

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Criminal Appeal S-223-SB of 2004
Date of Decision: July 3, 2017**

Virsa Singh and another		Appellants
	Versus	
The State of Punjab		 Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. S. P. S. Sidhu, Advocate
for the appellants.

Mr. Jagmohan Ghumman, Deputy A.G., Punjab.

T.P.S.MANN, J. (Oral)

The appellants, namely, Virsa Singh and Anoop Singh, were tried for committing the offence punishable under Section 489-C IPC as Virsa Singh was found in possession of counterfeit Indian currency notes of Rs.30,000/- while Anoop Singh was found in possession of counterfeit Indian currency notes of Rs.27,000/-. Vide judgment and order dated 7.1.2004, learned Additional Sessions Judge, Fast Track Court, Ferozepur convicted them for the aforementioned offence and sentenced them to

undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.3,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months. The period of detention already undergone by them during the course of investigation/trial was ordered to be set off against the substantive sentence of imprisonment.

Aggrieved of their conviction and sentence, the appellants filed the present appeal, which was admitted on 29.1.2004. Simultaneously, the order passed by the learned trial Court granting interim bail to them was extended till further orders.

According to the prosecution, on 11.7.2002 at 6.00 p.m., SI Major Singh alongwith other police officials of CIA Staff Ferozepur was present on the 'Bandh' of river in the area of village Dulchi Ke, where he received secret information that the appellants were dealing in fake Indian currency notes and some days back fake Indian currency notes were recovered from the possession of their brother Malook Singh by the police of Police Station Beas and in case a raid was conducted, fake currency notes in large quantity could be recovered from them. Finding the

information to be reliable, SI Major Singh sent ruqa Ex. P3 to Police Station Sadar Ferozepur where on its basis FIR Ex.P4 under Sections 489-B and 489-C was registered against them.

It is also the case of the prosecution that after sending ruqa Ex.P3 to the Police Station, SI Major Singh alongwith other police officials left for the house of the appellants for conducting a raid. On the way, police party associated Nasib Singh son of Kartar Singh. In the presence of said Nasib Singh, the police party raided the house of the appellants. At the time of raid, both the appellants were found present in their house. During interrogation, Virsa Singh appellant suffered disclosure statement Ex.P5 before SI Major Singh in the presence of Nasib Singh and pursuant to the same got recovered fake Indian currency notes of Rs.30,000/- from the disclosed place, which were taken into possession vide recovery memo Ex.P7. Anoop Singh appellant also suffered disclosure statement Ex.P6, pursuant to which he got recovered fake Indian currency notes of Rs.27,000/-. Recovery memo Ex.P11 in that regard was prepared. Both the parcels were sealed by SI Major Singh, who prepared rough site plans Ex.P8 and Ex.P14 of the

places of recovery. During the investigation of the case, the recovery memos were sent to the Reserve Bank of India, Chandigarh and vide report Ex.P1, Raj Singh, Assistant Manager of the Reserve Bank of India, Chandigarh opined that they were fake. After completion of investigation, challan was presented against the appellants, which was committed to the Court of Sessions. The appellants were charged for the offence under Section 489-C IPC, to which they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined PW1 Raj Singh, Assistant Manager, Reserve Bank of India, Chandigarh, PW2 Head Constable Bhagwan Singh, PW3 SI Major Singh, PW4 SI Lakhwinder Singh and PW5 MHC Jai Pal Singh. Nasib Singh, the independent witness was, however, given up by the prosecution as having been won over by the appellants.

When examined under Section 313 Cr.P.C., the appellants denied the incriminating evidence collected by the prosecution against them. They pleaded their false implication. According to them, the notes in question were not recovered from their possession. However, they were picked up by the police from their house and later on falsely

implicated in the case because of the earlier arrest of their brother Malook Singh by the police of Police Station Beas.

In their defence, the appellants examined DW1 Nasib Singh, the independent witness, who was earlier associated by the prosecution while effecting the recovery of the fake currency notes.

After hearing learned counsel for the parties and on going through the record, the trial Court came to the conclusion that the prosecution had been able to prove its case against the appellants beyond the reasonable doubt and, accordingly, convicted and sentenced them, as mentioned above.

This Court has heard Mr. S. P. S. Sidhu, Advocate for the appellants and Mr. Jagmohan Ghumman, Deputy Advocate General, Punjab besides perusing the evidence with their able assistance.

It is submitted by learned counsel for the appellants that the impugned judgment convicting the appellant under Section 489-C is vitiated as there is no evidence that the appellants were in possession of the counterfeit notes or they intended to use those notes as genuine. It is also submitted that though according to the

prosecution SI Major Singh had received a secret information about the appellants possessing fake Indian currency notes yet that information was not recorded in writing. It is further submitted that Nasib Singh, who was an independent witness and was said to have joined SI Major Singh while apprehending the appellants and, thereafter, recording their disclosure statements leading to recovery of the fake Indian currency notes has not been examined by the prosecution in support of its case. Finally, it is submitted that the appellants are facing the agony of criminal prosecution for the last about fifteen years. The sentence of imprisonment for three years awarded to them is on the higher side and, therefore, the same may be reduced.

On the other hand, learned State counsel has submitted that the prosecution has led cogent and convincing evidence to connect the appellants with the commission of crime. It is further submitted that after the secret information was received by SI Major Singh, he had recorded ruqa Ex.P3 and sent it to the Police Station on the basis of which FIR Ex.P4 was recorded. It is also submitted that Nasib Singh, the independent witness could not be examined by the prosecution as he was won over by the appellants. This fact

is further corroborated from the fact that said Nasib Singh was examined by the appellants in their defence as DW1. Finally, it is submitted that the sentence of imprisonment awarded to the appellants is commensurate with the crime committed by them.

It is the prosecution case that SI Major Singh had received secret information about the appellants being in possession of large quantity of counterfeit currency notes for the reason that some time back their brother Malook Singh was apprehended by the police of Police Station Beas as he was found in possession of similar type of currency notes. Immediately after receiving the secret information, SI Major Singh had prepared ruqa Ex.P3, which was thereafter sent to Police Station Sadar Ferozepur, where on its basis FIR Ex.P4 under Sections 489-B and 489-C was registered against the appellants. Subsequent thereto, SI Major Singh alongwith other police officials proceeded to raid the house of the appellants. On the way, one Nasib Singh was joined with the police party. On reaching the house of the appellants, the police party found them to be present. Both the appellants were apprehended and pursuant to their respective disclosure statements, Rs.30,000/- in fake Indian currency

notes was recovered from Virsa Singh appellant and Rs.27,000/- from Anoop Singh appellant. From the evidence, it stands mentioned that the recoveries were effected from the places about which only the appellants had knowledge and they were in exclusive possession of the same. Once they were found to have got recovered the fake Indian currency notes, it can safely be concluded that they were in possession of the same and intended to use the same as genuine. Further, Nasib Singh, who was the independent witness had shifted allegiance and refused to support the case of the prosecution. He was given up by the learned Public Prosecutor as having been won over. This fact was further corroborated from the fact that the appellants later on produced said Nasib Singh as DW1, who deposed that no recovery of fake Indian currency notes was effected from the appellants. However, he could not deny that the various papers prepared by the police were duly attested by him. Under these circumstances, no fault can be found with the prosecution in not examining independent witness Nasib Singh, as a witness in support of its case.

For the aforementioned reasons, no case is made out for any interference in the impugned judgment passed by

the learned trial Court to the extent of convicting the appellants under Section 489-C IPC.

As regards the sentence of imprisonment, it may be noticed that the appellants are facing the agony of criminal prosecution for the last fifteen years. They are on bail for the last more than thirteen years. When they were heard by the learned trial Court on the quantum of sentence, they had pleaded that they were sole bread winners of their respective families. Besides, they were first offenders. From the custody certificates already brought on record by the learned State counsel, it is made out that the appellants have already undergone an actual sentence of two months and twenty three days out of the sentence of three years imposed upon them. None of them is either shown to be convicted or involved in any other case.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the appellants behind the bars, once again, for undergoing the remaining sentence of imprisonment imposed upon them. Ends of justice shall be suitably met, if the sentence of imprisonment is reduced to the one already undergone by them. At the same time, the

fine imposed upon them can be suitably enhanced.

Resultantly, the conviction of the appellants under Section 489-C is upheld. Their substantive sentence of imprisonment is reduced to the one already undergone by them. However, the fine of Rs.3,000/- imposed upon each of them is enhanced to Rs.20,000/- each. As they have already deposited the fine of Rs.3,000/- each, the enhanced amount of fine be deposited by them in the Court of learned Chief Judicial Magistrate, Ferozepur, within three months from today, failing which, they shall undergo simple imprisonment for six months each.

The appeal is, accordingly, disposed of.

July 3, 2017
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No