

In the High Court of Punjab and Haryana, at Chandigarh

1. Criminal Appeal No. S-1936-SB-2009

Tarsem Singh

... Appellant(s)

Versus

State of Punjab

... Respondent(s)

AND

2. Criminal Appeal No. S-1921-SB-2009

Kabal Singh

... Appellant(s)

Versus

State of Punjab

... Respondent(s)

Date of Decision: 16.08.2016

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Bipin Ghai, Senior Advocates
with Mr. Deepak Sabharwal and Mr. Paras Talwar,
Advocates for the appellant (In CRA-S-1936-SB-2009).

Mr. Simardeep Singh Bedi, Advocate
for the appellant (In CRA-S-1921-SB-2009).

Mr. Yogesh Kumar Gupta,, Additional Advocate
General, Punjab for the respondent.

Shekher Dhawan, J.

This order of mine shall dispose of two appeals i.e. Criminal

Appeal No. S-1936-SB-2009 & Criminal Appeal No. S-1921-SB of 2009 as

the same have arisen from common judgment. For adjudication, facts are being taken from Criminal Appeal No. S-1936-SB-2009.

2. Present appeal is directed against the judgment of conviction and order of sentence dated 31.7.2009, whereby both the appellants, namely Kabal Singh and Tarsem Singh were convicted for the offences under Sections 465, 471 & 467 IPC and sentenced as under:-

Sr. No.	Name of appellant	Offence under Section	Sentence
1.	Tarsem Singh	465 IPC	To undergo rigorous imprisonment for a period of two years and to pay fine of ₹ 2,500/- or in default of payment of fine, to further undergo rigorous imprisonment for a period of six months.
		471 IPC	To undergo rigorous imprisonment for a period of two years and to pay fine of ₹ 2,500/- or in default of payment of fine, to further undergo rigorous imprisonment for a period of six months.
		467 IPC	To undergo rigorous imprisonment for a period of three years and to pay fine of ₹ 5,000/- or in default of payment of fine, to further undergo rigorous imprisonment for a period of six months.
2.	Kabal Singh	465 IPC	To undergo rigorous imprisonment for a period of two years and to pay fine of ₹ 2,500/- or in default of payment of fine, to further undergo rigorous imprisonment for a period of six months.
		471 IPC	To undergo rigorous imprisonment for a period of two years and to pay fine of ₹ 2,500/- or in default of payment of fine, to further undergo rigorous imprisonment for a period of six months.
		467 IPC	To undergo rigorous imprisonment for

Sr. No.	Name of appellant	Offence under Section	Sentence
			a period of three years and to pay fine of ₹ 5,000/- or in default of payment of fine, to further undergo rigorous imprisonment for a period of six months.

3. Relevant facts of the case that a complaint was received from Jagdish Mitter on 9.5.2005 that Sikandar Singh (since acquitted) and Kabal Singh, were serving as Deputy Superintendent and Assistant Factory Supervisor, respectively, in Central Jail, Jalandhar and both of them had conspired with each other and Tarsem Singh, Project Officer, Punjab State Forest Development Corporation, Phillaur (hereinafter referred to as “the Corporation”). Two letters, carrying forged signatures of Sikandar Singh and Nirmal Chand, Deputy Superintendent and Superintendent, respectively, Central Jail, Jalandhar, were dealt with by Smt. Davinder Kaur, Senior Assistant in the office of the Corporation and on the basis of said letters, order for release of *Sheesham wood* was passed. The said orders were passed without getting any permission from senior officer. In pursuance of that, Tarsem Singh obtained 80 cubic meters of *Shesham wood* in the name of Sikandar Singh, Deputy Superintendent, Central Jail at reserved price. Later on, it came to the notice that Central Jail, Jalandhar had neither purchased any wood nor had written any letter to the Corporation nor any wood was received in the Central Jail, Jalandhar from the Corporation. As such, on the basis of above mentioned forged documents, Sikandar Singh, Tarsem Singh, Davinder Kaur and Kabal Singh had cheated and duped the State exchequer.

commission of offences under Sections 465, 471 & 467 IPC and Section 13(1)(d) read with Section 12(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as “the Act”) was filed and all the four accused were charged accordingly.

4. The learned trial Court proceeded with the trial of the case and during that process, recorded the statements of prosecution witnesses, examined the accused under Section 313 Cr.P.C., and after appreciating the evidence, led by the prosecution and defence, convicted and sentenced the present appellants, namely Tarsem Singh and Kabal Singh, as mentioned in earlier part of this judgment, whereas accused Sikandar Singh and Davinder Kaur were acquitted of the charges.

5. The prosecution case is mainly based on the testimony of PW.1 Harpal Singh, who made a statement on the basis of record of the Corporation that removal order No.53/136 dated 11.6.2004 for 1.046 cubic meters (two logs) of *Sheesham wood* and another removal order No. 54/136 dated 11.6.2004 for 6.694 cubic meters of *Sheesham wood* in 23 logs were available in the record. The said orders were issued by Tarsem Singh, Project Officer of the Corporation in the name of Kabal Singh. He further deposed that Kabal Singh had deposited the sale price of the said wood. Kabal Singh had produced both the removal orders and had taken the supply of wood in a tractor trolley bearing registration No. PB-10-AP-9876. Challans (Ex.PF, Ex.PG, Ex.PH & Ex.PJ) were obtained against the delivery of the wood and the same were carrying signatures of Kabal Singh. PW.3 Sarabjit Kaur, Clerk in the office of the Corporation, stated that on 11.5.2004, after making

Ex.PL, she had made entries in the register at serial Nos. 111 and 353, respectively and forwarded the same to Manjinder Kaur. Letters Ex.PK & Ex.PL were brought by Tarsem Singh. PW.2 Manjinder Kaur, Junior Assistant in the Corporation, testified that she had received original of Ex.PK & Ex.PL from Superintendent, Central Jail, Jalandhar. After making an endorsement, she had forwarded the letters to the Project Officer of the Corporation. PW.3 Satnam Singh (wrongly mentioned as such again), who was working as Divisional Manager of the Corporation, deposed that Tarsem Singh, Project Officer got removed the wood wrongly and unauthorizedly by issuing removal orders in the name of Central Jail, Jalandhar. As per PW.3 Satnam Singh, total 59.128 cubic meters of *Sheesham wood* amounting to ₹ 2,37,835/- was removed in the above said manner. PW.4 Davinder Lal, Accountant in the Central Jail, Jalandhar, deposed that in the year 2001, Sikandar Singh was working as Deputy Superintendent, Central Jail and there was no deficiency in the stocks. Ex.PM purported to bear the signatures of Sikandar Singh, the then Deputy Superintendent, Central Jail and Ex.PH was purported to have been issued under the signatures of Nirmal Chand, the then Superintendent, Central Jail, Jalandhar. PW.5 Sushil Kumari, from the office of the Corporation was examined to produce and prove the service books of Tarsem Singh and Davinder Kaur as Ex.PO & Ex.PP and she also testified that letters Ex.PM and Ex.PN were received in the office of the Corporation. PW.6 Balbir Singh, Deputy Superintendent, Central Jail, Jalandhar, deposed that on 31.3.2004, he had succeeded Sikandar Singh and found shortage of 1165 metric feet *Sheesham wood* and

informed the matter to Nirmal Chand, the then Superintendent, Central Jail, who in turn, asked Sikandar Singh to make good the deficiency by bringing *Sheesham wood* from outside. However, the letters Ex. PL, Ex.PM or Ex.PN did not bear signatures of any official of Central Jail, Jalandhar. PW.7 Lakhbir Singh was the Field Assistant of the Corporation, who testified that on 1.6.2004, Kabal Singh had produced the removal orders Ex.PO & Ex.PB, respectively, whereby he had delivered the wood. Kabal Singh had appended his signatures thereon. PW.8 Parshotam Lal, Field Officer of the Corporation, testified that on 21.5.2004, Kabal Singh had come with three letters i.e. Ex.PS, Ex.PS/1 & Ex.PS/2 dated 18.5.2004 and pursuant thereto, he delivered *Sheesham wood*, which was taken by Kabal Singh in a truck. PW.9 Sant Singh, Senior Assistant, had handed over the service book of Sikandar Singh Ex.PT to the Investigating Officer of the case. PW.10 Gurmukh Singh Gill proved the sanction letter issued by A.K.Dubey, Principal Secretary, Department of Home and Jails for prosecution of Sikandar Singh. PW.11 Dilbar Singh produced order Ex.PV whereby Rajinder Singh, the then Managing Director of the Corporation, had sanctioned prosecution of accused Tarsem Singh.

6. In view of the above discussed evidence, the plea of denial has been put forward by the accused persons in respect of their statements recorded under Section 313 Cr.P.C. However, no evidence in defence was led.

7. The learned trial Court, after appreciating the entire evidence and considering the prosecution and defence versions, held appellant Tarsem

465, 471 & 467 IPC, whereas both of them were acquitted of the remaining charges. However, their co-accused, namely Sikandar Singh and Davinder Kaur were acquitted of the charges framed against them.

8. Mr. Bipin Ghai, Senior Advocate assisted by Mr. Paras Talwar, Advocate, appearing for appellant Tarsem Singh and Mr. Simardeep Singh, Advocate, appearing for appellant Kabal Singh, mainly submitted that if the entire prosecution evidence is taken to be correct, even then there is nothing available from the file on the basis of which conviction of the appellants could be recorded for the offences under Sections 465, 471 & 467 IPC. As the appellants were facing the allegations of forgery of documents and using the same as genuine ones, the prosecution was required to prove that infact these documents i.e. release orders, removal orders issued for the release of wood were forged documents and forgery was done by the appellants and none else. There are no admitted or specimen signatures of the appellants available on the file on the basis whereof comparison could have been made by some expert as per provisions of Section 73 of Indian Evidence Act, 1872 who could depose that the documents were infact forged documents. More so, the authority, who was to pass the orders and issue the original letters, has admitted the fact regarding issuance of the sanction by him on the file and on the basis of that, no offence can be said to have been proved against the appellants.

9. Learned counsel for the appellants also submitted that infact Sikandar Singh was the main accused, but he has been acquitted of the charges by the learned trial Court and in the absence of that, nothing remains

10. Learned counsel for the appellants further submitted that for the same cause of action, there was trial under Section 379 IPC and the present appellants cannot be tried again as they are entitled to constitutional protection on the point of double jeopardy.

11. While arguing on these points, learned counsel for the respondent-State submitted that the learned trial Court has rightly recorded the conviction of the appellants under Sections 465, 471 & 467 IPC because infact there was removal of 59.13 cubic meters of *Sheesham wood* and the said removal orders were not issued at all and the same are forged documents. The accused have been facing trial after getting the sanctions of prosecution from the respective competent authorities. The prosecution witnesses have deposed in unison, on the basis of record, that delivery of *Sheesham wood* was taken by the appellants and the orders were held to be forged documents. The appeals are without any merit and the same deserve dismissal.

12. Having considered the submissions made by learned counsel for the parties and appraisal of record, I am of the considered view that as both the appellants have been held guilty, convicted and sentenced for the offences under Sections 465, 471 & 467 IPC, the Court is to see whether the offences levelled against the appellants have been proved on the file as per law. The relevant provisions, relating to the forged documents, as per Section 463 IPC, read as under:-

“463. Forgery — *Whoever makes any false documents or part of a document 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”.

13. The above provision makes it ample clear that for commission of offence of forgery, the prosecution is required to prove that the accused, facing the trial, had prepared “false” documents with the intention to cause damage or injury to the public or to any person or to enter into any express or implied contract with intent to commit fraud. The first basic ingredient, required for commission of offence, is that the document must be a “false” document and that should be with an intention to cause injury to the public or any person. However, in this case, the prosecution has not been able to prove that the removal orders were infact the “false” documents. The Investigating Officer of the case i.e. Jagdish Mitter was examined as PW.12. He had admitted in his cross-examination that he had not even applied for obtaining the specimen signatures and handwriting of Kabal Singh or Sikandar Singh.

14. PW.1 Harpal Singh had admitted in his cross-examination that he was working as Depot Incharge on the day of supply of woods. He had also admitted that the Project Officer is to comply with the order of the Divisional Manager of the Corporation for issuance of the removal order. The Project Officer is duty bound to receive the money and then deposit the same, as per law, with the department. But in the present case, appellant Tarsem Singh was working as Project Officer. PW.2 Manjinder Kaur had

that who had signed the original of Ex.PL and after seeing the original thereof, she could not identify whether the said signatures were of Sikandar Singh or any other officer. PW.3 Satnam Singh, District Forest Officer of the Corporation has also admitted in his cross-examination that Ex.PK & Ex.PL were dealt with in his office. Ex.PM was issued by Davinder Kaur by appending her signatures for Divisional Manager. The same is the position with Ex.PL. He also admitted the fact that noting on Ex.PL at Mark "A" was under his signatures. PW.4 Davinder Lal has also admitted in his cross-examination that Ex.PM & Ex.PN were not signed by Sikandar Singh and Nirmal Chand. PW.8 Parshotam Lal has admitted in his cross-examination that the release orders were issued by the competent authority.

15. In the light of the above statements and the facts having been admitted by the prosecution witnesses, it is established on the file that Tarsem Singh had followed the procedure and the amount was deposited in due course. More so, the learned trial Court has already acquitted the appellants for the offences under the Act. There is nothing on the file to show that the letters were forged one as no specimen signatures or admitted handwriting of the appellants were obtained during the course of investigation and there was no material before the learned trial Court to come to the conclusion that the same were forged by the present appellants with the intention to cause damage or injury to the public or to any person. More so, the main accused Sikandar Singh has already been acquitted of the charges by the learned trial Court. But the Court below has not considered the above mentioned facts which makes the prosecution case highly

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to the accused. In this case as well and in the light of the above mentioned facts, the prosecution case is doubtful. Thus, both the appeals are accepted and the appellants are acquitted of the charges framed against them.

**(Shekher Dhawan)
Judge**

August 16, 2016
“DK”