

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

Crl. Revision No. 81 of 2015 (O&M)

Date of Decision: 02.11.2015

Bhajna Ram

.. Petitioner

Vs.

State of Punjab

.. Respondent

with

Crl. Revision No. 203 of 2015

Joga Singh

.. Petitioner

Vs.

State of Punjab

.. Respondent

and

Crl. Revision No. 958 of 2015

Jagsir Singh

.. Petitioner

Vs.

State of Punjab

.. Respondent

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No

2. To be referred to the Reporters or not? Yes/No

3. Whether the judgment should be reported in the digest? Yes/No

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. Jagjit Gill, Advocate
for petitioner Bhajna Ram.**

**Mr. Rajbir Singh, Advocate
for petitioner Joga Singh.**

**Mr. Ajay Pal Singh, Advocate
for petitioner Jagsir Singh.**

Mr. V.P.S. Sidhu, AAG Punjab.

ANITA CHAUDHRY, J.

Through the instant petition, a challenge has been laid to the judgments passed by the Courts below vide which petitioner Joga Singh had been held guilty under Sections 120-B, 419, 420, 468 and 471 IPC, while petitioners Bhajna Ram and Jagsir Singh were convicted under Sections 120-B, 419 read with Section 120-B, 420, 468 and 471 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.1000/- under each head. In default of payment of fine, they were sentenced to further undergo rigorous imprisonment for two months under the default clause. The sentences were ordered to run concurrently.

One Sukha Singh s/o Mithu Singh was granted bail by this Court vide order passed in CrI. Misc. No.M-7774 of 2005. The Chief Judicial Magistrate, Sangrur on 23.05.2005 ordered for furnishing bail bond in the sum of Rs.1 lac with one surety. Petitioner Joga Singh impersonated as Satpal Singh son of Gurbachan Singh and furnished the surety bond. He was identified by petitioners Bhajna Ram and Jagsir Singh. An affidavit was also sworn by the impersonator, which was attested by the Oath Commissioner on the identification of Bhajna Ram. Those bonds were accepted.

Later, Satpal son of Gurbachan Singh sent a complaint to the Court through post disclosing that it was a case of cheating on forged surety bond. A preliminary enquiry into the

Mehta, in whose Court bonds were furnished. A complaint was accordingly filed under Sections 419, 420, 468, 471 and 120-B IPC.

The petitioners were summoned under Sections 467 and 468 IPC.

By way of pre-charge evidence, the prosecution produced complainant Harsh Mehta, Chief Judicial Magistrate PW1, Suresh Kumar, Retired Reader as PW2, complainant Satpal Singh PW3, S.S. Bassi, Advocate PW4, Amrik Singh PW5, Ram Singh PW6 and Kuldeep Jain PW7.

The petitioners were charge-sheeted under Sections 419, 420, 468, 471 read with Section 120-B IPC, to which they pleaded not guilty and claimed trial.

After the charge was framed the prosecution examined Kuldeep Jain, Amrit Singh, Ram Singh, S.S. Bassi and Suresh Kumar.

The trial Court held that the petitioners hatched a conspiracy and pursuant thereto petitioner Joga Singh impersonated as Satpal Singh and Bhajna Ram and Jagsir Singh identified the imposter and submitted forged surety bond in the Court. They were convicted and sentenced in the manner noted above.

Three separate appeals were preferred against the judgment. The Appellate Court dismissed it vide judgment dated 11.12.2014.

Dis-satisfied with the same, instant revision petitions have been filed.

I have heard learned counsel for the parties and have gone through the record carefully.

Mainly two submissions were made on behalf of the petitioner, firstly, the complainant Harsh Mehta, Chief Judicial Magistrate was not produced for cross-examination after-charge evidence as such his testimony was rendered inadmissible and, secondly Sukha Singh, who was the real beneficiary was not arrayed as accused in the complaint.

The prosecution lead the evidence to show that petitioner Joga Singh stood surety for one Sukha Singh. There is no serious dispute of the fact that petitioners Bhajna Ram and Jagsir Singh identified Joga Singh on the bonds. In his statement under Section 313 Cr.P.C., petitioner Bhajna Ram had specifically stated that he identified petitioner Joga Singh and he (Joga Singh) was also known as Satpal Singh. Petitioner Joga Singh also took the stand that he was known as Satpal Singh and his father Jarnail Singh was also called by the name of Gurbachan Singh. While furnishing surety bond, an affidavit to this effect was executed by petitioner Joga Singh. However, jamabandi attached as a proof with the surety bond was of land belonging to complainant Satpal Singh. In this regard, the explanation given by Joga Singh was that it had occurred on account of inadvertence on the part of Halqa Patwari who handed the jamabandi of Satpal Singh and he was illiterate. Except the self serving statement, nothing was produced by the petitioners to show that Joga Singh was also known as Satpal Singh and that

appears that it is just a after thought version. Apparently, there was a conspiracy between the petitioners and they were aware of the fact that Joga Singh had impersonated as Satpal Singh, still Bhajna Ram and Jagsir Singh identified him as Satpal Singh. The whole case rests upon the documentary evidence and it makes no difference if the complainant Harsh Mehta, Chief Judicial Magistrate could not step in the witness box. He had initially conducted a preliminary enquiry and had filed the complaint. It is not that the petitioners were held guilty on the basis of that report. A full fledged trial was held and based on the evidence that had come their conviction was recorded. If his testimony is excluded from the zone of consideration, still there exists documentary evidence which prove the guilt of the petitioners. PW Suresh Kumar had identified the signatures of the complainant and PW Ram Singh proved the documents relating to furnishing of bail bond and surety bond on behalf of Sukha Singh, in the Court. Likewise, testimony of Kuldeep Jain, Advocate and S.S. Bassi, Advocate proved the execution of surety bond by Joga Singh while impersonating as Satpal Singh. He was identified by Bhajna Ram and Jagsir Singh. The finding recorded by the appellate Court below dealing with the submission of petitioners is relevant and reproduced as under:-

"18. After hearing the rival contentions, this Court is of the view that the arguments raised by the learned counsel for the appellants are not sustainable. The arguments raised by learned counsel on behalf of appellant Bhajna Ram MC and accused Jagsir Singh regarding attesting of the documents in good faith is

not sustainable for the reason that the purpose and intent of identification by the witnesses of nature of the documents is only for the purpose and intent to avoid the situation which has arisen in the present case. It is sacrosanct duty of the identifier and the witnesses to identify the right person, despite of being MC Bhajna Ram has identified Joga Singh as Satpal and to the similar effect Jagsir Singh has also signed as a witness. The discrepancies pointed out in the statements of the witnesses are not sufficient to cause dent in the story of the prosecution. Although PW1 after framing of charge had not stepped into the witness box and the accused were not given the opportunity to cross-examine this witness and the statement of PW1 has been treated as inadmissible in evidence by the learned trial Court, however, merely the fact that statement of PW1 was treated inadmissible would not be sufficient enough to discard the testimonies of other witnesses and evidence on record. The prosecution has examined Suresh Kumar Reader the then Reader of the Court of Sh. Harsh Mehta as PW2 and this witness has proved on record the application Ex.PW2/A and the order dated Ex.PW1/B having been passed on the application Ex.PW1/A. He has further proved on record the complaint dated 18.11.2005 filed by Sh. Harsh Mehta, the complainant as Ex.PW1/P and has also proved the report as Ex.PW1/O. He has also proved the signatures of Sh. Harsh Mehta as Ex.PW2/A to Ex.PW2/D. Complaint and report were duly proved by PW2 and no objection was raised regarding admissibility.

Sukha Singh was not arraigned as accused as it was

found that the petitioners hatched a conspiracy to furnish forged surety bond after charging a heavy amount from Sukha's mother as Sukha was in jail. He was not found involved in the conspiracy. No prejudice is shown to have been caused to the petitioners if Sukha Singh was not arrayed. There is ample proof in the shape of ocular as well as documentary evidence that the petitioners hatched a conspiracy and furnished forged surety bonds. The inevitable conclusion is that the conviction of petitioners was rightly recorded and there is no reason to interfere with the concurrent findings recorded by the Courts below. It is well settled that there is a limited scope of interference while exercising revisional jurisdiction. Re-appraisal of evidence is not permitted save in case of manifest error. The findings recorded by the Courts below are neither illegal nor perverse.

Faced with the situation, it was urged by learned counsel for the petitioners that the matter pertained to the year 2005 and the petitioners had undergone the agony of criminal proceedings for the last more than 10 years. It was urged that the petitioners were first offenders and there is no other case pending against them. It was urged that the petitioner Joga Singh is in custody for about eleven months and petitioners Bhajna Ram and Jagsir Singh were in custody for more than nine months and they were the only bread earners and they had families to support.

Taking into account the facts of the case, in the

in the matter of sentence. Maintaining their conviction, the sentence of imprisonment awarded to the petitioners under different heads is reduced to one year. However, the sentence of fine is maintained. The sentences shall run concurrently.

With the above modifications in sentence, the instant revisions petitions stand dismissed.

November 02, 2015
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(ANITA CHAUDHRY)
JUDGE