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U/S 468 I.P.C.	to undergo Rigorous Imprisonment for two years each and to pay of fine of ₹1000/- each.	To further undergo RI for six months each.
U/S 471 I.P.C.	to undergo Rigorous Imprisonment for one year each and to pay of fine of ₹500/- each.	To further undergo RI for three months each.

The appeal filed by the petitioners was dismissed by learned Additional Sessions Judge (ADHOC) Fast Track Court, Muktsar vide judgment dated 08.08.2007.

2. Relevant facts for the purpose of present revision petition; that the process of law was set into motion at the instance of complainant Surender Singh, that he had purchased a Harvester Combine from Hero Combine Agricultural Industries owned by Virsa Singh and Ram Singh on 07.10.2000 for a sale consideration of ₹8,90,000/- against Bill No.19. The payment was made by him after taking loan from Primary Agricultural Development Bank, Gideebaha (for short, “the Bank”). After using the Combine for a short period, some mechanical defects were found in the vehicle and the complainant reported the same to the manufacturer, who made some efforts to repair the combine, but there was no substantial improvement. Police had approached the complainant on 20.10.2000 alongwith Jaspal Singh @ Jajji who stated that the Harvester Combine in question was in fact owned by him and he had purchased the same about six months back. He had handed over the said combine to Hero Combine Industries but they had not returned the same.

3. Later on, the complainant came to know that the Harvester

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Combine supplied to him was old one and in fact, it was re-painted and the chassis number and engine number were changed. He contacted the present petitioners being proprietors of the firm and complained regarding fraud having been played upon them, but no action was taken and as such, the matter was reported to the police, on the basis of which F.I.R. was registered against the petitioners and the investigation was carried on.

4. On the basis of report under Section 173 Cr.P.C. challan was presented against the petitioners for commission of offence under Sections 420, 467, 468 and 471 IPC.

5. After completion of investigation proceedings, challan was presented in the Court for trial.

6. During trial, learned Courts below completed various proceedings of trial including framing of charge against the accused, recording of statement of prosecution witnesses and examination of accused under Section 313 Cr.P.C. and after considering the prosecution version and the defence evidence on record, held the petitioners guilty and convicted them for commission of offence under Sections 420, 467, 468 and 471 IPC and sentenced them vide order dated 26.02.2007 as detailed in para No.1 above. The petitioners preferred appeal before learned Additional Sessions Judge, Muktsar and the same was dismissed vide judgment dated 08.08.2007.

7. Aggrieved of passing of judgments of conviction and order of sentence, the petitioners are before this Court by way of present revision.

8. Shri Bipan Ghai, learned Senior Advocate representing the petitioners submitted that both the Courts below have not considered the

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material facts which resulted in the passing of judgment of conviction by the trial Court and dismissal of appeal by the First Appellate Court. It has come on the file by way of statement of PW5 Subegh Singh, Deputy Manager, Primary Agricultural Development Bank [for short "PADB"], Jaitu that the combine was purchased by the complainant against Bank loan and at the time of release of payment to the dealer, the combine which was delivered to the complainant was physically checked by the authorities of the Bank and the same was a new one. This fact has also been confirmed by PW7 Gurjant Singh, Assistant Manager PADB, Muktsar who admitted that the loan was released after verification of the Harvester Combine, which was a new one. More so, the said vehicle was duly insured at the time of purchase and the insurance was for a new vehicle and not for an old or repainted one.

9. Learned counsel for the petitioners also submitted that in fact, both the petitioners namely, Virsa Singh and Ram Singh are having different business establishments and there was no question of commission of alleged offence or handing over of old Harvester Combine. Learned senior counsel for the petitioners further submitted that in fact, Jaspal Singh could not make repayment of the loan and a civil suit was filed which was decreed against him and thereafter appeal which too was dismissed by the first Appellate Court. Jaspal Singh, thereafter, had preferred a petition before this Court but he remained unsuccessful. He moved a complaint before the police, but the police did not take any action finding no substance in the allegations. Complainant - Surinder Singh, has preferred the complaint at the instigation and on the asking of Jaspal Singh only and it is apparently a bogus one and

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the present revision petition deserves acceptance and the judgment of conviction and order of sentence as affirmed by the first Appellate Court are liable to be set-aside.

10. Learned State counsel arguing on this point, submitted that it had come in the report of Akatter Singh, Mechanic, [PW-4], who had inspected the Harvester Combine, that the vehicle was having chassis number and engine number recently written and that report establishes the version of the complainant that after changing the chassis number and engine number, the old vehicle which was earlier sold to Jaspal Singh, was again sold to the complainant. Otherwise also, the prosecution case has been duly proved on the file on the basis of statement of PW-1 Surinder Singh and the statements of Subegh Singh [PW-5] and Jaspal Singh [PW-3] and the present revision petition is absolutely without any merit and the same be dismissed.

11. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that most of the facts are not disputed that the appellants, Virsa Singh and Ram Singh are having separate business establishments. Appellant Virsa Singh is the proprietor of Hero Combine Industries and Ram Singh is the proprietor of Samraj Combine Industries. This fact has been duly admitted by Darshan Singh [PW-2] in his statement. Both the firms had supplied two different Combines i.e., one to Jaspal Singh and the other to the complainant – Surinder Singh and same were having separate registration number as per record of District Transport Office. Both the vehicles were insured separately. In the present case, the main controversy involves around as to

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whether the Harvester Combine supplied to the complainant was old or new one. On this point, statements of PW-5 Subegh Singh and PW-3 Jaspal Singh are most relevant as they are official witnesses and were making statements on the basis of record. Apart from proving loan documents, they have stated in so many words that the vehicle was physically checked at the time of advancement of loan. In the opening lines of cross-examination, PW-5 Subegh Singh had admitted that when-ever any one approaches the bank for advancement of loan for purchase of a vehicle, the bank ensures to arrange production of vehicle in the bank and after verification of engine number and chassis number by the Manager, the required certificates are issued and on the basis of that payment is released to the firms. While referring to the advancement of present loan in favour of Surinder Singh, PW-5 deposed in his cross-examination that in the present case, loan was advanced for a new Harvester Combine and the same was done after verification of the vehicle in the bank. Similar is the deposition of PW-7, Gurjan Singh. He had also admitted in his cross examination that the loan was advanced for Hero Combine having Engine No. AIEN104029 and Chassis No. H004Y2000. The vehicle was duly insured and at that time also, the physical verification of the new vehicle was done. So, there is no question to release the loan amount against an old vehicle having re-written chassis number by forging the same or selling of the same vehicle which was earlier sold to Jaspal Singh by the appellants. More so, the prosecution has mainly relied upon the testimony of PW4, Akatter Singh, a Mechanic of Punjab Roadways, Muktsar, who proved his report Ex. PB. However, in his

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cross-examination, he had admitted certain material facts that even in his report, the Model and Make of the Harvester Combine in question was not written. He could not say anything that there was some other chassis number written on the vehicle which was erased and thereafter another number was written so as to sell the old vehicle as a new one. These facts have not been considered while recording judgment of conviction by the trial Court and dismissing the appeal by the first Appellate Court.

12. Resultantly, the present revision petition is allowed. The impugned judgment of conviction and order of sentence passed by the Courts below against the petitioners, are set aside and the petitioners are acquitted of the charge levelled against them. The amount of fine, if deposited, be returned to him in accordance with law.

(SHEKHER DHAWAN)
JUDGE

August 26th, 2016
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Whether speaking/reasoned	:	Yes
Whether Reportable	:	Yes