

**CRR-68-2015 and connected revision**

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

**Judgment Reserved on : 13.05.2015**

**Date of Decision: 28.05.2015**

**1. CRR-68-2015**

Pardhuman Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

**AND**

**2. CRR-455-2015 (O & M)**

Hussan Lal

.... Petitioner

Versus

State of Punjab

.... Respondent

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH**

- 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 ?

Argued by : Mr. G.S.Nagra, Advocate,  
for the petitioner in CRR-68-2015.

Mr. Rajiv Joshi, Advocate,  
for the petitioner in CRR-455-2015.

Mr. S.S.Chandumajra, DAG, Punjab assisted by  
Mr. A.S.Gill, Advocate, for the complainant.

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Paramjeet Singh, J.

This order shall dispose of CRR-68-2015, titled 'Pardhuman Singh vs. State of Punjab' and CRR-455-2015, titled 'Hussan Lal vs. State of Punjab', as common questions of fact, law are involved in both the revisions and both arise from the same FIR.

These revisions have been preferred by petitioners- Pardhuman Singh and Hussan Lal, respectively, against judgment dated 10.12.2014 passed by learned Additional Sessions Judge, Jalandhar whereby appeals filed by the above named petitioners have been dismissed and judgment of conviction and order of sentence dated 19.03.2014 passed by learned Judicial Magistrate Ist Class, Jalandhar have been upheld whereby each of them has been sentenced as under:

| <i>Sr. No.</i> | <i>Offence</i>                      | <i>Sentence</i>                                                                                                                               |
|----------------|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| 1              | U/S 467 read with Section 120-B IPC | To undergo R.I. for three years and to pay a fine of Rs.500/- and in default of payment of fine, he shall further undergo R.I. for five days. |
| 2              | U/S 471 read with Section 120-B IPC | To undergo R.I. for three years and to pay a fine of Rs.500/- and in default of payment of fine, he shall further undergo R.I. for five days. |

Both the sentences have been ordered to run concurrently.

Brief facts of the case are to the effect that one Kulwinder Singh son of Parsoon Singh, general attorney (vide registered attorney No.9092/4 dated 11.2.1999) of Jagdish Kaur, sold 2 kanals 8 marlas of land to Gurmail Singh son of Kartar Singh pertaining to khasra numbers 37/2 (2-0), 20(6-9), 21(3-2), 18/2(2-15), 19/2(2-2), 22/1(0-18), 314(8-0), 315(8-0), 316(8-0), 330(8-0), 331(8-0), 332(8-0), 668(8-0), 669(8-0), 672(8-00), 673(8-0), 676(7-8), 968/1(4-9), 965/1(4-9), 964/2(1-10), from

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the total land measuring 115 kanals 2 marlas vide registered sale deed dated 18.2.1999 and the mutation No.1381 was sanctioned in favour of Gurmail Singh on 24.2.1999. Gurmail Singh got physical possession on the same day (i.e. the date of registration of sale deed) in the presence of Sagar Singh son of Piara Singh. Thereafter, another sale deed was executed by Jagdish Kaur wife of Sagar Singh in favour of Hussan Lal son of Pritam Dass, resident of village Kot Khurd, Tehsil and District Jalandhar on 31.3.1999 and that sale deed was executed for 10 marlas of land, out of khasra number 18/2(2-15) and 19/2(2-2) shown in jamabandi for the year 1993-94. Thereafter, Hussan Lal in connivance and in criminal conspiracy with Parduman Singh Patwari of village Kot Khurd and Satwinderjit Pal, concerned Kanungo and other accomplices, made additions of some more khasra numbers in addition to khasra number 18/2 and 19/2 in the original sale deed in his possession for the purpose of entering the mutation in the revenue record, whereas in the copy of sale deed, which was in the custody of Registrar, Registration, Jalandhar, only two khasra numbers i.e. 18/2 and 19/2 were written. Thereafter, the sale deed was put up before the Patwari Pardhuman Singh for sanctioning of mutation and he made entries in the revenue record for sanctioning of mutation in favour of Hussan Lal mentioning additional khasra numbers of the joint land as stated above. Accordingly, mutation no.1386 was sanctioned in favour of Hussan Lal on 27.04.1999. Thereafter, when this discrepancy was pointed out by the complainant, the accused in order to save their skin and to justify their actions

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connived to amend the sale deed by adding above said additional khsara numbers in the sale deed vide amended sale deed i.e. Tatima registry dated 13.07.1999. The complainant Gurmail Singh after getting a certified copy of sale deed dated 31.03.1999 moved application before the Deputy Commissioner, upon which an inquiry was got conducted through Smt. Sarojini Gautam Sharda, Deputy Excise and Taxation Commissioner, Jalandhar, who recommended action against Jagdish Kaur, Hussan Lal, Patwari Pardhuman Singh, Girdawar Kanungo Satinderjit Pal and Circle Revenue Office Rajiv Verma for conniving with each other for sanctioning the mutation with added khasra numbers. On the basis of said report, FIR was registered.

Vide order dated 02.04.2003, Chief Judicial Magistrate framed charges under Sections 420/467/468/471/466 of the Indian Penal Code ('in short, 'IPC'). After the summoning of additional accused, charge was re-framed/amended, vide order dated 24.02.2014, under Sections 420/466/467/468/471/120-B IPC.

In order to prove its case, the prosecution examined complainant-Gurmail Singh as PW 1, Inspector Jaswant Singh as PW 2, ASI Surinder Singh as PW 3, Dheera Singh, Patwari as PW 4, Gagandeep Singh, Senior Assistant Director of Land Records, Punjab as PW 5, Smt. Sarojini Gautam Sharda, Deputy Excise and Taxation Commissioner, Jalandhar as PW 6, Parveen Kumar Clerk of HRC, Branch, DC Office, Jalandhar as PW 7.

Statements of accused under Section 313 of the Code of

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Criminal Procedure (in short, 'the Code') were recorded. All the incriminating evidence appearing against the accused was put to them. They denied the same and pleaded false implication. However, the accused did not lead any evidence in their defence.

The trial Court, vide judgment of conviction and order of sentence dated 19.03.2014, convicted accused namely Hussan Lal, Rajiv Verma Tehsildar and Pardhuman Singh Patwari whereas acquitted accused-Ajay Kumar. Feeling aggrieved, accused namely Hussan Lal, Rajiv Verma and Pardhuman Singh filed separate appeals. The State of Punjab through complainant-Gurmail Singh also filed appeal challenging the acquittal of accused-Ajay Kumar and for enhancement of sentence of Hussan Lal, Rajiv Verma and Pardhuman Singh. Vide impugned judgment dated 10.12.2014, learned Additional Sessions Judge decided all the four appeals whereby appeals filed by Pardhuman Singh and Hussan Lal have been dismissed; appeal filed by Rajiv Verma has been allowed and he has been acquitted of the charges framed against him and appeal filed by the State through complainant has also been dismissed. Hence, these revisions by Pardhuman Singh and Hussan Lal, respectively.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioners vehemently contended that the original sale deed document in respect whereof forgery was committed, has not been recovered from the vendee during the course of

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investigation, nor any explanation has been given in respect of destroying the same nor any charge under Section 201 IPC has been framed. Only copy thereof has been brought on record. In such circumstances, conviction cannot be sustained and relied upon ***Budh Ram vs. State of Haryana*** 2010(2) R.C.R.(Criminal) 352. The presumption cannot be raised that sale deed on the basis of which mutation was entered, was having khasra numbers which are mentioned in the mutation. Therefore, from the allegations, the alleged offence does not fall within the definition contained in Section 464 IPC. Obviously, the ingredients of offence under Sections 467 and 471 IPC are not made out. Therefore, according to the learned counsel, both the courts below have committed an illegality in convicting the petitioners for the offences under Sections 467 and 471 IPC. As far as the offence under Section 120B IPC is concerned, the charge for offence under Section 120B IPC is simpliciter. However, there is no evidence available on record to show that the petitioners had entered into a conspiracy for making a false document. Since, the charge framed under Section 120B IPC is simpliciter, conviction under this section is not sustainable. Learned counsel further contended that mutation does not confer any title and as such is not a document of valuable security. In support of their contentions, learned counsel relied upon ***Behari lal vs. Baldev Singh and others*** 1983 (1) R.C.R.(Criminal) 291.

Per contra, learned State counsel assisted by learned counsel for the complainant supported concurrent findings of conviction

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recorded by the courts below. Learned State counsel further contended that petitioner-Pardhuman Singh and other revenue officials including Kanungo and Tehsildar have entered, attested and sanctioned the said mutation, they should have compared khasra number with registration memorandum issued by the office of Registrar with regard to the registered transfer made vide the sale deed which have been allegedly altered/tampered with. They were duly required to find out whether the contents of the sale deed were true or not? Without finding out about the truthfulness of the contents, the official respondents have entered, attested and sanctioned the mutation. Secondly, petitioner-Pardhuman Singh Patwari, Kanungo, petitioner-Hussan Lal, beneficiary and Tehsildar have connived to sanction the mutation. Therefore, they have conspired with Hussan Lal for making a false document. Hence, learned Magistrate was justified in framing the charges for offences under Sections 420/467/468/471/466 IPC and convicting and sentencing the petitioners and the same has been also rightly upheld by the Appellate Court.

Before I examine the contentions raised by learned counsel for the parties, it would be appropriate to examine the limitations of this Court while deciding criminal revision. This court has a very limited jurisdiction while interfering with the finding of the learned courts below. In ***Dulli Chand Vs. Delhi Administration*** AIR 1975 SC 1960, the scope of invoking jurisdiction of the High Court in criminal revision was examined and it was held that the High Court should not re-

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appreciate the evidence in absence of perversity of finding. In ***State of Orissa Vs. Nakula Sahu & Ors.*** AIR 1979 SC 663, it was held that the High Court should not have interfered with the concurrent findings recorded by the trial court and affirmed by the appellate court in exercise of revisional jurisdiction when there was no error of fact or law arrived at by the trial court or the appellate court. In ***State of Kerela Vs. Puttamana Illath Jathavedan Namboodiri***, (1999) 2 SCC 452, it was held that the revisional jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the revisional power cannot be equated with the power of an appellate court nor it be treated even as a second appellate jurisdiction.

With the assistance of learned counsel for the parties, I have perused the impugned judgments of the courts below and examined the record.

It would be appropriate to reproduce relevant sections existing at the relevant time. Sections 463, 464, 467, 470 and 471 IPC read as under:

***“463. Forgery.- Whoever makes any false documents or false electronic record or part of a document or electronic record, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.***

***464. Making a false document.- A person is said to***

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*make a false document or false electronic record-*

*First—Who dishonestly or fraudulently—*

- (a) makes, signs, seals or executes a document or part of a document;*
- (b) makes or transmits any electronic record or part of any electronic record;*
- (c) affixes any digital signature on any electronic record;*
- (d) makes any mark denoting the execution of a document or the authenticity of the digital signature,*

*with the intention of causing it to be believed that such document or part of document, electronic record or digital signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or*

*Secondly—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with digital signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or*

*Thirdly—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his digital signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.*

**467. Forgery of valuable security, will, etc.**—Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**470. Forged document or electronic record.** - A false document or electronic record made wholly or in part by forgery is designated “a forged document or electronic record.

**471. Using as genuine a forged document or electronic record** — Whoever fraudulently or dishonestly uses as genuine any document or electronic record which he knows or has reason to believe to be a forged document or electronic record, shall be punished in the same manner as if he had forged such document or electronic record.”

The perusal of above sections reveals that Section 463 IPC deals with making a false document with the intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into express or implied contract, or with intent to commit fraud or with the intention that fraud

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may be committed. Since Section 463 IPC deals with “making false documents”, obviously, one has to turn to Section 464 IPC which defines under what circumstances, a document is said to be made falsely. A bare perusal of Section 464 IPC clearly reveals that a person is said to make a false document when it is done with dishonest and fraudulent intention, when a part of document is made with the intention of causing it to be believed that such a document was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person whom or by whose authority, the maker knows that it was not made, signed, sealed, executed or affixed by the said authority. Moreover, if a person, without a lawful authority, altered the said document after the document was made, only under these circumstances, it is said a document is made falsely. In the present case, original sale deed has been altered without lawful authority by adding more khasra numbers, thereby making a false document. On the basis of that false document, mutation was entered, attested and sanctioned.

Admittedly, in the present case, certified copy of the sale deed reveals that when original sale deed was executed and attested, it was having only two khasra numbers and a true copy of it was retained in the office of Registrar. Admittedly, the mutation has been entered and attested taking into the consideration a document falsely made by adding more khasra numbers resultantly altering the original document. It means that by preparing a false sale deed, mutation has been got entered by Hussan Lal, one of the petitioners. It has come during the

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investigation that Hussan Lal has burnt the original sale deed which was altered and on that basis, mutation was entered and sanctioned. In this case, both the courts below have considered the ingredients of the offences which existed and have rightly recorded the conviction under Sections 467 and 471 IPC. The prosecution has proved on record that Hussan Lal and Pardhuman Singh Patwari have made a false document and they have committed offence of forgery in the original sale deed and thereby made a false document by inserting more khasra numbers. In this manner, a false document has been made by the petitioners.

Once the ingredients of forgery and making of false document have been proved, now the question arises whether forgery was committed with a purpose which may cover the ingredients of Section 467 and 471 IPC. The ingredients of both the sections require that the person fraudulently or dishonestly uses a document falsely made which he knows, is a forged document. The petitioners were aware of forgery in the sale deed and thus have used as a 'genuine' a forged sale deed. The original sale deed was in the custody of Hussan Lal, vendee, and the contents of it were forged by adding more khasra numbers and so false document was made. Therefore, the essential ingredients of Section 467 and 471 IPC are clearly proved on record by leading cogent evidence and both the courts below have recorded a concurrent findings in this regard.

The judgment of ***Budh Ram (supra)*** is not applicable in the present case as it has come in the evidence and investigation that original

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sale deed was burnt by Hussan Lal, beneficiary. Although the charge under Section 201 IPC has not been framed but evidence has come in this regard. Since the other charges have been proved, sentence under this section is also covered and case is not required to be remanded for this purpose. So far as the judgment of *Behari Lal (supra)* is concerned, the same is not applicable. In this case, the sale deed, itself, has been altered/tampered which itself is an independent offence. On the basis of altered/tampered sale deed, mutation entry gives a right to the person to transfer agriculture land which is a valuable security.

The evidence brought on record shows that there was conspiracy between Hussan Lal and Pardhuman Singh Patwari and Kanungo for the purpose of committing offence under Sections 467 and 471 IPC. Criminal conspiracy is hatched in secrecy as a result of which direct evidence is difficult to obtain, however, the circumstantial evidence or by way of necessary implications inference can be drawn. In the present case, mutation has been entered by petitioner-Pardhuman Singh Patwari on the basis of a document i.e. sale deed presented by petitioner-Hussan Lal. Admittedly, as per Chapter 7 of the Punjab Land Records Manual, procedure as regards registered deeds of transfer is prescribed under para 7.32 (ii), registration memoranda (*Parcha Yadasath*) is sent to the Kanungo and Patwari by the Sub Registrar and on that basis, entry is required to be made in the revenue record including mutation entry. Petitioner-Pardhuman Singh Patwari was aware of the fact that when the sale deed is executed, its registration

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memoranda is also sent to the Patwari and Kanungo. He should have verified the relevant facts of transfer of agriculture land vide sale deed from the registration memoranda, even if the original sale deed was not available. The Hon'ble Supreme Court in *R.Shaji vs. State of Kerala* 2013 (1) RCR (Criminal) 964 has held that “a criminal conspiracy is generally hatched in secrecy owing to which direct evidence is difficult to obtain – the offence therefore be proved either by adducing circumstantial evidence or by way of necessary implications. In the present case, the above referred circumstantial evidence clearly indicates that on the basis of forged and fabricated document, mutation was initially entered by petitioner-Pardhuman Singh Patwari in connivance with petitioner-Hussan Lal, beneficiary. The ingredients of Sections 120-B IPC stand proved from the circumstantial evidence brought on record.

Besides the above, ordinarily also, it would not be appropriate for the High Court to re-appreciate the evidence and come to its own conclusion, unless any glaring illegality is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice.

In the light of above pronouncements and discussions, there seems no manifest error of law in the conclusions or in analyzing the evidence by the courts below. Thus, I find no reason to interfere with the concurrent findings in the impugned judgments by the courts below.

Both the revisions stand dismissed.

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Petitioner-Pardhuman Singh is stated to be on bail. His bail bonds stand cancelled and he is directed to surrender before the trial Court forthwith to undergo remaining part of sentence. In case, the petitioner-Pardhuman Singh does not surrender before the trial Court, it shall issue his warrant of arrest. Petitioner-Hussan Lal is stated to be in custody.

**28.05.2015**  
parveen kumar

**(Paramjeet Singh)**  
**Judge**