

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: 17.02.2016

1. CRA-S-941-SB-2008

Umardeen

...Appellant

Versus

State of Punjab

...Respondent

2. CRA-S-971-SB-2008

Pal Ram @ Ghungari & Another

...Appellants

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE RAJ RAHUL GARG

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the Digest?

Argued By: Shri D. R. Punia, Advocate
for appellant-Umardeen.

Shri Deepak Sabharwal, Advocate
for appellant-Jagdish Chander
(appellant-Pal Ram @ Ghungari died).

Mr. Surjeet Singh Chaudhary, DAG, Punjab.

Raj Rahul Garg, J.

The above mentioned appeals have been directed against the judgment dated 23.04.2008 rendered by learned Sessions Judge, Kapurthala whereby appellants-accused were held guilty for committing offence punishable under Section 489-C of the Indian Penal Code (*for brevity 'IPC'*).

Vide order on sentence of the even date, each one of the accused was sentenced to undergo rigorous imprisonment for a period of five years and a fine of

₹ 20,000/-; in default of payment of fine, to further undergo rigorous imprisonment for one year each for the offence under Section 489-C of the IPC.

2. At the very outset, I may make a mention that since Pal Ram son of Baggi Ram had died on 10.08.2014, therefore, proceedings against him were ordered to be dropped. Vide order of the even date.

3. Brief facts of the case are like this; that on 13.05.2005 at about 6.05 PM, ASI Opinder Kumar along with police officials was present at 'T'-point chowk, Boharwala, Khotran Road, Shiv Puri, Phagwara. A secret information was received that Umardeen, Pal Ram and Jagdish Chander were coming on motorcycle bearing No. PB-08-L-3943 make Yamaha color black and were in possession of fake Indian currency notes for their distribution and were on the lookout for prospective buyers. In case, they are apprehended, fake Indian currency notes in huge quantity can be recovered. At this information, *Naka* was laid from the side of Dosanga Kalan Canal. One black color motorcycle was seen coming on which three persons were riding. After giving signal to stop, the aforesaid motorcycle was got stopped. Investigating Officer disclosed his identity. On enquiry, the person who was driving motorcycle disclosed his name as Umardeen. On his personal search, one packet of fake currency notes of the denomination of ₹ 100/- was recovered. In that packet, 32 currency notes were of the denomination of ₹ 100/- and carried identification number 6DG 186531; 29 currency notes of the denomination of ₹ 100/- were carrying identification numbers 9FB 293677; two currency notes of the denomination of ₹ 100/- carried identification numbers 6DD 186914; two

currency notes of the denomination of ₹ 100/- carried identification numbers 6DG 194999; two currency notes of the denomination of ₹ 100/- carried identification numbers 6DG 194998 and two currency notes carried identification numbers 8HR 840419. The aforesaid recovered currency notes were taken into police possession, vide recovery memo.

4. The person sitting next to the driver of the motorcycle disclosed his name as Pal Ram alias Ghungari. At that time, Surinder Kumar Duggal, independent witness, was also joined in the investigations of the case. In his presence and in the presence of other witnesses, on personal search of Pal Ram, one packet of fake Indian currency notes of the denomination of ₹ 100/- were recovered from the side pocket of the *Kurta* worn by him. In that packet, there were 100 fake currency notes. Police had mentioned identification numbers of aforesaid recovered 100 currency notes and then taken the same into police possession, vide separate recovery memo.

5. Third person, sitting on the motorcycle, disclosed his name as Jagdish Chander. On his personal search, from the side pocket of the pants worn by him, one packet of fake Indian currency notes in the denomination of ₹ 100/- was recovered. There were 100 notes in that packet. The identification number of aforesaid recovered notes were mentioned in the recovery memo and then the same was taken into police possession. The aforesaid recovered currency notes were sealed as per recovery effected from each accused separately. Specimen seal was handed over to Surinder Kumar. Statements of witnesses were recorded. Rough site plan of the place of each recovery was prepared. Currency notes were sent to Forensic Science Laboratory for opinion

and on receipt of report, whereby the recovered currency notes were reported as fake and after completion of necessary investigations, the challan was presented in the Court against the accused.

6. Finding a prima-facie case, accused Umardeen, Pal Ram and Jagdish Chander were charge-sheeted for the offence punishable under Section 489-C of the IPC, whereas, accused Umardeen and Pal Ram were also charge-sheeted for the offence punishable under Section 489-B of the IPC as well. For the charges, accused did not plead guilty but claimed trial.

7. After taking entire prosecution evidence, statements of accused under Section 313 Cr. P.C., were recorded wherein they denied each prosecution allegation and pleaded their false implication.

8. After hearing learned counsel for both the sides and appraising the entire evidence and material available on the file, the learned trial Court convicted the appellants-accused only for the offence under Section 489-C of the IPC. Finding that nothing was there on record to establish that it was none but the accused who have used, sold, bought or received such counterfeit currency notes, knowing or having reason to believe the same to be forged, therefore, it was held that no evidence under Section 489-B of the IPC was established against the accused by any means. As such, they were acquitted of the charge.

9. I have heard Mr. D. R. Punia, Advocate for appellant-Umardeen; Mr. Deepak Sabharwal, Advocate for appellant-Jagdish Chander and Mr. Surjeet Singh Chaudhary, Deputy Advocate General, Punjab for the respondent-State besides appraising the entire evidence and material on record.

10. At the very outset, learned counsel for the appellants-accused contented that they do not assail the findings of the learned trial Court recorded on the merits of the case. They would feel satisfied if the sentence of the appellants-accused is reduced to the one already undergone. They also pleaded that the offence relates to the year 2005 and appellants-accused have already undergone the agony of the protracted trial for the last 10 years.

11. Learned State counsel also has no serious objection regarding reduction of sentence of the appellants-accused to the one already undergone.

12. As per custody certificate of Jagdish Chander, he has already undergone 5 years' sentence with remission whereas per custody certificate of Umardeen, he has already undergone actual sentence of 2 years 4 months and 23 days. The appellants-accused have undergone agony of protracted trial. One of the accused has already died. Appellant-Jagdish Chander has already completed the substantive part of his sentence i.e. five years. As such, there is no need of reducing his sentence. However, sentence of fine shall remain intact.

13. Under these circumstances, being of the view that the ends of justice would be met in case the sentence of appellant-accused Umardeen is reduced to the one already undergone. So is ordered, accordingly. However, the sentence of fine shall remain intact.

(Raj Rahul Garg)
Judge

17.02.2016
Waseem Ansari