

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

Crl. Appeal S-2011-SB of 2005
Date of Decision : March 22, 2016

Sarabjit @ Sabhi and others

.....Appellants

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. Sandeep Arora, Advocate
for the appellants.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab.

T.P.S. MANN, J. (Oral)

The appellants, namely, Sarabjit @ Sabhi, Inder @ Nikka, Surinder Kumar @ Shinda and Devinder Singh, besides Yashpal and Rajiv Dogra were tried for committing the offences punishable under Sections 120-B and 489-C IPC. Vide judgment and order dated 4.10.2005, learned Additional Sessions Judge, Jalandhar acquitted Yashpal and Rajiv Dogra of the charges against them. The appellants were convicted under Section 489-C IPC and sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs. 1,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for two months.

The case of the prosecution, as noticed by the learned trial Court in para 1 of its impugned judgment is reproduced here below:-

“The above named accused have been forwarded by the police of P.S. Bhogpur for facing trial under Section 489-A/489-B/489-C/489-D/420 IPC on the allegations that on 11.4.2000 SI Inderjit Singh received a secret information that all the accused named above are printing counterfeit currency notes with the help of press and other machine and circulate the said currency in the public and that presently they are present at Adda Manak Rai alongwith counterfeit currency notes and were waiting for customers and if a raid is conducted, they can be apprehended red handed and from their possession counterfeit currency notes can be recovered. Accordingly, a raid was conducted after joining one independent witness Nishan Singh at the disclosed place. The accused Rajiv Dogra and Yash Pal managed to escape on seeing the police party whereas the other accused namely Sarabjit @ Sabhi, Inder @ Nikka, Surinder Kumar and Devinder Singh were arrested at the spot. The personal search of Sarabjit @ Sabhi accused led to the recovery of fake currency notes amounting to Rs. 3,00,000/-, whereas from the personal search of other accused who were arrested at the spot with fake currency notes of Rs.2,50,000/-, Rs. 3,00,000/- and Rs. 2,00,000/- respectively were recovered. All the currency notes were made into four separate

parcels and were sealed with seal bearing impression I.S. at the spot and was taken into possession. Thereafter, ruqa was sent to the police station, on the basis of which the present case was registered. Statements of the witness were recorded. Site plan of the place of occurrence was prepared. The notes were sent to Reserve Bank of India for verification and accused Yashpal and Rajiv Dogra were also arrested subsequently. After the completion of the investigation, the challan was presented in the Court of Illaqa Magistrate who on finding the case to be triable by the Court of Sessions committed this case to the court of learned Sessions Judge, Jalandhar vide order dated 12.8.2002, after supplying the copies of the documents relied upon by the prosecution to the accused, free of costs. The case was received in this Court by way of entrustment.”

In support of its case, the prosecution has examined PW1 Swayam Parkash, Retired Treasurer of Reserve Bank of India, New Delhi, PW2 HC Kulwant Singh, PW3 SI Inderjit Singh, PW4 SI Bakshish Singh and PW5 Constable Kishan Chand.

When examined under Section 313 Cr.P.C., all the accused denied the incriminating evidence put to them and pleaded false implication. In defence, they examined DW1 Prem Singh and DW2 Sham Lal.

After hearing learned counsel for the parties and going through the record, the trial Court accepted the prosecution

version qua the appellants and, accordingly, convicted and sentenced them, as mentioned above.

This Court has heard learned counsel for the appellants as well as learned State counsel and scanned the evidence with their able assistance.

From the testimonies of PW3 SI Inderjit Singh and PW4 SI Bakshish Singh, it stands duly proved that at the time of their apprehension pursuant to secret information received against them of dealing in counterfeit currency notes, the police recovered a large number of fake currency notes from the appellants. All the recovered notes bore the same number i.e. JDS-506453. Despite subjecting both the aforementioned police witnesses to lengthy cross-examination, the defence could not bring any material on the record on the basis of which it could be held that the appellants have been falsely implicated in the case. Accordingly, this Court has no other option but to uphold the conviction of the appellants.

Learned counsel for the appellants has submitted that during the pendency of the appeal, Sarabjit @ Sabhi and Surinder Kumar @ Shinda have expired and, therefore, the appeal qua them stands abated. He has also submitted that appellant-Inder @ Nikka has already undergone an actual period of more than one year and one month besides earning remissions of more than 1½ months whereas appellant-Devinder Singh has

undergone an actual period of about 1½ years and also earned remissions of more than two years. He has also submitted that both Inder @ Nikka and Devinder Singh are facing the agony of criminal prosecution for the last about 16 years. They are the only bread winners of their families. As they have already served a substantial portion of their sentences of imprisonment, their remaining sentences of imprisonment be set-aside.

Learned State counsel has submitted that neither Inder @ Nikka nor Devinder Singh deserves any concession in the matter of sentences of imprisonment as they were found in possession of large quantity of fake currency notes. He has, however, submitted that appellant-Sarabjit @ Sabhi expired in Civil Hospital, Jalandhar on 15.12.2005 when he was sent from the jail for treatment. Even appellant-Surinder Kumar @ Shinda has died on 22.5.2013 due to heart attack.

The factum of appellant-Sarabjit @ Sabhi expiring on 15.12.2005 stands duly reflected in the custody certificate dated 11.10.2015 already brought on record by the learned State counsel. Similarly, as per the report dated 15.2.2016 submitted by HC Inderjit Singh No. 517, Police Station Bhogpur, District Jalandhar (Rural), already brought on record by the learned State counsel, the factum of appellant-Surinder Kumar @ Shinda expiring on 22.5.2013 stands duly verified.

It may also not be out of place to mention here that as

per the custody certificates already produced by the learned State counsel on record, appellant-Inder @ Nikka has already undergone an actual period of one year, one month and twenty two days besides earning remissions of one month and eighteen days. In all, he has completed a period of one year, three months and ten days. Similarly, appellant-Devinder Singh has also undergone an actual period of one year, five months and twenty one days besides earning remissions of two years, two months and fifteen days. In all, he has undergone a period of three years, eight months and six days.

Having heard learned counsel for the parties and on going through the impugned order passed by the trial Court on the quantum of sentence, this Court is of the considered view that no useful purpose will be served by sending the appellants, who are presently on bail, behind the bars to serve their remaining sentences of imprisonment. Ends of justice would be best met if their remaining sentences of imprisonment are set-aside. Similarly, the appeal qua appellants-Sarabjit Singh @ Sabhi and Surinder Kumar @ Shinda is required to be disposed of as having been abated.

Resultantly, the appeal of Sarabjit Singh @ Sabhi and Surinder Kumar @ Shinda stands abated and, accordingly, disposed of. At the same time, the conviction of appellants-Inder @ Nikka and Devinder Singh under Section 489-C IPC is upheld.

However, their remaining sentences of imprisonment are set-aside. The fine of Rs. 1,000/- imposed upon each of the two appellants is enhanced to Rs. 20,000/- and in default thereof, they shall undergo rigorous imprisonment for six months. The amount of fine be deposited by appellants-Inder @ Nikka and Devinder Singh within three months from today. The appeal of Inder @ Nikka and Devinder Singh is, accordingly, disposed of.

March 22, 2016
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(T.P.S. MANN)
JUDGE