

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.2027 of 2003
Date of Decision: May 06, 2015

Sukhdev Dass and another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Deepak Sharma, Advocate
for the petitioners.

Mr. J.S. Brar, AAG, Punjab.

FATEH DEEP SINGH, J.

The revisionists, who both are sons of deceased Saran Dass have come in this revision after having been unsuccessful throughout. Firstly upon their conviction by way of judgment and order of sentence dated 5.12.2002 passed by the Court of learned JMIC, Nawanshahar, whereby, they have been sentenced as follows:-

Under Section 465	Rigorous imprisonment of two years and to pay fine of ₹1000/- each and in default of payment of fine to further undergo rigorous imprisonment for six months.
Under Section 468	Rigorous imprisonment of three years and to pay fine of ₹2000/- each and in default of payment of fine to further undergo rigorous imprisonment for six months.
Under Section 471	Rigorous imprisonment of two years and to pay fine of ₹1000/- each and in default of payment of fine to further undergo rigorous imprisonment for six months.
Under Section120-B	Rigorous imprisonment of six months each.

On appeal against the same, the Court of learned Additional Sessions Judge, Nawanshahar through impugned judgment

dated 26.9.2003 acquitted the appellants under Sections 465, 468, 471 IPC, however, holding them guilty under Section 120-B read with Sections 465 and 468 IPC. The same is subject matter of challenge before this Court.

The brief prelude to these proceedings are that one Swaran Singh, Member, Gram Panchayat, Village Jagatpur, moved a complaint to the Deputy Commissioner against Saran Dass (deceased) his sons-present revisionists on the allegations that the land measuring 49 kanals, 9 marlas bearing Khewat Nos.434/653 and measuring 28 Kanals and 14 marlas bearing khewat No.131/176 in village Jagatpur was owned by the Gram Panchayat and during the course of time the cultivator Saran Dass in connivance with Halqa Patwari, Datar Singh (since deceased) fabricated the records and incorporated the name of Saran Dass through manipulation under the column of ownership. It is thereafter, the revisionists filed collusive civil suit No.616 of 1991 against Saran Dass and obtained a decree dated 6.9.1991 by placing on record forged copy of jamabandi for the years 1989-90 depicting Saran Dass Chela, Basant Ram Chela and Munshi Ram as the exclusive owners of this piece of land. Thus, by this forgery and fabrication got the decree and, thereafter, the land in question stood transferred in their names.

It was thereafter, the Deputy Commissioner ordered the Sub-Divisional Officer (Civil), Nawanshahar to hold enquiry and thereupon the present case was got registered. Upon framing of charges, the prosecution examined PW1 Bikker Ram, Bill Clerk, SDM Office, Nawanshahar, PW2 Swaran Singh Ex-member Panchayat, Village Jagatpur, PW3 Des Raj, Patwari, PW4 Puran Chand, PW5 ASI Gulzar Singh, PW6 Baljit Singh, PW7 Ajit Singh, PW8 Parshotam Singh, Kanungo and PW9 Vijay Sharma. The accused when put to evidence

denied the same in the stand under Section 313 Cr.P.C. However, the accused did not lead any evidence in defence.

Learned counsel for the revisionists has made lone prayer seeking benefit of probation on the basis of judgments in **State through CBI Anti Corruption Branch, Chandigarh vs. Sanjiv Bhalla and another 2014(4) RCR (Criminal); Nathu Ram & Mange Ram vs. State 2004 (3) RCR (Criminal) 861** and **Sher Singh and others vs. State of Punjab 2003(2) ATCLR 670** contending that by now the petitioners are aged persons and have undergone the rigour of trial for decades and, therefore, their case needs to be sympathetically dealt with. The contention of the revisionist's counsel is stoutly opposed by learned State counsel on the ground that the accused have been instrumental in usurping the invaluable property of the Gram Panchayat by their acts of forgery, misrepresentation and does not deserve any concession of probation having regard to the fact that they have manipulated the revenue records.

Appreciating these submissions since the State has not come about to challenge the impugned findings and in view of narrowing down of the controversy as to the entitlement of probation, however, having regard to the chain of events which forms part of this story of forgery, fabrication and deception of property that vests invariably with the State shows how a Mahant has incorporated in connivance with Patwari who has died under mysterious circumstances as is reflected from the impugned findings changed the entry to be that of a Maufidar. It is there on the records that initially attempt to have this property usurped was made when Mahant Saran Dass filed against the Gram Panchayat civil suit No.156 of 1972 and to get declaration that that he was owner of this property and which as per the impugned findings stood dismissed on 19.11.1973, whereby, it was held that Gram

Panchayat Jagatpur was owner of this property and that the Mahant who was in possession could be evicted in accordance with law. It is on the basis of this, Mahant Saran Dass after fraudulent entry in the revenue record showed him to be the owner and, thereafter, got a civil suit filed from his sons-present revisionists bearing No.616 of 1991 and got the same decreed on 6.9.1991 after almost 18 years of initial dismissal of his first suit, thus, shows the cool and calculated planning to attain this sinister evil design and the manner of this planning. It is not a mere sudden and immediate action which has come to be termed as a crime but it is over a period of time shows the intent and resolve of the entire family in fraudulently getting invaluable property of the Government. Having regard to the nature of the offences which not only comprises of forgery of the entries in the revenue records but also obtaining fraudulent exclusive decree in connivance between father and the two sons latter the present petitioners whereby, even on the strength of forged revenue records/documents were put up before the Civil Courts had taken this disadvantage to which they were not entitled. Though, the provisions by way of Section 360 Cr.P.C. have been enshrined with a clear object of lessening the miseries of the convicts with the purpose of bringing them back to the fold of rectitude and preventing them from falling prey to a path of crime and be a source of future hardened criminals. No doubt, it is conceded on behalf of the State that there is no history of previous conviction against the revisionists. Having regard to the nature of the crime and their intentional act of taking even the Courts for a ride for which they have held guilty and their persistent and continuance conduct in achieving and carrying on this dubious plan and the fact that such like rackets have attained notoriety and Courts being tools of social justice needs to be alive to this situation in modern society. Thus, finding no cause to

accede to the prayer of the revisionists the same is declined and, thus, the revision petition being without merits stands dismissed.

(FATEH DEEP SINGH)
JUDGE

May 06, 2015
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