IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i) CRR No.122 of 2017 (O&M)

Chander Mohni

...Petitioner

VERSUS

State of Punjab

...Respondent

(ii) CRR No.231 of 2017 (O&M)

Saroj Bala alias Raj Rani

...Petitioner

VERSUS

State of Punjab

...Respondent

(iii) CRR No.751 of 2017 (O&M)

Kulwant

...Petitioner

VERSUS

State of Punjab

...Respondent

(iv) CRR No.1056 of 2017 (O&M)

Ashok Kumar and another

...Petitioners

VERSUS

State of Punjab

...Respondent

Date of Decision: November 16, 2017

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Navjot Singh, Advocate
for the petitioner (in CRR No.122 of 2017).

Mr.C.S.Rana, Advocate
for the petitioner (in CRR No.231 of 2017).

Mr.J.S.Jaidka, Advocate
for the petitioner (in CRR No.751 of 2017).

Mr.Jainainder Saini, Advocate
for the petitioners (in CRR No.1056 of 2017).

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

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INDERJIT SINGH, J.

This order shall dispose of above-mentioned four connected revisions as the same have arisen from same FIR.

The present revisions have been filed by the petitioners against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 19.12.2013 passed by learned Judicial Magistrate Ist Class, Ludhiana, vide which the petitioners were convicted under Sections 409, 467, 468, 471 read with Section 120-B and 120-B IPC and sentenced to undergo rigorous imprisonment for a maximum period of three years under Sections 409, 467, 468 read with Section 120-B IPC each and to undergo rigorous imprisonment for a period of two years under Sections 471/120-B and 120-B IPC each along with fine and also challenging the judgments dated 12.12.2016 passed by learned Addl. Sessions Judge, Ludhiana, vide which appeals filed by petitioners were dismissed. All the sentences were ordered to run concurrently.

From the record, I find that challan was presented against accused-petitioners in case FIR No.46 dated 05.02.1999 under Sections 409, 467, 471 and 120-B IPC. The brief facts of the case as noted down in the judgment passed by learned JMIC, Ludhiana, are as under:-

> *"2. The brief facts of the case are that complainant D.P.Ajjan Sr.Manager of Punjab National Bank lodged complaint addressed to SHO P.S.Basti Jodhewal for registration of FIR in respect of fraudulent withdrawal of Rs.14.05 lacs in which he submitted that Kewal Krishan has confessed having withdrawn the amount fraudulently on various 81 dates detail of which is given as under:*

Sr.No.	***Date***	***Cheque***	***Amount***	***Paid through***
1.	3.10.98	708154	100000/-	*Central bank of India Salim Tabri Ludhiana in SF A/C No.7831 in the name of Kulwant Singh*
2.	10.10.98	708153	300000/-	*UCO Bank Miller Gan Ludhiana in SF Account no.14737 in the name of Kewal Krishan son of late Sh.Saudagar Mal and Raj Rani wife of Kewal Krishan*
3.	15.10.98	708156	300000/-	*Central Bank of India Salim Tabri Ludhian in SF Account no.10147 in the name of Seema Rani wife of Ashok Kumar resident of 1324/1 Gali No.2 Bajwa Nagar Ghati Jeewa Ram Ludhiana.*
4.	17.10.98	708155	100000/-	*Post office Neta Ji Nagar Ludhiana fo rissuing NSCs in the name of Preeti (50000/-), Rajni (25000/-) Jyoti (Rs.25000/-) all minor daughters of Sh.Kewal Krishan and Saroj Rani*
5.	20.10.98	708157	300000/-	*Central Bank of India Salim Tabri, Ludhiana in SF A/C no.10147 in the name of Seema Rani wife of Ashok Kumar resident of 1324/1 Gali No.2 Bajwa Nagar Ghati Jeewa Ram Ludhiana.*

Sr.No.	*Date*	*Cheque*	*Amount*	*Paid through*
6.	6.11.98	708158	50000/-	*Post Office NetaJi Nagar Ludhaina for issuing Kissan Vikas Patra in the name of Chander Mohni and Saroj Bala*
7.	6.00.98	708159	50000/-	*Post Office Neta Ji Nagar Ludhiana for issuing Kissan Vikas Patra in the name of Chander Mohni and Saroj Bala*
8.	13.11.98	708160	205000/-	*UCO Bank Miller Ganj Ludhiana in SF Account no.14737 in the name of Kewal Krishan son of late Sh.Saudagar Mal and Raj Rani wife of Kewal Krishan*

And suffered the voluntarily confessional statement on 19.1.1999. He is working as clerk-cum-cashierin Branch Basti Jodhewal Ludhiana. The fraudulent payment at Sr.No.1 has been credited into SF account no.7831 of Kulwant in Central Bank of India Salim Tabri Ludhiana on 3.10.1998.The same has been withdrawn by two withdrawal forms for Rs.80000/- and Rs.20000/- respectively on 7.10.1998 and 23.10.1998. 81 Kulwant Singh is brother in law of Kewal Krishan. Kewal Krishan opened saving fund account no.14737 in the name of Kewal Krishan son of Saudghar Mal and Raj Rani wife of Kewal Krishan resident of House no.B-33-277 New Janakpuri Ludhiana on 23.9.1998 with initial cash deposit of Rs.1000/-. The said account has been introduced by Sh.K.L.Dua Chief Cashier of UCO Bank Miller Ganj Ludhiana. The fraudulent payments of Rs.300000/- and Rs.205000/- mentioned at Sr.No.2 and 8 have been credited into this account on 10.10.1998 and 13.11.1998 respectively. From this account, the amount has been withdrawn by Kewal Krishan through withdrawal forms leaving a balance of rs.11635/ in the account the detail of which is given as under:

Date	*Amount*
13.10.98	*Rs.250000/-*
11.11.98	*Rs.40000/-*
19.11.1998	*Rs.100000/-*
7.12.1998	*Rs.40000/-*
12.12.1998	*Rs.40000/-*
13.1.1999	*Rs.25000/-*

As per bank's official record, Saroj Bala is the wife of Kewal Krishan but while opening this account Raj Rani has been shown as the wife of Kewal Krishan. Saving Fund account no.10147 was opened in the name of Seema Rani wife of Ashok Kumar on 13.10.1998 with an initial deposit of Rs.50000/-. Seema Rani is the sister in law of Kewal Krishan. The correct address Seema Rani is House no.1342/1 Bajwa Nagar Gali no.2 Ghati Jeewa Ram Ludhiana. The address mentioned in the account is the address of Seema Rani's parents. The fraudulent payments 81 mentioned at Sr.No.3 and 5 amounting to Rs.300000/- and Rs.300000/- have been credited into this account no.10147 on 5.10.1998 and 20.10.1998 respectively. Two FDRs of Rs.100000/- each have been made to the debit of this account no.10147 on 17.10.1998. First FDR no.29/642 is in the name of Seema Rani and the second FDR no.29/643 is in the name of Ashok Kumar and Seema Rani. Both the FDRs have been cancelled on 7.12.1998 and 10.12.1998 and their proceeds amounting to Rs.100630/- and Rs.100644/- have been credited into SF account no.10147. Present outstanding balance in the said account is Rs.36274 after payment of following withdrawals/cheques in the account.

Date	*Cheque No.*	*Amount.*
22.10.1998	*Withdrawal form*	*Rs.200000/-*
22.10.1998	*Withdrawal form*	*Rs.150000/-*
30.10.1998	*24752*	*Rs.70000/-*
5.12.1998	*24753*	*Rs.25000/-*
7.12.1998	*WF*	*Rs.100000/-*
23.12.1998	*24755*	*Rs.70000/-*

The fraudulent payments mentioned at Sr.No.4,6 and 7 have been paid to Post Office Neta Ji Nagar Ludhiana. The fraudulent payment mentioned at Sr.No.4 for Rs.100000/- has been used for issuance of Kissan Vias Patras in the name of minor daughters of Kewal Krishan. The payment at Sr.No.6 and 7 for Rs.50000/- each has been used to purchase of Kissan Vikas Patras in the name of Chander Mohini sister of Kewal Krishan and Saroj Bala. Fruther Kewal Krishan has purchased Kissan Vikas Patras in his own name amounting to Rs.25000/- and in the name of his minor daughter Jyoti amounting to Rs.25000/- by tendering 81 cash at post office Neta Ji Nagar Ludhiana on 19.11.98. He also purchased NSCs amounting to Rs.25000/- on 27.10.1998 from the same post office through cash. Besides the above it has been found that books of the bank have been altered on 10.8.1998, 19.8.1998, 10.10.1998, 15.10.1998, 20.10.1998 and 13.11.1998. Cheques

> *mentioned at Sr.No.1 to 8 by which fraudulent payments have been made are missing from branch record. Inward clearing journal in respect of payments mentioned at Sr.No.2,3,5 is also missing. This is in continuation of letter dated 19.1.1999 and 20.1.1999. These facts reveals that accused Kewal Krishan Clerk cum cashier has committed the offences of criminal breach of trust under sections 406/409, theft under section 380, cheating under section 420, forgery of documents under section 468 and 471 read with section 120B IPC. On the the said complaint FIR was registered. IO recorded the statements of witnesses under section 161 Cr.P.C. Documents were taken into possession and upon completion of investigation challan was presented against six accused persons."*

In order to prove its case, prosecution examined PW-1 J.N.Sangar, Manager PNB, PW-2 Dhian Singh, PW-3 Head Constable Ajaib Singh, PW-4 Krishan Lal Dua, PW-5 ASI Ranjit Singh, PW-6 J.K.Malik, Manager, PW-7 Anil Anand, District Coordinator, PW-8 Dharampal Ajjan, PW-9 Bharat Bhushan, PW-10 Sukhdev Singh, Reader, PW-11 Chamkaur Singh, PW-12 Renu Sharma and PW-13 S.K.Sharma.

In the statement under Section 313 Cr.P.C., the accused denied all the incriminating evidence and pleaded their innocence. No witness was examined in defence.

Learned JMIC, Ludhiana, after appreciating the evidence, convicted and sentenced the petitioners as stated above. Appeals were filed by the petitioners and the same were dismissed by learned Addl. Sessions Judge, Ludhiana, vide judgments dated 12.12.2016.

Aggrieved from the above-said judgments, present revision petitions have been filed by the petitioners.

At the time of arguments, learned counsel for the petitioners argued that the findings given by both the Courts below are incorrect. The main accused had already died. The present petitioners are close relatives of main accused and there is no evidence to convict them.

On the other hand, learned State counsel argued that the prosecution has duly proved its case against the present petitioners and they have been rightly convicted and sentenced by both the Courts below.

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

As per evidence on record, Kewal Krishan is the main accused, who was working as Clerk-cum-Cashier in Branch Basti Jodhewal, Ludhiana and he fraudulently withdrawn the amount and used the same for personal purposes. Kulwant Singh is his brother-in-law and he deposited the amount in the account of Kulwant Singh on 03.10.1998, which was withdrawn by two separate withdrawal forms on 07.10.1998 and 23.10.1998. Kewal Krishan main accused further opened joint account in his name and in the name of Raj Rani and amount of ₹3 lakhs and ₹20,5000/- were deposited in the account on 10.10.1998 and 13.11.1998. Then from this account, amount has been withdrawn by leaving the balance of ₹11,635/-. Saroj Bala is the wife of Kewal Krishan but while opening the account, she was shown as Raj Rani.

Further, as per evidence, savings bank account was also opened in the name of Seema Rani wife of Ashok Kumar. Seema Rani is the sister-in-law of Kewal Krishan. An amount of ₹3 lakhs each were deposited in her account on 05.10.1998 and 20.10.1998. Two FDRs of ₹1 lakh each were made from this account in the name of Seema Rani and Ashok Kumar but later on, both the FDRs were cancelled. Kissan Vikas Patras were purchased in the name of minor daughters of Kewal Krishan. Similarly, Kissan Vikas Patras were purchased in the name of Chander Mohni and

Saroj Bala of ₹50,000/- each.

The prosecution has duly proved all these transactions which have been mentioned in the judgments passed by both the Courts below. The amounts have been deposited in the accounts of these petitioners. In no way, it can be held that they were not knowing about these entries. They have connived in conspiracy with the main accused.

In view of the above discussion, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt against the accused-petitioners. Therefore, the judgments of conviction passed by both the Courts below are correct, as per law and do not require any interference from this Court.

Learned counsel for the petitioners, in the alternative, prayed for reduction of sentence imposed upon the petitioners.

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioners are stated to be first offenders and facing long protracted criminal proceedings since 1999 i.e. for the last about 18 years, the sentence imposed upon the petitioners is reduced and they are directed to undergo rigorous imprisonment for a period of one year and three months each under each Section. However, sentence of fine and in default thereof, shall remain the same.

With the above-said modification in the sentence, all the revision petitions stand dismissed.

November 16, 2017 **(INDERJIT SINGH)**
Vgulati **JUDGE**

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