HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRA-D-505-DBA-2004 (O&M)
Date of Decision: 20.11.2017

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State of Punjab ... Appellant

VS.

Baljit Singh & Ors. ... Respondents

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CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE SUDHIR MITTAL

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Present: Ms. Manjari Nehru Kaul, Addl. AG Punjab

Mr. PS Miglani, Advocate for respondent No.1

Mr. Kapil Aggarwal, Advocate for respondent No.2

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SURYA KANT, J. (Oral)

(1) This order shall dispose of CRA-D-505-DBA-2004, CRA-D-506-DBA-2004, CRA-D-507-DBA-2004, CRA-D-508-DBA-2004, CRA-D-509-DBA-2004, CRA-D-510-DBA-2004 and CRA-D-511-DBA-2004 as all the appeals have arisen out of FIR No.90 dated 12.07.1994 u/s 420, 467, 468, 471, 120-B IPC registered at Police Station Dhuri, District Sangrur wherein seven separate challans were presented and the learned Sub Divisional Judicial Magistrate, Dhuri, namely, the trial Court has acquitted the accused in all the cases giving rise to this batch of appeals. The facts are taken from the lead case i.e. CRA-D-505-DBA-2004.

(2) The Chairman of Malwa Gramin Bank visited the Branch of the said Bank at village Bhalwan on 09.02.1994 and found that 7 loan cases sponsored by the Schedule Caste Corporation, Sangrur were adjusted within a period of six months from the date of disbursement of the loan amount. The Management of the Bank was asked to scrutinize the relevant documents whereupon it emerged out that (i) the applications sent by the Scheduled Caste and Land Development Corporation neither bore yellow card number nor any

attestation by Sarpanch or Namberdar of the village on the back of the applications thus necessary columns of the applications were left blank; (ii) the officials of the Scheduled Caste and Land Development Corporation did not make verification and the applications were sponsored in respect of the persons who were not in fact residents of village Bhalwan; (iii) the subsidy in these cases was sent to the branch at Bhalwan without verifying the necessary facts and it appears that the loans were disbursed in connivance with the officials of the Corporation and of the Bank just to misappropriate the subsidy amount; and (iv) all the facts in respect of these loan cases were not ascertained and loans were disbursed in an irregular manner.

(3) The matter was referred to the police authorities who then lodged the FIR in question and started investigation in the matter.

(4) The respondents-accused were suspected to be involved. The allegation against them was that they had forged the loan applications of loanees, namely, Surjit Kaur, Bir Singh, Chand Singh, Amarjit Kaur, Baljit Kaur, Jaswinder Kaur and Inderpal Kaur and deposited the loan amount purported to have been taken by them from the Bank within a short duration and in this manner, they misappropriated the subsidy amount as was admissible against each loan account. As per the prosecution case, the 7 loanees were not residents of village Bhalwan.

(5) After presentation of challans, the trial court found that *prima facie* case punishable under Sections 420, 467, 468, 471 and 120-B IPC was made out against the accused. The charges were accordingly framed. As they pleaded not guilty, the trial court permitted both sides to lead their respective evidence.

(6) The question which thus arose for consideration of the trial court was whether the accused in collusion and connivance with each other entered

into a criminal conspiracy and thereby forged the documents and got the loan sanctioned in the name of above-stated 7 persons and misappropriated the subsidy amount?

(7) To prove its case, the prosecution examined PW1 Baldev Singh who claimed that Amarjit Kaur had taken loan from the Malwa Gramin Bank, but he had not put his signatures as witness on her loan forms though on the loan documents, name of Baldev Singh is written as a witness but the same are not his signatures.

(8) PW2 Ranjit Singh made a similar statement and claimed that he has seen the loan forms of Amarjit Kaur wherein there are signatures of Ranjit Singh but the same are not his signatures.

(9) PW3 Joginder Singh – Executive Officer of the Malwa Gramin Bank, Head Office Sangrur stated that the recovery memos Ex.P-A, Ex.P-B & Ex.P-C and the posting orders of the accused Baljit Singh and Prem Chand were taken by police in possession. He identified his signatures on the recovery memo Ex.P-C.

(10) Bhupinder Singh PW4 (wrongly mentioned as PW3) Junior Assistant District Manager PSCFC Sangrur also appeared as PW4 and stated that he was posted as Junior Assistant and on 30.12.1994, he handed over the attested copies of posting orders of Neelam Kumari, District Manager, Sangrur – one of the accused who passed away during the pendency and this appeal *qua* her has been rendered abated. He also identified signatures of Anokh Singh Bachittar, the then District Manager, as he used to see him reading and writing.

(11) PW5 Surinder Pal Singh stated that he was posted as Assistant Manager in Malwa Gramin Bank from the year 1993 to 1997 and that a letter was written by Harjit Singh Sehgal, the then Chairman of Malwa Gramin Bank

Sangrur asking him to hold enquiry whereupon he visited the Branch at Bhalwan and examined the record. It then came to his notice that loan amount was disbursed under the scheme of Punjab Scheduled Caste and Land Development Corporation to the persons not belonging to Village Bhalwan. Under the scheme, the identification was required to be made by Sarpanch and then the form was to be sent to Manager, Punjab State Land Development, Sangrur and it was to be returned back by the Manager but in the 7 cases, no such procedure was followed. It was found in the enquiry that loan amount was returned within six months of disbursement and that there was subsidy of ₹ 5000 each which was misappropriated by the accused. The witness also claimed that accused Prem Chand and Baljeet Singh forged the signatures on the cheques for payment as was found by him in his report Ex.P-C.

(12) PW6 Mohan Singh claimed that he is working as Medical Practitioner in village Bhojwali since 20 years. He identified his signatures on the back side of cheques bearing No.008826, 008828, 008830 and 008834.

(13) PW7 Jarnail Singh, Senior Assistant office of Deputy Commissioner brought the enquiry report dated 16.03.1994 which was prepared by Mrs. Indu Malhotra, DROG, Sangrur and he identified the signatures of Mrs. Indu Malhotra as he used to see her reading and writing. Copy of the report was taken on record as Ex.P-4.

(14) ASI Jangir Singh appeared as PW8 and claimed that he was posted in Anti Corruption Staff, Sangrur on 29.07.1994. He enquired the case and during enquiry, he took into police custody the cheques, application forms and other documents relating to loanees besides statements of various concerned persons. The other documents taken by him into custody during the course of enquiry including posting orders of the accused etc. were duly exhibited.

(15) Mahesh Kumar Clerk-cum-Cashier, Malwa Gramin Bank appeared as PW9 and produced the record relating to loanees Ex.P-X and recovery memo Ex.P-A/1.

(16) HC Harbans Singh (PW10) who was posted at Anti Fraud Staff, Sangrur received a letter No.8537 dated 15.07.1995 for depositing the same to the Forensic Laboratory, Chandigarh, which was deposited on 20.07.1995 and officials of the Laboratory handed over him one sealed packet which he handed over to ASI Jangir Singh on 21.05.1995.

(17) The other witnesses, namely, Mrs.Indu Malhotra, SHO Rajinder Singh, ASI Nachattar Singh were not examined being unnecessary whereas Sarpanch Inder Singh was statedly won over by the accused. The prosecution thus closed its evidence.

(18) The statements of accused were recorded under Section 313 CrPC in which they reiterated their innocence and alleged false implication.

(19) In defence, the accused examined Hakam Singh s/o Mohinder Singh as DW1 who is statedly a resident of village Bhalwan and he deposed that Surjit Kaur, Chand Singh, Amarjit Kaur, Baljit Kaur, Jaswinder Kaur, Inderpal Kaur all are residents of village Bhalwan and he knew them personally. He further deposed that these persons took loan from the Bank and utilized the same for the purpose for which the loan was taken.

(20) DW2 Bikram Lal, Manager, Malwa Gramin Bank, Bhalwan brought the original letter No.273 dated 09.12.2002 whereby the Chairman of Malwa Gramin Bank was informed regarding recovery of loan amount. The separate intimation sent on 10.12.1992 informing the District Manager, SC Corporation that the loan account was closed within a period of one year was also produced by the witness.

(21) Sardara Singh who was the District Manager of Punjab Scheduled Caste and Land Development and Financial Corporation at Sangrur appeared as DW3 and produced the letter No.15760 dated 30.01.2003 whereby the instructions were given that the loan should be recommended only after verification of yellow cards. He also identified the signatures of Ranjit Singh the then Director and adduced into evidence Photostat copies of Ex.D-6 & Ex.D-7.

(22) DW4 Dharminder Kumar claimed that he was working as Class IV employee in the Malwa Gramin Bank and he knew the 7 loanees personally and that the above-stated persons signed the cheques in his presence and the cheques were distributed to the loanees in his presence only.

(23) Surjit Singh Assistant District Manager posted at Patiala appeared as DW5 and deposed that he was transferred from Sangrur to Faridkot on 05.05.1993 and the record regarding inspection report of loan case of entire District Sangrur for the year 1992-93 was not in his possession and the same must be in the office at Sangrur.

(24) The question which fell for consideration of the trial court as formulated in para-6 of this order thus has to be answered in the light of above evidence. Trial Court has extended the benefit of doubt to the respondents and in our considered view rightly so for two reasons.

(25) Firstly, it is not in dispute that Hakam Singh s/o Mohinder Singh (DW1) has categorically stated that he is a permanent resident of village Bhalwan and he personally knew Surjit Kaur, Chand Singh, Amarjit Kaur, Baljit Kaur, Jaswinder Kaur, Inderpal Kaur and that all of them are residents of Bhalwan. In the cross-examination, not even a suggestion was made to this witness that these persons are not residents of village Bhalwan. The very

foundation of the prosecution case that the loan amount was disbursed to fake entities of village Bhalwan thus collapsed in the light of the statement of this witness. The only other crucial issue is with regard to the forgery of signatures on the cheques etc. for which the prosecution has placed reliance on the report submitted by the Forensic Science Laboratory Punjab dated 14.07.1995.

(26) We have gone through the contents of report dated 14.07.1995 duly signed by the Assistant Director (Documents) Forensic Science Laboratory, Punjab, Chandigarh, the conclusion drawn are to the following effect:-

> *"I have carefully and thoroughly examined the red enclosed questioned signatures and initials stamped and marked Q1 to Q108 and have compared them with the relevant standard signatures, initials and writings from the original documents in all aspects of handwriting identification and detection of forgery with the help of scientific aids and it has been concluded that:*
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> *1. The person who wrote the red enclosed specimen signatures stamped and marked A1 to A6 an S1 to S13 also wrote the red enclosed questioned signatures similarly stamped and marked Q2, Q7, Q8, Q15, Q19, Q24, Q25 and Q36 to Q38.*
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> *2. The red enclosed questioned signatures/initials stamped and marked Q1, Q4, Q6, Q9, Q10, Q12, Q13,Q17,Q18,Q21,Q22,Q23,Q27,Q29,Q33,Q35 and Q40 when compared with the specimen signatures similarly stamped and marked A1 to A6 and S1 to S13 show similarities <u>but it has not been possible to express any definite opinion regarding their common authorship or otherwise due to insufficient data</u>.*
>
> *3. <u>It has not been possible to express any definite opinion on the questioned initials marked Q3,Q5,Q11,Q14,Q16,Q20,Q26,Q28,Q30,Q31,Q32,Q34,Q39</u>*

<u>and Q41 in comparison with the standard signatures similarly stamped and marked A1 to A6 and S1 to S13</u>.

4. <u>It has not been possible to express any definite opinion on the questioned initials stamped and marked Q42 to Q57 in comparison with the standard initials similarly stamped and marked A1 to A6 and S1 to S13 as the questioned initials are limited in extent.</u>

5. The red enclosed questioned initials stamped and marked Q58 to Q81 when compared with the specimen initials stamped and marked S43 to S50 agree in movement and design <u>but it has not been possible to express any definite opinion on the questioned initials marked Q58 to Q81 as the questioned initials are limited in extent</u>.

6. The red enclosed questioned signatures marked Q82 to Q89 when compared with the specimen signatures marked A7 to A12 and S14 to S20 show similarities <u>but to evaluate these similarities properly and for a definite opinion suitable and sufficient specimen/admitted signatures of the person concerned in "English" and near about the period of questioned signatures and of similar model are required</u>.

7. The person who wrote the red enclosed specimen writings stamped and marked S29 to S42 also wrote the red enclosed questioned signatures similarly stamped and marked Q90 to Q97.

8. The person who wrote the red enclosed specimen writings stamped and marked A13 to A54 and S21 to S28 also wrote the red enclosed questioned signatures similarly stamped and marked Q98 to Q104, Q107 and Q108.

9. <u>It has not been possible to express any definite opinion on the questioned signatures marked Q105 and Q106 in comparison with the specimen writings similarly stamped and marked A13 to A54 and S21 to S28</u>.

Note:- Detailed reasons in support of the opinion expressed above vide para (1), (7) and (8) will be submitted at the time of evidence if needed."

(27) The trial court has discarded the above-stated report for non-compliance of Section 293 CrPC as neither the author of the report namely, Assistant Director (Document) has been examined as a witness nor any other officer, well conversant with the facts of the case who could satisfactorily depose in Court on behalf of the author of the report, has also been produced as a witness. The trial court viewed that the contents of the report are not *per se* admissible and cannot be relied upon unless corroborated by the expert author of the report or any other officer well conversant with the facts or the contents thereof.

(28) Having heard learned counsel for the parties on this contentious issue and assuming that the officer in the rank of Assistant Director would fall at Sr.No.E of sub-Section (4) of Section 293 CrPC and the report submitted by the Scientific expert of such designation can thus be *per se* admissible, we are of the view that the contents of the report, as reproduced above, do not conclusively and definitely establish that there was any forgery of signatures or tampering with the entries in the application forms at the instance of the accused persons. In respect of most of the disputed signatures/initials, the expert has opined that *it has not been possible to express any definite opinion regarding their common authorship or otherwise due to insufficient data.* He has further opined that *it has not been possible to express any definite opinion on the question initials marked Q58 to Q81 as the questioned initials are limited in extent.* The similarity in the signatures also could not be properly evaluated for giving a definite opinion for the reasons mentioned in para 6 of the report reproduced above. As the FSL report in question also does not bring

home the guilt beyond any shadow of doubt, the impugned order does not call for any interference by this Court. We thus do not find any merit in these appeals and the same are accordingly dismissed.

(Surya Kant)
Judge

05.09.2017 **(Sudhir Mittal)**
vishal shonkar **Judge**

1. Whether speaking/reasoned? ***Yes***
2. Whether reportable? *No*