# IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRR No.4123 of 2016 (O&M)**
**Date of Decision: December 07, 2016**

Daya Nand

...Petitioner

VERSUS

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Sunil K. Nehra, Advocate
for the petitioner.

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**INDERJIT SINGH, J.**

The present revision has been filed by the petitioner Daya Nand against respondent State of Haryana, challenging the impugned judgment of conviction dated 13.02.2013 and order of sentence dated 15.02.2013 passed by learned Addl. Chief Judicial Magistrate, Sirsa, vide which the petitioner was convicted under Sections 409, 420, 467, 468 and 471 IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹200/- and in default of payment, to undergo rigorous imprisonment for a period of one month under each Section and also challenging the judgment dated 21.09.2016 passed by learned Addl. Sessions Judge, Sirsa, vide which appeal filed by petitioner was dismissed.

From the record, I find that the challan was presented against petitioner in case FIR No.85 dated 04.06.2004. The brief facts of the case as noted down in the judgment passed by learned ACJM, Sirsa, are as under:-



*"2. Brief facts of present case are that an application from*

*Rajinder Parshad, Manager, Punjab National Bank, Bajekan was received in police station stating therein that Daya Nand now under suspension was posted as a Clerk in Punjab National Bank, village Bajekan. One Assa Ram son of Rambali, resident of Shamshabad Patti had deposited a sum of Rs.10,000/-in FDR No.124 dated 19.11.1985 for 78 months and thus a sum of Rs.20,245/- was to be paid to him on maturity on 19.5.1992. Since Assa Ram did not contract bank authorities to claim maturity amount and as such, amount to the tune of Rs.20,245/- was transferred in overdue account. However, on 9.11.1996 said fixed deposit receipt was renewed for 66 months and in this manner a sum of Rs.40,915/- was to be paid on maturity on 19.11.1997 and amount was debited form overdue account. It was done by Daya Nand. Again on 27.12.1996 a sum of Rs.18,000/- was sanctioned as demand loan to Assa Ram on recommendation of Daya Nand and a new FDR of Rs.20,245/- was prepared on 19.2.2000. Debit and credit vouchers were also prepared by Daya Nand. Again a sum of Rs.25,283/- was debited from FDR account of Assa Ram on 21.3.2000 and a demand loan of Rs.23,989/- was sanctioned and remaining amount to the tune of Rs.1294/- was transferred in overdue account payable to Assa Ram. Assa Ram approached bank on 6.8.2003 and requested for renewal of FDR. On inquiry it was found that no loan was obtained by Assa Ram and all papers were fictitiously and fraudulently prepared by Daya Nand. In this way, Daya Nand Clerk has forged bank documents and defrauded bank due to which, bank has caused loss of Rs.79,034/-. Hence, it is requested that legal action be taken against Daya Nand.*

*3. On the basis of said complaint, present FIR was registered. Investigation was commenced. During investigation, concerned record of bank was taken into police possession. Accused was found involved in crime and was arrested. After completion of usual formalities of investigation, challan was put to Court."*

In support of its case, the prosecution examined PW-1 Rajinder Parshad, Manager, Punjab National Bank, PW-2 Suresh Kumar, Manager, PW-3 V.K.Solanki, Branch Manager, PW-4 SI Janardhan (Retd.), PW-5 ASI Roshan Lal (Retd.), PW-6 SI Makhan Singh and PW-7 Assa Ram.

Learned ACJM, Sirsa, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions

Judge, Sirsa, vide judgment dated 21.09.2016.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of arguments, learned counsel for the petitioner only argued that the prosecution has not duly proved its case beyond reasonable doubt. No signatures of present petitioner Daya Nand has been obtained and got compared, which creates doubt in the prosecution version. Therefore, learned counsel for the petitioner argued that accused-petitioner is entitled to acquittal and judgments passed by both the Courts below are not as per law.

I have heard learned counsel for the petitioner and have gone through the record.

After going through the evidence on record, I find that PWs have duly proved the documents which bear the signatures of present petitioner Daya Nand. Assa Ram, who has got prepared FDR, as per prosecution version, has not got encashed it. PWs have duly proved regarding so many documents, which are prepared by present petitioner. PW-7 Assa Ram, complainant has given the evidence as per prosecution version and other PWs have proved so many documents having signatures of present petitioner as Daya Nand Ladha. The credit vouchers of relevant time have been proved from the bank record and other PWs have also consistently deposed regarding the embezzlement and forgery of the documents committed by the present petitioner. His appointment in the bank etc. has also been duly proved, which otherwise has not been contested by the accused.



Learned counsel for the petitioner argued that petitioner has been convicted only on the ground that he has deposited the embezzled amount. This argument has no merit. The prosecution has proved its case by bringing the documents from the bank and by producing officials of the bank. In no way, it can be held that present petitioner has been convicted only on the ground that he has deposited the embezzled amount.

The findings given by learned Courts below have been given as per evidence and law. Nothing has been pointed out as to how the findings given by learned Courts below are perverse or against the evidence. Nothing has been pointed out as to what illegality has been committed by the Courts below. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Courts below. Both the Courts below have appreciated the evidence in right perspective. The prosecution has duly proved its case beyond reasonable doubt. In no way, it can be held that reasonable doubt exists in the prosecution version. Furthermore, as the Bank Managers themselves have identified the signatures on documents, there is no necessity to bring the Handwriting and Fingerprint Expert into the witness box.

In view of the above discussion, I find that the judgments passed by the Courts below are correct, as per law and do not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

**December 07, 2016** **(INDERJIT SINGH)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **No**