

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

(1) Crl. Revision No. 1707 of 2005

Date of Decision: 30.09.2015

Baldev RamPetitioner

Versus

State of PunjabRespondent

(2) Crl. Revision No. 1708 of 2005

Joga SinghPetitioner

Versus

State of PunjabRespondent

(3) Crl. Revision No. 1709 of 2005

Gurmej SinghPetitioner

Versus

State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. R.S. Ghuman, Advocate for the petitioner(s).
in CRR No. 1707 & 1709 of 2005.

Mr. Mansur Ali, Advocate for the petitioner(s).
in CRR No. 1708 of 2005.

Mr. Sultan Singh Gill, Deputy Advocate General, Punjab.

HARI PAL VERMA, J. (Oral)

This order shall dispose of *CRR No. 1707 of 2005*, titled

'Baldev Ram vs. State of Punjab'; *CRR No. 1708 of 2005*, titled 'Joga

Singh vs. State of Punjab' and CRR No. 1709 of 2005, titled Gurmej Singh vs. State of Punjab', as the controversy involved in all these revision petitions is identical in nature, arising out of common FIR No.134 dated 16.04.1987, under Sections 406, 420, 568, 471 and 120-B of Indian Penal Code, registered at Police Station Banga, District Nawanshahr.

For sake of brevity, the facts are being extracted from Criminal Revision No. 1707 of 2005 titled 'Baldev Ram vs. State of Punjab'.

The learned trial Court, vide judgment of conviction and order of sentence dated 05/07.03.2001 had convicted the petitioners as under:-

<u>Name</u>	<u>U/S</u>	<u>Sentence</u>
Baldev Ram	406 IPC	: Rigorous imprisonment for two years.
	467 IPC	: Rigorous imprisonment for two years.
	471 IPC	: Rigorous imprisonment for two years.
Joga Singh	406 IPC	: Rigorous imprisonment for two years.
	471 IPC	: Rigorous imprisonment for two years.
Gurmej Singh	467 IPC	: Rigorous imprisonment for two years.
	471 IPC	: Rigorous imprisonment for two years.

It was, however, ordered by the trial Court that all the sentences shall run concurrently.

The prosecution story in brief, as noted by learned trial Court in para 2 of the impugned judgment dated 05/07.03.2001 reads as under:-

“The case of the prosecution in brief is that on 9.1.80, Kabal Singh r/o Bahar Mazara purchased 10 N.S.Cs. Ex.P1 to P10 of the value of Rs.1,000/- each. The maturity period thereof was seven years. Kabal Singh appointed his daughter namely Nanjo as his nominee.

Kabal Singh died on 16.11.85. Accused Gurmej Singh is the son of the said deceased Kabal Singh. He impersonated as his sister Mrs. Nanjo. He submitted his claim as such. On the claim form Ex/P12 and before the postal Authorities, the identification was made by the accused Jarnail Singh, who happened to be a sarpanch of his village. All the accused connived with each other and they made the payment of the N.S.Cs. in question amounting to Rs.20,450/- to the accused Gurmej Singh by obtaining his thumb impression as that of Smt. Nanjo on the N.S.Cs Ex.P1 to P10. The accused Baldev Ram Sharma was posted as Sub Post Master (the Incharge) of the Post Office in question. The accused Joga Singh was posted as Postal Assistant at the said post office. The accused Gurmail Ram was posted as Class-iv employee at the said post office. All these employees of the department connived with the accused Gurmej Singh and Jarnail Singh in forging the said claim form and the said receipt for payment.”

As per prosecution, Chanan Singh PW1, who was posted as Superintendent, Post Office, Jalandhar, inspected the post office in question in order to conduct an inquiry and discovered the fraud in question by chance. Thereafter, he conducted a regular inquiry and submitted his inquiry report Ex.PA. Subsequently, the Senior Superintendent of Post Office, on receipt of Ex.PA, sent a letter Ex.PW7/A to the S.H.O. Police Station, whereupon the FIR Ex.PW10/A was recorded regarding the crime in question. The accused were thereafter arrest and challaned.

On 16.04.1987, accused-Gurmej Singh moved an application Ex.P12 before the then Sub Post Master, i.e. accused Baldev Ram, seeking encashment of the National Saving Certificates (NSCs.).

In the said application, the accused-Gurmej Singh had impersonated himself as Smt. Nanjo who was identified as such by the then village Sarpanch i.e. the accused Jarnail. Vide order Ex.P13, the accused Baldev Ram i.e. the then Sub Post Master sanctioned the disbursement. Thus, by obtaining the thumb impression of the accused-Gurmej Singh on the said NSCs., accused-Joga Singh disbursed the amount in question to the accused-Gurmej Singh. Although, accused-Joga Singh was aware of the fact that the thumb impression on the said NSCs. was that of the accused-Gurmej Singh, yet, he showed that he in fact, had disbursed the amount to the nominee Mrs. Nanjo.

It has also come on record that after the crime was detected, the accused-Gurmej Singh deposited Rs.18,000/- with the said post office on 24.06.1989 against receipt Ex.P14. Similarly, the accused-Joga Singh, deposited Rs.2450/- in the post office on 05.07.1989. On 05.07.1989, accused-Joga Singh gave writing Ex.PW3/A in the presence of PW1 Chanan Singh and PW3 Madan Lal admitting the deposit with the post office in respect of the amount disbursed to Gurmej Singh on account of encashment of NSCs., Ex.P1 to P10.

The police investigated the matter and filed challan. Copy of the documents as relied upon by the prosecution were supplied to all the accused free of cost, as envisaged under Section 207 Cr.P.C.

The learned trial Court, vide judgment dated 05.03.2001 held accused Baldev Ram guilty of offence punishable under sections 406, 467 and 471 IPC; accused Joga Singh for offence punishable under sections 406 and 471 IPC and accused Gurmej Singh for offence

punishable under section 467 and 471 IPC. They all were sentenced as aforesaid.

Against the judgment of conviction and order sentence dated 05/07.03.2001 passed by learned trial Court, petitioners preferred an appeal before learned Addl. Sessions Judge, Nawanshahr, however, learned lower appellate Court reduced the sentence of the petitioners under Section 406, 467 and 471 from two years R.I to one year R.I. under each Section vide judgment dated 02.09.2005.

It is in the aforesaid circumstances, the petitioners have filed the present revision petition.

Learned counsel for the petitioners during the course of arguments has not challenged the conviction of the petitioners on merits and has confined his arguments only qua the quantum of sentence.

I have heard learned counsel for the parties and have gone through the paper book.

Learned counsel for the petitioners contends that the petitioners have already undergone the incarceration for a period of about 01 month and 08 days from out of total sentence of one year and are facing agonies of trial since 16.04.1987, when the case of registered against them. He further contends that the petitioners are at present about 70 years of age and are not the previous convicts. He also submits that though Kabal Singh had appointed his daughter namely Smt. Nanjo as his nominee, however, said Kabal Singh died on 16.11.1985 and accused-Gurmej Singh is the real son of the said Kabal Singh. He further submits that Kabal Sing had executed a Will in favour of his son

-accused Gurmej Singh bequeathing all his properties including the amount lying in banks. Ninjo-sister of accused-Gurmej Singh after her marriage had gone to Malaysia. As such when the above said NSCs. got matured, Gurmej Singh-only son of the Kabal Singh being the legal heir as per Will, filed an application before the Sub Post Master (Incharge) Post Office Kulthan for encashment of above said NSCs. He also submitted that even the amount, which was withdrawn, has already been deposited and till date the said amount has not been withdrawn by Smt. Nanjo, who is otherwise staying abroad. Moreover, Smt. Nanjo has also not made any complaint regarding withdrawal of the said amount. He, therefore, prays that the sentence of the petitioners be reduced to the period already undergone by them.

Learned counsel for the State has filed the custody certificates of the petitioners-accused. The same is taken on record.

There is no dispute about the fact that Smt. Nanjo is the real sister of accused-Gurmej Singh. Kabal Singh died on 16.11.1985 leaving behind his daughter Nanjo and son accused-Gurmej Singh. Furthermore, the amount was withdrawn by accused-Gurmej Singh being real brother of Smt. Nanjo. There is no complaint regarding the withdrawal of said amount from Smt. Nanjo and said amount has already been deposited with the post office and the same is lying there without there being any withdrawal by Smt. Nanjo.

On the totality of facts and circumstances of this case, no infirmity can be found with the reasoning of the Ld. Addl. Sessions Judge, Nawanshahr. However, the fact that the incident is of the year

1987 and almost 28 years have elapsed, the prayer of the petitioners that the sentence of the petitioners be reduced to the period already undergone carries substantial weight. Petitioners remained in custody for a period of about 01 month and 08 days against the awarded sentence of 01 year. It would be too harsh to direct them to undergo the remaining sentence after 28 years of the incident.

Thus taking into consideration the judgment of Delhi High Court in **Joginder Lal Vs. State, 1998(3) R.C.R. (Criminal) 192** as well as judgment of this Court in **Yadwinder Singh Vs. State of Punjab, 2009(3) R.C.R. (Criminal)**, I am of the considered opinion, the ends of justice would be met, if the conviction of the petitioners is affirmed, however, sentence of the imprisonment is reduced to the period already undergone.

Accordingly, the conviction of the petitioner Baldev Ram in CRR-1707-2005, Joga Singh in CRR-1708-2005 and Gurmej Singh in CRR-1709-2005 is upheld, however, their sentence is reduced to the period already undergone by them.

With the aforesaid modification in sentence, the revision petitions shall stand disposed of.

September 30, 2015
Anjal

(HARI PAL VERMA)
JUDGE