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

**I.**

**CRA-D-970-DB-2014 (O&M)**

Joginder Singh

... Appellant

Versus

State of Punjab

... Respondents

**II.**

**CRA-D-870-DB-2014 (O&M)**

Satpal Singh

... Appellant

Versus

State of Punjab

... Respondents

**III.**

**CRA-D-1264-DB-2014 (O&M)**

Massa Singh

... Appellant

Versus

State of Punjab

... Respondents

**Decided on : 2.8.2017**

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI**

Present : Mr. Gaurav Sharma, Legal Aid Counsel
for the appellant.

Mr. H.S.Sullar, DAG, Punjab.

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**RAJ SHEKHAR ATTRI, J.**

By this judgment, we shall dispose of the above captioned three appeals as all of them originate from common judgment of conviction and sentencing order dated 26.4.2014 passed by the learned Additional Sessions Judge, Ferozepur vide which the appellants were convicted and sentenced as under : -

| S.No. | Name of the convict | Under Section | To undergo RI for a period of | To pay fine of ₹ | and in default of payment of fine to further undergo RI for a period of |
|---|---|---|---|---|---|
| 1. | Joginder Singh | 489A | Seven years | 5000/- | Three months |
| | | 489B | Seven years | 5000/- | Three months |
| | | 489C | Five years | 5000/- | Three months |
| 2. | Satpal Singh | 489A | Seven years | 5000/- | Three months |
| | | 489B | Seven years | 5000/- | Three months |
| | | 489C | Five years | 5000/- | Three months |
| 3. | Massa Singh | 489A | Seven years | 5000/- | Three months |
| | | 489B | Seven years | 5000/- | Three months |
| | | 489C | Five years | 5000/- | Three months |
| 4. | Manjinder Singh | 489B | Seven years | 5000/- | Three months |
| | | 489C | Five years | 5000/- | Three months |

Briefly stated the case of the prosecution is that on 21.6.2012, SI Gurpreet Singh was present at Bus Stand, Makhu along with posse of police officials where he received secret information to the effect that Joginder Singh, Satpal Singh and Massa Singh have indulged in preparing and selling counterfeit Indian currency notes For this purpose, they have a device for forging counterfeit currency notes. The informant has specifically disclosed that all those persons are coming towards Bus Stand Makhu in a vehicle make Qualis bearing registration No.HR-26K-9231 and having in possession, huge currency notes. The investigating officer treated the information as reliable, therefore, he sent written information (*ruqa*) to Police Station through HC Lakhwinder Singh, on the basis of which, formal FIR was registered.

The Investigating Officer barricaded the road in the area of Makhu and at about 6:30 p.m., he intercepted the Toyota Qualis bearing registration No.HR-26K-9231. Three persons were sitting therein. On enquiry, they disclosed their names as Joginder Singh, Satpal Singh and Massa Singh respectively. Upon serach of Joginder Singh, 110 counterfeited currency notes in the denomination of ₹ 500/- each were recovered and all the currency notes were having a common serial number 5UP208784. On further search of Joginder Singh, 90 fake currency notes in the denomination of ₹ 500/- were recovered and all the notes were having common serial number 9EH354372. Thus, the counterfeited currency in the sum of ₹ 1 lac was recovered from him.

On search of Satpal Singh, currency notes in the denomination of ₹ 500/- each were recovered. On search of Massa Singh, currency notes in the denomination of ₹ 500/- and ₹ 100/- were recovered totalling ₹ 1 lac. All the notes were sealed with the seal of investigation officer bearing impression GS.

Said Massa Singh while in police custody suffered a disclosure statement under the provisions of Section 27 of the Indian

Evidence Act on 22.6.2012 to the effect that one computer, LCD (Liquid Crystal Display) (ACCR), one scanner HP-1050, one keyboard including Mouse, CPU (Central Processing Unit) make Intex, two packets of white papers, two speakers including lead wire and 42 papers in which one side of each paper the impression was printed of currency note of ₹ 500/- were taken into possession. All the recovered currency notes were taken into possession and were put in a parcel which was sealed with the seal of Investigating Officer bearing impression GS. The seal after use was handed over to SI Shavinderpal Singh. However, sample seal was separately prepared. Said vehicle bearing registration No.HR-26K-9231 was also taken into possession.

During the investigation, all the above three accused disclosed that they were going to supply all the fake currency notes to Manjinder Singh @ Billa, as such, accused Manjinder Singh @ Billa was arrested on 24.6.2012 and from his search, 31 fake currency notes in the denomination of ₹ 500/- each having common serial number 9EH354372 and 9 counterfeit currency notes in the denomination of ₹ 500/- having common serial number 5UP208783 totalling ₹ 20,000/- were recovered. Those were put in separate parcel and duly sealed with the seal impression of GS. The entire case property was deposited intact with Mohror Head Constable on the day of its recovery.

However, during the investigation, all the recovered articles were sent to Bank Note Press, Dewas (Madhya Pradesh) and the Manager, Government Bank Note Press Dewas (M.P.) vide report

Ex.P19 have found that all the currency notes in the denomination of ₹ 500/- and ₹ 100/- were counterfeit notes.

After completion of investigation, challan was submitted before the learned Area Magistrate who opined that the case is exclusively triable by the Court of Sessions. Thus, the case was committed for trial. On hearing the accused, the charges were framed against all the appellants by the trial court.

In order to prove the case, the prosecution examined PW1 HC Gurdeep Singh, PW2 HC Kulbir Singh, PW3 HC Kulwinder Singh, PW4 Retired Sub Inspector Shavinderpal Singh and PW5 SI Gurpreet Singh. On closure of evidence, the accused were also examined under Section 313 Cr.P.C. in order to afford them an opportunity to explain the incriminating circumstances appearing against them in the prosecution evidence. On appreciation of evidence, learned trial Court convicted all the appellants as aforesaid.

For the purpose of fair hearing, the appellants have been provided free legal aid.

We have heard learned counsel for the parties and gone through the evidence.

Learned counsel for appellants vehemently contended that the prosecution story is doubtful; that nothing has been recovered from the accused, rather they have been implicated in a false case and further that the prosecution evidence is full of contradictions and improbabilities but the learned trial Judge failed to appreciate the evidence. He further submitted that the learned trial court failed to appreciate the evidence available on record and wrongly recorded the judgment of conviction and urged for acceptance and acquittal of the appellants. He has further submitted that it was mandatory on the part of the learned trial court to order the sentences awarded to each accused under distinct heads to run concurrently. To substantiate this plea, reliance has been placed upon the judgment of the Hon'ble Supreme Court in **O.M.Cherian @ Thankachan** v. **State of Kerala and others;** 2015 AIR (SC) 303.

Learned State counsel with equal vehemence contended that the learned trial court has appreciated the evidence that the possession of the counterfeit currency notes with each appellant has been duly proved by leading cogent evidence and that from the possession of Massa Singh, computer along with its accessories as well as half printed fake currency notes have been recovered, that none of the accused has been able to give cogent explanation for the illegal possession of the fabricated currency notes as well as computer device and its accessories; that none of the witnesses has ill will against the accused and the prosecution proved the charges against the accused beyond shadow of reasonable doubt. He supported the findings of the learned trial court and urges for the dismissal of the appeals.

This Court has given thoughtful consideration to the rival contentions. In this case, following points have arisen for determination : -

1. Whether the recovery of counterfeit currency have been effected from the appellants?
2. Whether Massa Singh was having an instrument or materials for forging or counterfeiting the currency notes?
3. Whether the sentences awarded to each accused liable to be concurrent?

First of all coming to the possession of counterfeit currency notes, Section 28 of the Indian Penal Code (in short, "Code") defines the counterfeiting of the currency. This Section reads as under : -

> 28. "Counterfeit".—A person is said to "counterfeit" who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised."

A bare perusal of Section 28 establishes that the person who causes one thing to resemble to another thing intending by means of that resemblance to practise deception or knowing it to be likely that deception will thereby be practised. In the case in hand, the recovery of currency notes resemble the genuine ones, those have been prepared to practice deception. However, explanation 2 attached to this section raises a presumption of intention to deceive another. The same reads as under : -

> "Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised."

PW4-Shavinderpal Singh and PW5-SI Gurpreet Singh were both present when the accused was apprehended. Both the witnesses have specifically stated that from the possession of Joginder Singh, 110 currency notes in the denomination of ₹ 500/- each and all having common Serial No.5UP208784 were recovered. Having a common serial number itself establishes that it was not genuine currency. At the same time, 90 currency notes in the denomination of ₹ 500/- each were recovered from Joginder Singh and these notes were also having single serial number 9EH354372. In this way, the fake and fabricated currency notes totaling ₹ 1 lac were recovered from him.

Now coming to the recovery from Satpal Singh, PW-4 and PW-5 have testified that currency notes of ₹ 500/- each of different numbers were recovered. Further from the conscious possession of Massa Singh, currency notes in the denomination of ₹ 500/- and 100/- were recovered.

From the possession of Manjinder Singh @ Billa, 31 currency notes in the denomination of ₹ 500/- each all having common serial No.9EH354372 and 9 currency notes in the denomination of ₹ 500/- having common serial number were recovered.

Both PW4-Shavinder Pal Singh and PW5 Gurpreet Singh SI were cross-examined at length. They have no enormity with any of the appellants. Their evidence inspires confidence.

PW-4 Shavinder Pal Singh and PW5 Gurpreet Singh have testified that Massa Singh while suffering a statement on 22.6.2012 disclosed that he had kept concealed one computer and remaining equipments with which he had been preparing counterfeit currency notes in his residential house concealed in bed box and he was having exclusive knowledge of the same and in pursuance of the disclosure statement, one computer LCD (ACCR), one scanner HP-1050, one keyboard including Mouse, CPU make Intex, two packets of white papers, two speakers including lead wire and 42 papers on which one side impression was printed of note of ₹ 500/- and all these articles were taken into possession which was attested by SI Balwinder Singh.

The simple recovery of the computer and its accessories *ipso facto,* will not be a matter of suspicion but recovery of 42 half printed fake currency notes establishes that accused Massa Singh was in the habbit of printing fake currency with the help of computer. He failed to furnish any explanation with regard to recovery of computer and its accessories. As such, it can be safely inferred that recovered articles i.e. computer LCD, Mouse etc. were used for forging countering currency notes. Thus, charge under Section 489-D has been well established against Massa Singh.

All these currency notes were taken into possession and duly sealed at the spot with the seal of Investigation Officer and then those were deposited with SI Gurdeep Singh in an intact condition. This witness has been examined as PW1 and he has testified that the entire case property was deposited with him on the day of recovery by the investigation officer. The same was sent to Reserve Bank of India for its report and also to the Bank Notes Press, Dewas (MP) in an intact condition.

The Assistant General Manager of Reserve Bank of India (Cash Bank), Chandigarh vide report Ex.P18 had testified that the currency notes recovered in this case were counterfeit. Similarly, after analysis, Assistant Manager, Government Press, Dewas had testified that all the currency notes in the denomination of ₹ 500/- and 100/- were counterfeit notes. Thus, it is well established that all the four accused were having in possession the forged and fabricated currency notes. They furnished no explanation for their illegal possession over the counterfeit currency notes. They simply stated in their respective statements under Section 313 Cr.P.C. that they are innocent and falsely implicated but they failed to establish their false implication.

Learned counsel for the appellant has further submitted that there are discrepancies in the statement of witnesses. He pointed out some discrepancies with regard to the conduct of written work at the spot. We have considered the same but it carries no substance. The occurrence had taken place on 21.6.2012 and PW4-Shavinder Pal Singh was examined on 12.1.2014 whereas PW3 was examined on 11.3.2014. It is well known that after lapse of time, human memory fades and such discrepancies may creep into evidence and hence overlooked unless they are too glaring to be ignored. However, outcome of the analysis of the evidence of both the witnesses is that the written work was conducted at the spot.

Learned counsel for the appellant has submitted that no independent witness was examined inspite of the fact that after the receipt of secret information, there was ample time for the police to associate them. We have considered this contention but it carries no weight. It has come into evidence that a secret information was received at 5/5:30 p.m. and it took about 30 minutes to investigation and to record the *ruqa* and the accused were apprehended at about 6:30 p.m. The informant had disclosed to the investigating officer that the counterfeit currency notes are being transported in a vehicle as such, there was no time with the investigation team to call the persons from the nearby locality. However, we have carefully examined the prosecution evidence. The same is trustworthy and without any blemish. In these circumstances, if no independent witness was available or joined in the investigation, it does not draw any adverse inference against the prosecution.

Thus, on critical examination of the evidence on record, this Court reaches to the conclusion that the prosecution has been able to prove possession of illegal counterfeit currency notes of each accused as aforesaid.

The sentence imposed by the learned trial court is appropriate in the circumstances of the case and we do not intend to reduce it. Thus, the conviction of all the appellants is well founded. However, the learned trial court ought to order concurrent of the sentences as required under Section 31 Cr.P.C.. Hon'ble Supreme Court in **O.M.Cherian @ Thankachan** v. **State of Kerala and others;** 2015 AIR (SC) 303 had discussed a similar proposition of law and observed in para. 21 as under : -

> "21. Accordingly, we answer the Reference by holding that Section 31 Cr.P.C. leaves full discretion with the Court to order sentences for two or more offences at one trial to run concurrently, having regard to the nature of offences and attendant aggravating or mitigating circumstances. We do not find any reason to hold that normal rule is to order the sentence to be consecutive and exception is to make the sentences concurrent. Of course, if the Court does not order the sentence to be concurrent, one sentence may run after the other, in such order as the Court may direct. We also do not find any conflict in earlier judgment in Mohd. Akhtar Hussain and Section 31 Cr.P.C."

Thus, this Court is of the opinion that the order of sentence requires modification to this extent i.e. all the substantive sentences shall run concurrently.

All the three appeals are devoid of merit and are dismissed and the judgment and sentencing order is upheld subject to above modification. It is made clear that all the substantive sentence shall run concurrently.

**(MAHESH GROVER)** **(RAJ SHEKHAR ATTRI)**
**JUDGE** **JUDGE**

**August 2, 2017**
Paritosh Kumar

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No