

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

CRA-S No.1576-SB of 2004 (O&M)

Date of decision : August 16, 2018

Subhash Chand and another

..... Appellants

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. R.N. Lohan, Advocate for the appellants.

Mr. Anil Mehta, DAG, Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J.

Accused-appellants, namely Subhash Chand and Bharat Bhushan have filed the present appeal against the judgment of conviction and order of sentence dated 31.07.2004 passed by learned Addl. Sessions Judge, Fast Track Court, Ambala, vide which they were convicted for the commission of offence punishable under Section 489-C IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of ₹200/- each, in default thereof to undergo further rigorous imprisonment for 7 days each. The period already undergone by them during investigation, inquiry and trial was ordered to be set off against the substantive sentence awarded to them. However, remaining two accused, namely Sham Sunder and Ganesh were acquitted of the charges framed against them.

The short facts of the case are that on 20.08.2003, SI Ram Kumar, S.H.O., Police Station Baldev Nagar, Ambala received a secret

information against all the accused that they are dealing in counterfeit/fake Indian currency notes and have come to the market of Baldev Nagar, Ambala to circulate the same. The information was reduced into writing. SI Ram Kumar along with other police officials formed a raiding party and joined Harish Sashan, an independent witness in raiding party and reached at Shiv Om Market at Barwala Road, Baldev Nagar. On being identified by the informer, accused-appellants Subhash Chand and Bharat Bhushan were arrested. 18 counterfeit Indian currency notes were recovered from accused-appellant Bharat Bhushan, whereas 14 counterfeit Indian currency notes were recovered from accused-appellant Subhash Chand, which were the denomination of ₹1,000/- each. Accused-appellant Subhash Chand was carrying a bag containing GTX castrol, dermi cool powder, tooth paste and M.G. Lamp etc. The said currency notes and other articles were taken into possession.

On 28.08.2003, on interrogation, accused-appellant Bharat Bhushan got recovered a railway ticket of Ambala to Gorakhpur, from where they were to bring another consignment of fake Indian currency notes. The same was also taken into possession. Accused Sham Sunder and Ganesh were arrested on 28.08.2003 near Railway Line, Ambala Cantt. and one fake Indian currency note of the denomination of ₹1000/- each was recovered from them.

After completion of investigation, challan was presented in the Court against all the accused for the commission of offences punishable under Sections 489-B, 489-C and 120-B IPC.

They were charge-sheeted under Section 489-C IPC, to which they pleaded not guilty.

The learned Addl. Sessions Judge, Fast Track Court, Ambala after examining prosecution evidence as well as defence evidence, convicted and sentenced the present appellants as aforesaid.

I have heard learned counsel for the parties and have also carefully gone through the case file.

ASI Gurdial Singh, PW2 as well as Investigating Officer SI Ram Kumar, PW5 have testified that on receiving the secret information, they had formed a raiding party and joined Harish Sashan, Ex. M.C. as an independent witness. They had apprehended the present accused-appellants, namely, Subhash Chand and Bharat Bhushan, who were standing in front of Om Garments. They disclosed their names as Bharat Bhushan and Subhash Chand. On their personal search, 18 counterfeit Indian currency notes of the denomination of ₹1,000/- were recovered from accused-appellant Bharat Bhushan, whereas 14 counterfeit Indian currency notes of the denomination of ₹1,000/- were recovered from accused-appellant Subhash Chand, which were taken into possession. They also stated that railway ticket of Ambala to Gorakhpur was also recovered from them.

The role of Sham Sunder and Ganesh needs not to be discussed.

The third material witness is PW8 Harish Sashan, Ex. M.C., who was independent witness. He stated that on 20.08.2003, he saw many shopkeepers collecting in the market and complaining that two young boys had given forged Indian currency notes of the denomination of ₹1000/- and ran away. The police was informed and came at the spot and brought two

young boys from the bus stand. The said witness was declared hostile.

The learned counsel for the accused-appellants has vehemently argued that the accused-appellants were not arrested as stated by the Investigating Officer. He has referred to the news item (Ex.D4), which has been proved by calling press correspondence, in which it was reported that four persons were giving counterfeit Indian currency notes to the shopkeepers. When one shopkeeper got suspicious, he raised alarm. Two persons ran away from the spot. The public apprehend Subhash Chand and Bharat Bhushan and handed over them to the police. 12 counterfeit Indian currency notes denomination of ₹1,000/- each were recovered from them.

It is to be noted that in the statement of the accused-appellants recorded under Section 313 Cr.P.C., they have taken entirely different stand. According to them, they were apprehended from the bus stand by the police. However, the news item is contrary to their statements, which shows that they were apprehended from the spot by the public and handed over to the police, whereas the police claimed that they apprehended the accused-appellants themselves. The said news item (Ex.D4) proved by the accused-appellants shows that fake currency notes were recovered from them. The police has no enmity against the accused-appellants. There is no reason for them to plant fake currency notes. Therefore, there is no reason to disbelieve the prosecution story.

Learned counsel for the accused-appellants has further argued that the recovery of railway ticket from the accused-appellants is suspicious.

As per disclosure statement, the railway ticket was got recovered, which was from Ambala to Gorakhpur to collect another

consignment. However, the said consignment has no connection with the present case. The accused-appellants have been convicted for having possession of counterfeit currency notes. The prosecution story as such inspire confidence.

PW8 Harish Sashan, Ex. M.C., who was independent witness had turned hostile. Even in his absence, in the statements of ASI Gurdial Singh, PW2 and Investigating Officer SI Ram Kumar, PW5, the recovery is duly proved. Therefore, there is no illegality or infirmity in the findings recorded by the learned Addl. Sessions Judge, Fast Track Court, Ambala.

Faced with these circumstances, learned counsel for the accused-appellants has requested for showing some leniency in the sentence awarded to the accused-appellants. Considering the circumstances and recovery effected from the accused-appellants, I am of the view that there is some scope for reduction in the sentence.

Consequently, the sentence of rigorous imprisonment for three years awarded to each accused-appellant is reduced to rigorous imprisonment for one year each of the accused-appellant. However, the remaining part of the sentence is maintained.

With the abovenoted modification in the quantum of sentence, the present appeal is dismissed. The accused-appellants be re-arrested to undergo remaining part of the sentence.

(KULDIP SINGH)
JUDGE

August 16, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: No

