

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

(i)

CRR No.449 of 2017 (O&M)

Gurcharan Singh @ Charna

...Petitioner

VERSUS

State of Punjab

...Respondent

(ii)

CRR No.708 of 2017 (O&M)

Gurvinder Singh @ Pammi

...Petitioner

VERSUS

State of Punjab

...Respondent

(iii)

CRR No.1099 of 2017 (O&M)

Nachhatter Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

Date of Decision: May 22, 2017

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.A.K.Walia, Advocate
for the petitioner-Gurcharan Singh @ Charna.

Mr.L.S.Sidhu, Advocate
for the petitioner-Gurvinder Singh @ Pammi.

Mr.M.S.Virdi, Advocate
for the petitioner-Nachhatter Singh.

Mr.K.S.Aulakh, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.Sarabjit Singh Grewal, Advocate
for the complainant.

INDERJIT SINGH, J.

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

The revision petitions have been filed by the petitioners Gurcharan Singh @ Charna, Gurvinder Singh alias Pammi and Nachhatter Singh against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 08.02.2016 passed by learned Judicial Magistrate Ist Class, Mansa, vide which the petitioners Nachhattar Singh and Gurcharan Singh were convicted under Sections 120-B, 419, 420, 465, 467 and 471 IPC and petitioner Gurvinder Singh @ Pammi was convicted under Sections 419, 420, 465, 467 and 471 IPC read with Section 120-B IPC and they were sentenced to undergo rigorous imprisonment for a maximum period of two years along with fine and also challenging the judgment dated 04.01.2017 passed by learned Addl. Sessions Judge, Mansa, vide which appeals filed by petitioners were dismissed. All the sentences were ordered to run concurrently.

From the record, I find that the challan was presented against the petitioners and other co-accused in case FIR No.167 dated 03.09.2009. The brief facts of the case as noted down in the judgment passed by learned JMJC, Mansa, are as under:-

“1. The above named accused have been sent up by the SHO of Police Station Bhikhi to face trial for the offence punishable under sections 419, 420, 465, 467, 468, 471, 474, 120-B of IPC, on the allegations that Amar Nath son of Kapoor Chand resident of Ward No.16, Mansa complainant moved an

application to the SSP Mansa that he is aged 67 years and has never applied his thumb impressions except as ever required by any law to be mandatory and he always used to sign in English as he remember. On 12.11.1970, he had purchased 31 Bighas 14 Biswas land with khasra No.49/58/8, 4962/12/14, 4965/6/19, 2/3rd share of khasra No.4963/6/1 from Puran Singh and Ajmer Singh sons of Sher Singh son of Mohan Singh resident of Bathinda and had also purchased 12/100 share from Mangat Rai, 12/100 share from Bhim San son of Magni Mal, 24/100 share from Kulwant Rai son of Walaiti Ram, 24/100 share from Shivji Ram son of Hari Chand, 4/100 share from Vaid Parkash son of Rikhi Ram through a single sale deed. The sale deed was executed on 8.1.1971 regarding 6 Biswas from Khasra No.4958(6-1) and 12/100 share from Mangat Rai son of Tej Ram, 12/100 share from Bhim Sain son of Magni Mal and 24/100 share from Kulwant Rai son of Walaiti Ram. On 13.9.1996 complainant family, Raj Kumar and Ramesh Kumar sons of Bhim Sain and Kulwant Rai son of Walaiti Ram had given a general power of attorney regarding this land to Kashmiri Lal Singla son of Balour Chand son of Kapoor Chand resident of Mansa who is posted as ADA (Legal) SSP office, Patiala which has not been revoked till date and even on that power of attorney, he had signed in English and the said power of attorney holder also had not sold the said land and the complainant has come to know that some persons by impersonating Amar Nath complainant son of Kapoor Chand r/o Batinda now Bhaini Bagha in connivance with Mandeep Singh @ Rubi Sarpanch Bhaini Bagha, Jaswant Singh son of Gurdial Singh MC who is also known as Pareshi and Gurcharan Singh son of Bachan Singh son of Bachan Singh son of Sajjan Singh @ Charna Ex Sarpanch of village Bhaini Bagha and Nachhatter Singh son of Pritam Singh son of Bhagat Singh resident of Aklia Khurd district Bathinda after preparing a forged power of attorney dated 15.10.2008 and after preparing it from Satpal Singla Deed Writer Mansa got prepared it in favour of Gurcharan Singh and Nachhatter Singh after placing somebody and impersonating Amar Nath and has also been got registered in the office of sub registrar, Mansa. The power of attorney alleged to have been thumb marked by him and Mandeep Singh and Jaswant Singh aforesaid have signed as a witnesses along with Gurcharan Singh and Satpal Singla deed writer had signed the deed as a scribe whereas complainant and his partners have never thumb marked any document except required by the law and that said power of attorney has been forged in order to cheat the complainant and to cause a wrongful loss. On the basis of said forged power of attorney, Gurcharan Singh and Nachhatter Singh on 12.12.2008 sold 500 sq yards of his land to Gurdeep Singh son of Amarjit Singh resident of village Mehma Swai @ Rs. 5 lac whereas exact rate of land was Rs. 2500/- per sq yard and the Gurcharan Singh and Nachhattar

Singh have also signed the sale deed as sellers. The police machinery swung into action on the basis of application moved by complainant Amar Nath. During investigation, statements of the witnesses u/s 161 Cr.P.C. were recorded. The thumb impressions of complainant Amar Nath were got compared from the Fingerprints Expert and obtained his report. Revenue record was taken into police possession. Enquiry was held. Accused were arrested and after completion of the investigation challan against accused was presented in the court. ”

Learned JMIC, Mansa, 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, Mansa, vide judgment dated 04.01.2017.

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

At the time of arguments, learned counsel for the petitioners did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioners argued that petitioner Nachhatter Singh is old aged person, first offender and suffering from Asthama. Petitioners Gurcharan Singh @ Charna and Gurvindver Singh are first offenders and only bread earners of the family and they are suffering from the criminal proceedings since 2009. Learned counsel for the petitioners further contended that the petitioners are undergoing sentence since the dismissal of their appeals by learned Addl. Sessions Judge, Mansa i.e. 04.01.2017. It is further contended that a compromise has already been effected between the parties.

Learned counsel for the complainant has also admitted the

factum of compromise.

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

In view of the evidence, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgment of conviction dated 08.02.2016 passed by learned JMIC, Mansa, is correct, as per law and does not require any interference from this Court.

However, keeping in view the facts and circumstances of the present case, compromise between the parties and in view of the fact that petitioner Nachhatter Singh is stated to be old aged person, first offender and suffering from Asthama and petitioners Gurcharan Singh @ Charna and Gurvindver Singh are stated to be first offenders and only bread earners of the family and facing criminal proceedings since 2009 i.e. for the last about 8 years and also in view of the fact that petitioners are undergoing sentence since 04.01.2017, the sentence imposed upon the petitioners is reduced to the sentence already undergone by them. However, sentence of fine and in default thereof, shall remain the same.

Therefore, all the above revision petitions stand partly allowed.

Petitioners Gurcharan Singh alias Charna, Gurvinder Singh @ Pammi and Nachhatter Singh, who are in custody, be set at liberty forthwith, if their custody is not required in connection with any other case, subject to payment of fine, if already not paid.

May 22, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No