the accused. However, the accused pleaded not guilty to the charge and claimed trial.

After taking entire prosecution evidence, statement of accused under Section 313 Cr.P.C. was recorded wherein accused denied each prosecution allegation and pleaded that they are innocent.

After hearing learned counsel for the parties and appraising the entire material coming on record, the learned Special Judge held that no fraud or cheating has been committed by accused-Kuldeep Singh in connivance with other co-accused in this case in getting the loans sanctioned in the names of Daljit Kaur, Chanchal Singh, Kuljit Singh, Pargat Singh and Jassa Singh by forging their signatures and submitting forged Jamabandis. The learned Special Judge further held that the loan amount has already been repaid to the bank by the aforesaid persons and nothing is due to be paid to the bank as regards the alleged loans are concerned and acquitted the respondents-accused of the charge framed against them.

The aforesaid judgment of acquittal dated 16.04.2015 has been assailed by the State of Punjab before this Court by seeking leave to appeal.

We have heard Smt. Manjari Nehru Kaul, Additional Advocate

General, Punjab and also appraised the entire material on record.

This is an appeal against acquittal. Interference in an appeal against acquittal is called for only if the judgment under appeal is perverse or based on misreading of the evidence. Merely because the Appellate Court is inclined to take a different view, is no reason calling for interference.

Smt. Manjari Nehru Kaul, Additional Advocate General, Punjab argued that the respondents-accused being public servants have committed a fraud in connivance with each other, by getting loans sanctioned fraudulently in the names of poor and innocent persons just to derive benefits under the "Karza Maafi Scheme" of the government.

Learned Counsel for the appellant-State contended that the learned Special Judge has failed to appreciate the oral as well as documentary evidence available on the file. Respondents-accused in connivance with each other fraudulently prepared loan files by forging the signatures of loanees and submitting fake Jamabandis. It was also contended by the learned Counsel for the State that the learned Special Judge has not taken into consideration the entire evidence in true perspective.

There is no fault in appraisal of oral as well as documentary evidence available on the file by the Special Judge. If we take the evidence available on the file into consideration as it is, no criminal offence is said to be proved against the accused beyond reasonable doubt. In fact, the learned Special Judge has dealt with the matter in question carefully discussing each and every point minutely.

We find no illegality in the findings of the learned Special Judge when it says that the persons, in whose names loans were allegedly got sanctioned fraudulently by the respondents-accused, have already repaid the loan amount to the Bank. As PW14 Gursimran Singh, Clerk, Cooperative Bank Branch, Dhariwal, who was working as Cashier in the Cooperative Bank Branch, Paniar in the year 2009 and also dealt with the loan cases, stated that all the loanees had already paid the amount of loans themselves. When the loan amount was deposited by the loanees themselves, it was incumbent upon the prosecution to prove that the loanees who deposited the loan amount in the bank, in fact, did not take the loans under their signatures. The hand-writing of none of the accused was ever got compared so as to pinpoint them as the one who had forged the loan documents. In fact, there is nothing on record to show that the accused signed the documents of loans in question. Not only this, the concerned Field Officer, who verified the loan documents and the Manager of the Bank, who sanctioned the loans, have not been put in the dock. They were not even joined in the investigation of the case for the reasons best known to them.

PW6 Santokh Singh, DSP during the course of his cross-examination has categorically stated that whenever a loan file is submitted before the Bank, it is to be verified by the concerned Field Officer and the Branch Manager of the Bank. When the question was put to this witness as to whether Jaswinder Singh was posted as Branch Manager of the Bank during those days and Gurbachan Singh as Field Officers, he simply pleaded his ignorance to that effect. Not only this, he even pleaded his ignorance by stating that he does not remember whether he tried to join the Field Officer and the Manager concerned of the Bank in the investigation relating to the loan files in question. Thus by non-joining the important persons in the investigation, who were responsible for sanctioning of loans and on whose report the loans were sanctioned, were neither investigated nor made accused in this case. This all goes to show that the junior officers of the bank i.e. Kuldeep Singh, Secretary, Vijay Kumar, Inspector, Parminder Singh, Clerk and Baljit Singh, Member of the Cooperative Society have been made accused without pinpointing that they are the persons who actually forged the loan documents or disbursed loans, knowing fully well that the documents were forged documents. Even the learned trial Court has found that Parminder Singh-accused was not posted in the Complainant-Bank in the year 2008 when the loans in question were disbursed. Not only this, even the complaint on the basis of which PW6 Santokh Singh, DSP conducted the enquiry, has also not seen the light of the day. Non-production of the original complaint on the file also speaks volumes about the genuineness of the prosecution case. Though the prosecution has examined PW2 Keshav Pal, Patwari and PW5 Mohinder Pal, Halqa Patwari in order to prove that Jamabandis Ex.PA, Ex.PB, Ex.P-3, Ex.P-40, Ex.P-48 and Ex.P-57 were forged documents, yet the prosecution has failed to do so for proving that the aforesaid Jamabandis were fake documents. The prosecution was to prove, firstly, as to who was the author of the aforesaid Jamabandis and further that the same were forged one. By leading evidence that the aforesaid Jamabandis were not issued by PW2 or PW5, would not prove that the Jamabandis were forged one. There is also no evidence on the file to show as to at whose instance the aforesaid Jamabandis were forged and further as to who received the aforesaid Jamabandis under his signatures. For want of this evidence, it cannot be said that it is the accused of this case who had forged the aforesaid Jamabandis. As such, the offence under Sections 467,468,471,420,120-B IPC and Section 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988 can not be said to be proved against the respondents-accused beyond reasonable doubt.

Under the above discussed circumstances, *mens rea* of the respondents-accused is not established on the file to commit fraud on the poor and innocent persons in whose names loans were sanctioned or the Bank. The findings recorded by the learned Special Judge that the prosecution has failed to prove that the respondents-accused have got the loans sanctioned fraudulently by forging signatures of loanees and submitting fake Jamabandis, cannot be said to be perverse or in any way misreading of evidence warranting interference of this Court.

For the reasons recorded above, finding no merit in this appeal, leave to appeal sought for by the State is declined.

Dismissed.

(HEMANT GUPTA)
JUDGE

(RAJ RAHUL GARG)
JUDGE

24.12.2015
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