

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i) CRM No.M-33854 of 2013 (O&M)

Anil Bhardwaj

...Petitioner

VERSUS

State of Punjab

...Respondent

(ii) CRM No.M-41857 of 2013 (O&M)

Daljit Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

Date of Decision: April 04, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vivek K.Thakur, Advocate
for the petitioner (in CRM No.M-33854 of 2013).

Mr.Vikasdeep Singh, Advocate
for the petitioner (in CRM No.M-41857 of 2013).

Ms.Shivali, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

This order shall dispose of above-mentioned two connected cases as the point for determination in both the cases is the same.

The above-mentioned petitions have been filed by petitioners for quashing of FIR No.86 dated 03.08.2011 under

Sections 420, 465, 467, 468, 471 and 120-B IPC registered at Police Station Sultanpur Lodhi, Kapurthala and all subsequent proceedings arising therefrom.

The brief facts of the case are that one Narwinder Singh gave application for grant of loan by impersonating himself as Jaswinder Singh-his real brother on the basis of jamabandi and fard of Jaswinder Singh by pasting his own photograph on the application form. Since, Narwinder Singh impersonated himself as Jaswinder Singh by attaching all the documents of Jaswinder Singh, therefore, the Field Officer also examined the documents of Jaswinder Singh only and gave his report on 13.07.2010. On the basis of this document, mortgage deed was executed before Sub-Registrar, Sultanpur Lodhi, which was signed by Jaswinder Singh and witness Sucha Singh and Kulwinder Kaur on behalf of the mortgagee and the Field Officer of the Bank put his signatures.

After the investigation, Narwinder Singh and his wife Kuldeep Kaur were arrested and challan against Narwinder Singh and Kuldeep Kaur was presented. The allegation against Daljit Singh is that he was scribe of the above-said mortgage deed, therefore, he was arrested on 21.06.2012 alleging therein that the petitioner had scribed the mortgage deed in connivance with other accused. The allegation against petitioner Anil Bhardwaj is that he has signed the loan form and has put his signatures on the stamp of Field Officer. Anil Bhardwaj was posted as Asstt. Manager in Bank at that time.

Notice of motion was issued and learned State counsel

appeared and contested the petitions and also filed replies.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

From the record, I find that as per the allegations in the FIR and also whatever stated in the reply by the State, there is nothing on the record that in any way Daljit Singh scribe was a beneficiary under the loan. Admittedly, Narwinder Singh main accused has impersonated himself as Jaswinder Singh by using the documents of his brother Jaswinder Singh and put his own photograph on the loan application. It is admitted fact that loan was not granted/disbursed to Narwinder Singh in this case as it has come to the notice of authorities and the bank was informed accordingly. There is nothing in the reply to suggest that Daljit Singh scribe, in any way, is related to the main accused or was knowing him or having any connivance or conspiracy with him. Even in the reply, State has mainly stated that Daljit Singh is the scribe of the mortgage deed. The Scribe is only to scribe the document and he is not supported to know the parties. Learned counsel for petitioner Daljit Singh argued that Daljit Singh has only filled up the columns of the mortgage deed and he was not knowing the parties personally. Even the deed writer has made the entry in his register at Sr. No.437 dated 26.07.2010. Nothing is there that Daljit Singh intentionally committed any mistake or committed any illegal act or there was any conspiracy on the part of Daljit Singh or in any way, he has received any amount or beneficiary in the fraud.

As regarding petitioner Anil Bhardwaj, there is nothing in the FIR nor in the reply that he connived, in any way, with Narwinder Singh main accused. He is not supposed to know the parties. The Field Officer has given the report on the basis of documents as the loan was applied in the name of Jaswinder Singh and the documents of Jaswinder Singh were filed except the photograph of Narwinder Singh. At the time of execution of mortgage deed, the parties are to be identified by the attesting witnesses and not by the Field Officer etc. Otherwise also, the allegation against the present petitioner is that he was posted as Asstt. Manager in the Primacy Cooperative Agriculture Development Bank Ltd. and he sanctioned the loan, which admittedly, has not been disbursed. The other allegation against him is that he signed documents as Field Officer as the Field Officer was on leave on the alleged date. There is nothing in the reply or in the FIR that there is any conspiracy of Anil Bhardwaj, Asstt. Manager in this case or he is beneficiary, in any way, in the fraud. Admittedly, the fraud has been committed by Narwinder Singh, who impersonated himself as Jaswinder Singh his brother and used documents of Jaswinder Singh while applying the loan from the bank. At the most, if there is anything against Anil Bhardwaj, it may be negligence in performance of the duties.

From the record, no case is made out against petitioners Daljit Singh and Anil Bhardwaj and registration of FIR and presentation of challan against them is nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in both the petitions, the same are allowed. FIR No.86 dated 03.08.2011 under Sections 420, 465, 467, 468, 471 and 120-B IPC registered at Police Station Sultanpur Lodhi, Kapurthala and all subsequent proceedings arising therefrom, are hereby quashed qua the petitioners.

April 04, 2016
Vgulati

(INDERJIT SINGH)
JUDGE