

In the High Court of Punjab and Haryana at Chandigarh

Date of decision: 09.03.2016
CRA-S-2375-SB-2010

Jagtar Singh @ Tari

..... Appellant

Vs.

State of Punjab

..... Respondent

2.

CRA-S-1940-SB-2010

Baljit Singh

..... Appellant

Vs.

State of Punjab

..... Respondent

3.

CRA-S-2038-SB-2010

Nirmal Singh

..... Appellant

Vs.

State of Punjab

..... Respondent

4.

CRA-S-2043-SB-2010

Makhan Singh

..... Appellant

Vs.

State of Punjab

..... Respondent

5.

CRA-S-2077-SB-2010

Boota Singh

..... Appellant

Vs.

State of Punjab

..... Respondent

6.

CRA-S-2078-SB-2010

Baldev Raj

..... Appellant

Vs.

State of Punjab

..... Respondent

7. **CRA-S-2118-SB-2010**

Hardeep Singh Appellant

Vs.

State of Punjab Respondent

8. **CRA-S-2120-SB-2010**

Sukhchain Singh Appellant

Vs.

State of Punjab Respondent

9. **CRA-S-2131-SB-2010**

Kesar Singh Appellant

Vs.

State of Punjab Respondent

10 **CRA-S-2377-SB-2010**

Pritam Singh Appellant

Vs.

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?
3. Whether the judgment should be reported in the Digest?

Argued by: Mr. Ajay Singla, Advocate
for the appellant(s) in
(CRA-S-Nos. 2375, 2038, 2077 and 2377-SB of 2010)

Mr. H.S.Gill, Sr. Advocate with
Mr. Vivek Goyal, Advocate and
Mr. Nitin Rampal, Advocate
for the appellant(s) in (CRA-S-Nos.1940 & 2118-SB of 2010)

Mr. Divjyot S. Sandhu, Advocate
for the appellant (in CRA-S-2043-SB-2010)

Mr. A.P.S.Deol, Sr. Advocate with
Mr. Vishal R. Lamba, Advocate
for the appellant (in CRA-S-2078-SB-2010)

Mr. Deepak Arora, Advocate
for the appellant (in CRA-S-2120-SB-2010)

Mr. R.S.Bains, Advocate
for the appellant (in CRA-S-2131-SB-2010)

Mr. Surjeet Singh Chaudhary, DAG, Punjab

RAJ RAHUL GARG.J.

In all there were 26 accused in this case. Out of them, appellants-accused numbering 10 were convicted for committing offence under Sections 489-B of India Penal Code (for short 'IPC') and 489-C IPC. Vide order of sentence dated 10.08.2010, each one of them was sentenced to undergo RI for a period of 5 years each and a fine of Rs. 10,000/- for committing offence under Section 489-B IPC. In default of payment of fine, to further undergo RI for six months each. For committing offence punishable under Section 489-C IPC, each one of them was sentenced to undergo RI for a period of 2 years and to pay a fine of Rs.2,000/-. In default of payment of fine to further undergo RI for 3 months each. Both the substantive sentences were ordered to run concurrently. Benefit of Section 428 Cr.P.C. was also given.

Accused Jaspal Singh son of Balkar Singh, Joga singh son of Babu Ram, Sandeep Kumar son of Gopal Krishan, Naresh Kumar @ Goga son of Som Dutt, Vakesh Kumar @ Neeta son of Ram Parkash, Balwinder Singh @ Binder son of Mohinder Singh, Kala @ Gani son of Mohinder Pal, Manoj Kumar son of Kishan Chand, Balkishan son of Hans Raj and Inderjit Singh @ Jit son of Resham Singh were acquitted holding that prosecution

has failed to prove their guilt beyond reasonable doubt.

Accused Satish Kumar son of Amrit Lal was declared as proclaimed offender.

Accused Raval Singh son of Jagdish Lal, Gurdeep Singh son of Didar Singh, Baljit Singh son of Tarlok Singh, Gurdev Singh son of Amar Chand and Dharminder Singh son of Sohan Singh had died. As such, trial did not proceed against them.

Brief facts of the prosecution case are like this; that on 01.01.2004, SI Bakhshish Singh along with police officials held Naka at canal bridge in the area of Nakodar where he received a tip off that accused Jagtar Singh, Boota Singh, Makhan Singh, Nirmal Singh and Joga Singh (hereinafter to be referred as accused of Group No.1) were going in a Maruti car bearing No.PB-08-S-4734 alongwith large quantity of fake Indian currency notes. Finding secret information reliable, SI Bakhshish Singh sent ruqa Ex.PS to the police station, whereupon, FIR No. 4 dated 01.01.2004 of this case was registered under Sections 489-A, 489-B and 489-C IPC. At about 10:00 P.M., the aforesaid car came from Malsian side. Four persons were occupying that car. SI Bakhshish Singh signaled that car to stop but after slowing down the car, the occupants could make good their escape by speeding away the car.

On 03.01.2004, SI Bakhshish Singh, alongwith Head Constable Mohan Lal and other police officials were travelling in the vehicle. When they reached near the tomb of *Babu Murad Shah, Nakodar*, they received secret information that some persons dealing in counterfeit Indian currency notes were coming from Malsian side towards Nakodar by the aforesaid car.

Again naka was held at canal bridge on Nakodar, Kapurthala Road. Balbir

Singh, Ex-Sarpanch of village Billi Chau, was joined in the police party. At about 11:00 A.M., the aforesaid car came from Malsian side, it was got stopped. One of the occupants of the car jumped out of it and could make good his escape. PHG Gurmej Singh and Ex-Sarpanch Balbir Singh identified him as accused Joga Singh. Accused Makhan Singh was the driver of the car. Accused Jagtar Singh was sitting by his side whereas accused Boota Singh and Nirmal Singh were sitting in the rear seat. They were apprehended. Car was searched by SI Bakhshish Singh. Accused Jagtar Singh was carrying a briefcase on his thighs. On search of the briefcase, 100 counterfeit Indian currency notes of the denomination of Rs. 1,000/- (1 lac) and 500 fake Indian currency notes of the denomination of Rs.500/- each (Rs. 2.5 lac) bearing various serial numbers were recovered and taken into possession vide recovery memo Ex. PA. Serial numbers of the aforesaid recovered currency notes were also recorded in the recovery memo Ex. PA. One diary Ex. PZ and notebook Ex. PZ/1 were also recovered from the aforesaid briefcase. The aforesaid currency notes were made into a parcel, sealed with the seal of 'BS' by SI Bakhshish Singh. That parcel is Ex. P1. Site plan Ex. PH/1 of the place of recovery was prepared. Accused Jagtar Singh was arrested.

From the personal search of accused Makhan Singh, 120 fake Indian currency notes of the denomination of Rs.500/- (Rs. 60,000/-) were recovered. They were made into a parcel (Ex.P3) and sealed with the seal of 'BS' and were taken into police possession vide memo Ex. PC.

From the personal search of accused Boota Singh, 106 fake Indian currency notes of the denomination of Rs.500/- (Rs.53,000/-) were recovered. The same was made into a parcel, sealed with the seal of 'BS' and

taken into possession vide memo Ex. PD.

From personal search of accused Nirmal Singh, 9 fake Indian currency notes of the denomination of Rs.1,000/- each (Rs.9,000/-) were recovered. The same were made into a parcel (Ex.P5), sealed with the seal of 'BS'), and taken into police possession vide memo Ex. PE. Accused Makhan Singh, Boota Singh and Nirmal Singh were also arrested.

Accused Joga singh was arrested by SI Bakhshish Singh on 08.01.2004 in the presence of independent witness Nirmal. His personal search memo was prepared. During interrogation, he suffered disclosure statement Ex. PTT on the basis of which he got recovered fake Indian currency notes each of the denomination of Rs.500/- (Rs.1,03,000/-) which were also made into a parcel (Ex.P20), sealed with the seal of 'BS' and taken into police possession vide recovery memo Ex. PUU/1. Site plan Ex. PVV was got prepared.

Accused Jagtar Singh, Makhan Singh and Boota Singh were also interrogated. On their interrogation, they suffered disclosure statements Ex. PXX/8, PXX/13 and Ex. PXX/6 dated 09.01.2004 respectively. 100 fake Indian currency notes of the denomination of Rs. 500/- (Rs.50,000/-) were got recovered by accused Jagtar Singh. 134 fake Indian currency notes of the denomination of Rs. 500/- each (Rs.67,000/-) were got recovered by accused Makhan Singh. 40 fake Indian currency notes of the denomination of Rs. 500/- each (Rs.20,000/-) were got recovered by accused Boota singh. They were taken into possession vide separate recovery memos Ex. PXX/9, Ex.PXX/14 and Ex.PXX/7 after converting the same into a sealed parcel.

During the course of their interrogation, accused of Group No.1 also disclosed that they were having business dealings of fake currency

notes with the remaining accused. In pursuance with the aforesaid disclosure statement SI Bakhshish Singh, conducted raid at the places of abode and places of business of accused Sukhchain Singh, Baljit Singh son of Pritam Singh, Kesar Singh, Hardeep Singh @ Deepa and Baldev Raj Bhatia (hereinafter to be called the accused of Group-II) and accused Jaspal Singh, Sandeep Kumar, Naresh Kumar, Vakesh Kumar, Balwinder Singh, Kala @ Gani, Manoj Kumar, Balkishan and Inderjit Singh (herein after to be called the accused of Group-III). On interrogation, they suffered disclosure statements and got recovered from 06.01.2004 to 03.02.2004, fake Indian currency notes, as mentioned in detail at Page 7 of the impugned judgment.

For brevity, I am mentioning herein only regarding disclosure statements and recovered fake currency notes from the convicted Group-II accused whereas I do not find any reason to make a mention about the disclosure statements and recoveries of the accused who have died or declared proclaimed offender or were acquitted, as there is no appeal against acquittal before this Court.

However, appellant-accused Baljit Singh son of Pritam Singh in pursuance with his disclosure statement Ex. PN got recovered Rs. 11,000/- i.e. 11 fake notes of the denomination of Rs. 1,000/- and 8 fake notes of the denomination of Rs. 500/- (Rs.4,000/-). The same were made into a sealed parcel, sealed with the seal of 'BS' and taken into police possession vide memo Ex. PO. Site plan of the place of recovery was prepared as Ex. PP.

Appellant-accused Baldev Raj, in pursuance with his disclosure statement Ex. PJJ got recovered 50 fake currency notes of the denomination of Rs. 1,000/- and 8 fake currency notes of the denomination of Rs. 500/-

(Rs.54,000/-). The same were made into a sealed parcel, sealed with the seal of 'BS' and taken into police possession vide memo Ex. PKK. Site plan of the place of recovery was prepared as Ex. PLL.

Appellant-accused Hardeep Singh @ Deepa, in pursuance with his disclosure statement Ex. PX got recovered 20 fake currency notes of the denomination of Rs. 500/- (Rs. 10,000/-). The same were made into a sealed parcel, sealed with the seal of 'BS' and taken into police possession vide memo Ex. PY. Site plan of the place of recovery was prepared as Ex. PZ.

Appellant-accused Sukhchain Singh, in pursuance with his disclosure statement Ex. PI got recovered 30 fake currency notes of the denomination of Rs. 1,000/- (Rs. 30,000/-). The same were made into a parcel, sealed with the seal of 'BS' and taken into police possession vide memo Ex. PJ. Site plan of the place of recovery was prepared as Ex. PL.

Appellant-accused Kesar Singh, in pursuance with his disclosure statement Ex. PT got recovered 50 fake currency notes of the denomination of Rs. 500/- (Rs. 25,000/-). The same were made into a parcel, sealed with the seal of 'BS' and taken into police possession vide memo Ex. PU. Site plan of the place of recovery was prepared as Ex. PV.

Appellant-accused Pritam Singh, in pursuance with his disclosure statement Ex. PEE got recovered 205 fake currency notes of the denomination of Rs. 500/- (Rs.1,02,500/-). The same were made into a sealed parcel, sealed with the seal of 'BS' and taken into police possession vide memo Ex. PFF. Site plan of the place of recovery was prepared as Ex. PGG. He also suffered disclosure statement Ex. PXX/11 on 09.01.2004, in pursuance with which he got recovered 12 fake Indian currency notes of the denomination of Rs.1,000/- (Rs.12,000/-) and 44 fake Indian currency notes

of the denomination of Rs.500/- (Rs. 22,000/-). The same were made into a parcel and taken into police possession vide memo Ex. PXX/12. Site plan of the place of recovery was prepared as Ex. PXX/13.

The recovered fake Indian currency notes were sent to the Press of Govt. of India, Nashik Road, for test, whereupon, reports Ex. PX and PY were obtained to the effect that the currency notes were counterfeit. Certain observations have been made as to how the currency notes in question were reported as fake. The same need not be mentioned here in detail as the documents are there on the record. After completion of necessary investigations, the challan against all the accused including appellants-accused was filed in the Court.

Learned counsel for the appellants-accused pointed out certain discrepancies in the framing of the charge against the appellants-accused contending that the appellant-accused have been convicted for the offence under Section 489-B IPC whereas no charge for the aforesaid offence was framed against them. Under these circumstances, I would like to make a mention in detail about the fact as to which of the appellants-accused was charged for what offence. So far as charge framed against the accused who have been acquitted or died or declared proclaimed offender, I need not mention the same.

Finding a *prima-facie* case against accused Baljit Singh son of Pritam Singh, Nirmal Singh son of Niranjana Singh, Makhan Singh son of Nasib Singh, Boota Singh son of Gurdev Singh, Hardeep Singh son of Jagdish Singh, Sukhchain, Kesar Singh and Jagtar Singh, they were charge sheeted for committing offence punishable under Section 489-C. To the charge, they did not plead guilty but claimed trial.

Finding a *prima-facie* case against accused Baldev Raj Bahatia and Pritam Singh, they were charge sheeted for committing offence under Section 489-B and 489-C IPC. To the charge, they did not plead guilty but claimed trial. After taking entire prosecution evidence, statements of accused under Section 313 Cr.P.C. were recorded, wherein, each prosecution allegation appearing against them were denied and accused pleaded their innocence and false implication. Accused Jaspal Singh, Sandeep Kumar, Manoj Kumar and Hardeep Singh @ Deepa had taken the defence that accused Baljit Singh since deceased had got a case registered against SI Bakhshish Singh. As such, all the remaining accused being close to said SI Bakhshish Singh and his helpers, have been implicated falsely on account of aforesaid enmity. I may make a mention here that the aforesaid accused Jaspal Singh, Sandeep Kumar, Manoj Kumar and Hardeep Singh @ Deepa have already been acquitted by the learned trial Court. As such, their defence is not valid against the appellants-accused. Their case is that of simple denial.

Accused have examined 8 Dws in their defence but the Dws relevant for the purpose of present appellants-accused are DW2 Chanan Singh, examined by accused Nirmal Singh; DW3 Swaran Singh, examined by accused Baljit Singh son of Pritam Singh; DW4 Shangara Singh, examined by accused Kesar Singh; DW5 Gurdeep Singh, examined by accused Sukhchain Singh; DW7 Jasbir Singh and DW8 Karnail Singh, examined by accused Kesar Singh.

After hearing counsel for the parties and appraising the entire evidence and material on record, the learned trial Court recorded the impugned judgment dated 04.08.2010 and order of sentence dated

10.08.2010 against the appellants-accused, as set out in the earlier part of this judgment.

I have heard learned counsel for the appellants and learned State counsel besides going through the record of the case.

The first and foremost argument advanced by learned counsel for the appellants-accused is this; that the appellants-accused have been convicted for the offence under Section 489-B IPC as well under Section 489-C IPC. Section 489-B is as follows:-

“using as genuine, forged or counterfeit currency-notes or bank-notes-Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with 2(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.”

Punishment provided for the offence is imprisonment for life, or with imprisonment of either description for a term which may extended to 10 years, and shall also be liable to fine whereas the sentence provided under Section 489-C IPC is maximum 7 years, or with fine, or with both. The offence under Section 489-B IPC is a graver offence than offence under Section 489-C IPC. Unless charge under Section 489-B IPC is framed, the appellants-accused cannot be convicted for the aforesaid offence. As such, on this account, the

impugned judgment is liable to be set aside and the case is to be remanded to the trial Court for fresh decision. From perusal of charge-sheet, it becomes evident that except convicted accused Baldev Raj and Pritam Singh, offence under Section 489-B IPC was not framed against the remaining 8 appellants-accused.

Even learned Shri Surjeet Singh Chaudhary, DAG, Punjab, also could not assign any reason in this regard as to why the case against Baljit Singh son of Pritam Singh, Nirmal Singh son of Niranjana Singh, Makhan Singh son of Nasib Singh, Boota Singh son of Gurdev Singh, Hardeep Singh son of Jagdish Singh, Sukhchain, Kesar Singh and Jagtar Singh, should not be remanded for framing of charge afresh and then for conducting trial afresh.

From afore-discussed charge-sheet, it is evident that charge under Section 489-B IPC was framed against Joga Singh, Sandeep Kumar, Balwinder Singh, Kala Singh and Balkishan, who have been acquitted by the learned trial Court. Charge under Section 489-B IPC has also been framed against Satish, who is proclaimed offender and is not before this Court.

Out of the appellants-accused, charge under Section 489-B IPC has been framed only against Baldev Raj son of Surinder Pal Bhatia and Pritam Singh son of Karam Singh. As per prosecution case fake currency notes of Rs. 3.50 lac were recovered from the possession of accused Jagtar Singh vide recovery memo Ex PA; from the possession of accused Makhan Singh, fake currency notes amounting

to Rs.60,000/- were recovered vide recovery memo Ex. PC; from the possession of accused Boota Singh, fake currency notes of Rs. 53,000/- were recovered vide recovery memo Ex. PD; from the possession of accused Nirmal Singh, fake currency notes of Rs.9,000/- were recovered vide recovery memo Ex. PE; from the possession of accused Kesar Singh, fake currency notes of Rs. 25,000/- were recovered vide recovery memo Ex. PU and another sum of Rs. 20,000/- (fake currency) were recovered vide recovery memo Ex.PXX/26; from the possession of accused Sukhchain Singh, a sum of Rs. 30,000/- (fake currency) were recovered vide recovery memo Ex. PJ; from the possession of accused Baljit Singh, a sum of Rs.15,000/- (fake currency) were recovered vide recovery memo Ex. PO; from the possession of accused Hardeep Singh, a sum of Rs. 10,000/- (fake currency) were recovered vide recovery memo Ex. PY. Thus, these accused received aforementioned huge amount of fake Indian currency notes having reason to believe that the same is fake, otherwise, there was no point for them to keep in their possession aforementioned fake Indian currency notes. Recovery of such a large amount of Indian fake currency notes from the possession of aforesaid accused i.e. too in pursuance with their respective disclosure statements *prima-facie* show that they have received Indian fake currency notes having reason to believe that the same are fake and have also been trafficking in the same. As such, case of Baldev Raj and Prtiarn Singh shall be discussed separately on merits in this very judgment, whereas, the case of

remaining appellants-accused is required to be remanded, since, charge under Section 489-B IPC was not framed against them.

At this juncture, it was argued by learned counsel for appellants-accused Baldev Raj and Pritam Singh that their case should also be remanded for re-trial alongwith other appellants-accused as any finding recorded by this Court in their case will seriously prejudice the trial of remaining appellants-accused. That would certainly have bearing on the mind of the learned trial Court while deciding their case afresh, after framing of charge under Section 489-B IPC against them. This argument of learned counsel for appellants-accused Baldev Raj and Pritam Singh is not tenable. Firstly for the reason that when these two accused have already been charge-sheeted for the offence under Section 489-B IPC, there is no point for remanding their case; secondly no one can be tried twice for the same offence. The case of each one of the accused has to be perused and decided as per the recoveries effected from their possession as well as if they had received counterfeit currency notes having reason to believe the same to be forged or counterfeit and further if they traffics in the counterfeit currency notes. While deciding the appeal filed by Baldev Raj and Pritam Singh on merits, it can well be said that the findings recorded in this judgment shall have no bearing on merits of the case of the remaining appellants-co-accused. As such, the aforesaid contention of learned counsel for appellants-accused Baldev Raj and Pritam Singh is not tenable. The impugned judgment of conviction dated 04.08.2010 and order of

sentence of sentence dated 10.08.2010 , passed by learned Additional Sessions Judge, Jalandhar, are set aside qua Baljit Singh son of Pritam Singh, Nirmal Singh son of Niranjana Singh, Makhan Singh son of Nasib Singh, Boota Singh son of Gurdev Singh, Hardeep Singh son of Jagdish Singh, Sukhchain, Kesar Singh and Jagtar Singh. The case against them is remanded to the trial Court with the direction to consider their case in the light of the above observations for framing of charge under Section 489-B IPC besides under Section 489-C IPC and then to try them and decide their case afresh in accordance with law.

Now, we are left with the case of Baldev Raj and Pritam Singh appellants-accused, who have been convicted for offence under Section 489-B IPC and 489-C IPC.

Drawing my attention towards charge-sheet against them, it was argued by learned Shri A.P.S.Deol, Sr. Advocate, counsel for Baldev Raj and learned Shri Ajay Singla, counsel for Pritam Singh that he (Baldev Raj) has sold fake Indian currency notes in the denomination of Rs.500/- to Naresh Kumar @ Gora co-accused but this Naresh Kumar has been acquitted by learned trial Court. Likewise, Pritam Singh son of Karam Singh has been charged for selling fake Indian currency notes to Baldev Raj Bhatia, Sandeep Kumar, Balkishan, Kala @ Gani in the denomination of Rs. 500/- knowing or having reason to believe the same to be forged Indian currency notes but Sandeep Kumar, Balkishan and Kala @ Gani have been acquitted by the learned trial Court. In fact, there is no evidence on the file to show that

these two accused have either purchased or sold the fake Indian currency notes to anybody. As such, it cannot be said that they in fact indulge in trafficking of fake Indian currency notes.

Of course, Naresh Kumar @ Gora, Sandeep Kumar, Balkishan and Kala @ Gani have been acquitted by the learned trial Court but they have been acquitted for want of evidence as no other witness except SI Bakshish Singh appeared against them. The learned trial Court held that none of the private or official witnesses appeared who allegedly attested their disclosure statements and were allegedly present at the time of recoveries got effected by the accused, has come forward to support the testimony of SI Bakhshish Singh and further finding that the accused of Group-III cannot be held guilty on the basis of solitary statement of SI Bakhshish Singh, they were acquitted. Therefore, under the above-discussed circumstances, by giving benefit of doubt, accused Naresh Kumar, Sandeep Kumar, Balkishan and Kala were acquitted. Simply because they were acquitted that would not have any bearing on the case of Baldev Raj and Pritam Singh.

It is the charge against Baldev Raj that he had sold fake Indian currency notes in the denomination of Rs.500/- to Naresh Kumar @ Gora co-accused which he had received from Pritam Singh co-accused and in this way, he had put the fake Indian currency notes in circulation knowing or having reason to believe that the same are forged currency notes.

It is the charge against Pritam Singh that he had sold fake

Indian currency notes to appellant-accused Baldev Raj Bhatia. In fact, accused were dealing in the fake Indian currency notes. They were selling and receiving fake Indian currency notes within themselves. They have also been receiving fake Indian currency notes from some other persons as well. Recovery of afore-discussed large number of fake Indian currency notes itself goes to show that Baldev Raj and Pritam Singh were receiving fake Indian currency notes knowing or having reason to believe that the same are forged Indian currency notes. They have also been trafficking in the forged Indian currency notes. As such, offence under Section 489-B IPC is established against them and the finding recorded by the learned trial Court regarding this offence against them do not suffer from any illegality.

It was next argued by learned counsel for Baldev Raj and Pritam Singh that where a person is possessed of a forged or counterfeit currency notes or bank notes, it is required to be established before he can be held guilty that he knew or had reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine. Even no specific question was put to the appellants in order to find out whether they knew that the notes were counterfeit currency notes. Mere possession of forged notes does not shift burden on accused to prove innocence. Knowledge or reason to believe that notes were forged has to be proved. As such, for want of evidence that accused were having knowledge that the currency notes in their possession were fake Indian currency notes, they cannot be

convicted either for the offence under Section 489-B IPC. In support of their contention, they have cited judgments, titled as *M. Mammutti Vs. State of Karnataka, AIR 1979, Supreme Court, 1705, Gurnam Singh Vs. State of Union Territory, Chandigarh, 1992 (2) C.C.Cases, 562(HC), Madan Lal Sharma Vs. The State, 1990 CRI. L.J., 215, 1982 CRI.L.J, 32 and Balraj (Balraj Singh) Vs. State of Haryana, 1988 (1), RCR (Criminal), 418.*

Principle of law enunciated in the aforecited judgments is not disputed but the facts and circumstances of the aforecited judgments are all together different.

In *M. Mammutti's* case (supra), the appellant was found in possession of counterfeit two rupees note and he handed over the note to a friend to purchase a ticket for a circus show. The booking clerk, on seeing the note got suspicious. He immediately informed the Sub-Inspector of Police. On search of appellant, 99 two rupees notes were recovered. Appellant in his statement under Section 342 Cr.P.C. stated that two days ago he sold three quintals of tamarind fruits to a person whom he did not know and that person gave him a sum of Rs.390/-. These currency notes were given to him by the purchaser. He was not knowing that the currency notes were counterfeit. He came to know about that only at that juncture when he was searched by the police. There was also no evidence to the effect that counterfeit notes were of such a nature or description that a mere look at them would convince any person of average intelligence that it was a counterfeit note.

In the case in hand, recovery of Rs.54,000/- fake Indian

currency notes from the possession of accused Baldev Raj Bhatia i.e. too in pursuance with his disclosure statement Ex. PJJ and recovery of 205 Indian fake currency notes of the denomination of Rs. 500/- worth Rs. 1,02,500/- in pursuance with his disclosure statement Ex. PEE too to show the guilty mind of the appellants-accused Baldev Raj and Prtiam Singh. They had kept concealed these notes and later on from the concealed place, they themselves got recovered the aforementioned fake Indian currency notes by giving *nishandehi* of the place where they had kept hidden. Also, no explanation is coming forth from the side of the accused as to how they came in possession of such a large number of fake Indian currency notes. It is not the case of 1 or 2 fake Indian currency notes which have come in possession of the accused somehow or that he was not knowing about the nature of those currency notes that the same were fake. This contention of learned counsel for Baldev Raj and Pritam Singh is not sustainable.

It was also argued by learned counsel for Baldev Raj and Pritam Singh that Balbir Singh (PW2) was joined as independent witness but he did not support the prosecution case and was turned hostile. Seal used in this case for sealing the recovered currency notes, was not given to Balbir Singh (PW2) but was given to HC Mohan Lal. As such, by not giving seal to independent witness, makes the prosecution case doubtful. This argument of learned counsel for the appellants-accused is again not sustainable as by now it is settled proposition of law that the statements of police witnesses are at par with the statements of non-offical witnesses, in case, they are consistent and inspire confidence in the mind of

the Court regarding guilt of the accused. In fact, if we peruse the statement of SI Bakhshish Singh (PW4) and Head Constable Mohan Lal PW1), it would become clear that the same are consistent and inspire confidence in the mind of the Court regarding guilt of the accused. The statement of police official cannot be brushed aside simply for the reason that he is a police witness.

The next argument raised by learned counsel for Baldev Raj and Pritam Singh is this; that reports Ex. PX and PY given by India Security Press, Nasik regarding fakeness of seized currency notes cannot be relied upon as it finds mention in the aforesaid reports that the currency notes when received in the Indian Security Press Nasik, the same were in open condition which goes to show that the likelihood of tampering with such currency notes cannot be ruled out. Under these circumstances, it cannot be said that the currency notes examined vide reports Ex. PX and Ex. PY are the same which were in fact recovered from the possession of the appellants-accused.

Of course reports Ex. PX and Ex. PY speak about the fact that the Assistant Works Manager of India Security Press observed that the suspected notes were received in open condition yet this would not smash the prosecution case. The numbers of seized currency notes find mention in the recovery memo at the time of effecting recoveries from the possession of accused. The currency notes which were examined in the India Security Press, Nasik, were also got produced in the Court and the learned trial Court examined those notes itself and found on comparison that they tallied with the one mentioned in the recovery memos. Even the reasons given in the reports for drawing conclusion that the recovered currency notes were fake

have also been found by learned trial Court in the currency notes produced before the Court at the time of their examination by the Court.

As such, finding recorded by the learned trial Court in para 11 of the impugned judgment do not suffer from any illegality. Thus, the above contention of learned counsel for the appellants-accused is devoid of any force on this aspect.

For the reasons recorded above, the impugned judgment dated 04.08.2010 and order on sentence dated 10.08.2010 qua accused Baljit Singh son of Pritam Singh, Nirmal Singh son of Niranjana Singh, Makhan Singh son of Nasib Singh, Boota Singh son of Gurdev Singh, Hardeep Singh son of Jagdish Singh, Sukhchain, Kesar Singh and Jagtar Singh are set aside and their case is remanded to the learned trial Court for consideration on the point of framing of charge under Section 489-B IPC and 489-C IPC and then to conduct the trial and decide the case afresh in accordance with law. However, findings recorded by this Court qua appellants Baldev Raj and Pritam Singh on merits of the case shall have no bearing on the mind of trial Court while deciding the case of remaining appellants-accused afresh.

For the reasons recorded above, finding no merits in the appeals respecting Baldev Raj son of Surinder Pal Bhatia and Pritam Singh son of Karam Singh. Their appeals are dismissed. If appellants Baldev Raj, son of Surinder Pal Bhatia and Pritam Singh, son of Karam Singh, are on bail, their bail bonds shall stand cancelled and they be taken in custody for serving the remaining period of sentence. The concerned Chief Judicial Magistrate, shall take necessary steps, to comply with the

judgment, with due promptitude, keeping in view the applicability of the provisions of Section 428 of the Criminal Procedure Code, and submit compliance report within a period of two months, from the date of receipt of a copy thereof.

The District & Sessions Judge, Jalandhar, shall ensure that the directions are complied with, within the time frame, and the compliance report is submitted immediately thereafter.

The Registry shall keep track of the submission of compliance reports, and put up the papers whether the reports are received or not, within the time frame, immediately after the expiry thereof.

**(RAJ RAHULGARG)
JUDGE**

09.03.16
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