

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

**CRA-S-4526-SB-2016 (O&M)
Date of decision: 31.07.2018**

Dalwinder Singh

.....Appellant

versus

State of Punjab

.....Respondent

CRA-S-4573-SB-2016 (O&M)

Jaswant Singh

.....Appellant

versus

State of Punjab

.....Respondent

CRA-S-4685-SB-2016 (O&M)

Gurmit Singh

.....Appellant

versus

State of Punjab

.....Respondent

CRA-S-173-SB-2017 (O&M)

Shamsher Singh

.....Appellant

versus

State of Punjab

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.H.S.Sidhu, Senior Advocate with
Mr.K.S.Sidhu, Advocate for the appellant
in CRA-S-173-SB-2017
Mr.Gurcharan Dass, Advocate for the appellant
in CRA-S-4526-SB-2016
Mr.H.S.Bhullar, Advocate for the appellant
in CRA-S-4685-SB-2016
Mr.Gurvinder Singh Dhillon, Advocate for the appellant
in CRA-S-4573-SB-2016
Mr.Harbir Sandhu, AAG Punjab

1. *Whether Reporters of Local newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J.

By this common Judgment, I shall dispose of four connected criminal appeals bearing CRA-S-4526-SB-2016, CRA-S-4573-SB-2016, CRA-S-4685-SB-2016 and CRA-S-173-SB-2017, arising out of FIR No.46 dated 20.8.1999 under Sections 467, 468, 471, 120-B IPC and Sections 13 (1) (d) read with Section 13(2) of the Prevention of Corruption Act, 1988 registered at Police Station Vigilance Bureau Patiala.

Appeals are directed against the judgment of conviction and order of sentence dated 5.12.2016, passed by learned Special Judge, Rupnagar, vide which, the appellant Gurmit Singh was convicted under Sections 120-B, 467, 468, 471 read with Section 120-B IPC, whereas appellants Jaswant Singh, Dalwinder Singh and Shamsher Singh were convicted under Sections 120-B and 471 read with Section 120-B IPC. Appellants were sentenced as under:-

Convict Gurmit Singh

<i>Under Section 120-B of the Indian Penal Code</i>	<i>Rigorous Imprisonment of 5 (Five) years and to pay fine of Rs.5,000/-, in default of payment of fine, he will further undergo Rigorous Imprisonment for a period of 1 (one) year.</i>
<i>Under Section 467 of the Indian Penal Code</i>	<i>Rigorous Imprisonment of 7 (Seven) years and to pay fine of Rs.10,000/-, in default of payment of fine, he will further undergo Rigorous Imprisonment for a period of 2 (two) years.</i>

<i>Under Section 468 of the Indian Penal Code</i>	<i>Rigorous Imprisonment of 5 (Five) years and to pay fine of Rs.5,000/-, in default of payment of fine, he will further undergo Rigorous Imprisonment for a period of 1 (one) year.</i>
<i>Under Section 471 read with Section 120-B of the Indian Penal Code</i>	<i>Rigorous Imprisonment of 2 (two) years and to pay fine of Rs.2,000/-, in default of payment of fine, he will further undergo Rigorous Imprisonment for a period of six months.</i>

Convict Jaswant Singh

<i>Under Section 120-B of the Indian Penal Code</i>	<i>Rigorous Imprisonment of 5 (Five) years and to pay fine of Rs.5,000/-, in default of payment of fine, he will further undergo Rigorous Imprisonment for a period of 1 (one) year.</i>
<i>Under Section 471 read with Section 120-B of the Indian Penal Code</i>	<i>Rigorous Imprisonment of 2 (two) years and to pay fine of Rs.2,000/-, in default of payment of fine, he will further undergo Rigorous Imprisonment for a period of six months.</i>

Convict Dalwinder Singh

<i>Under Section 120-B of the Indian Penal Code</i>	<i>Rigorous Imprisonment of 5 (Five) years and to pay fine of Rs.5,000/-, in default of payment of fine, he will further undergo Rigorous Imprisonment for a period of 1 (one) year.</i>
<i>Under Section 471 read with Section 120-B of the Indian Penal Code</i>	<i>Rigorous Imprisonment of 2 (two) years and to pay fine of Rs.2,000/-, in default of payment of fine, he will further undergo Rigorous Imprisonment for a period of six months.</i>

Convict Shamsher Singh

<i>Under Section 120-B of the Indian Penal Code</i>	<i>Rigorous Imprisonment of 5 (Five) years and to pay fine of Rs.5,000/-, in default of payment of fine, he will further undergo Rigorous Imprisonment for a period of 1 (one) year.</i>
<i>Under Section 471 read with Section 120-B of the Indian Penal Code</i>	<i>Rigorous Imprisonment of 2 (two) years and to pay fine of Rs.2,000/-, in default of payment of fine, he will further undergo Rigorous Imprisonment for a period of six months.</i>

All the sentences were directed to run concurrently. However, all the accused-appellants were acquitted of charge under Sections 13 (1) (d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

Facts of the case are that on 20.8.1999 Deputy Superintendent of Police, Vigilance Bureau, Punjab, Ropar received a secret information which was recorded in FIR Ex.PW19/A, in which it was recorded that from the reliable sources, the police has come to know that Sh.Darshan Singh, Naib Tehsildar, Jaswant Singh, Halqa Patwari, Shingara Singh, Patwari, P.S.Sodhi, District Revenue Officer and Ranjit Singh, Clerk, office of Additional Director (Consolidation), District Ropar, are involved in the crime. It is alleged that the suspects have transferred shamlat land measuring 129 acres situated at village Mianpur Changer, valued at about more than Rs.3 crores vide mutation No.2982 and 2983 dated 24.9.1997 and the possession of the land has been delivered to the villagers and they have further executed about 100-123 registered sale deeds regarding the said land. The Punjab Government vide letter No.PPMA-1-97/1350-718 dated 9.4.1997 has already prohibited the partition of the shamlat land. These accused did so on the basis of order of Additional Director (Consolidation) dated 10.9.1996 passed in petition no.52/1996 of village Mianpur Changer decided on 24.9.1997, whereas these instructions were issued on 10.9.1996.

It was further recorded that Gurmit Singh along with four other persons of the village moved an application before Deputy Commissioner, Ropar, which was marked to District Revenue Officer, P.S.Sodhi, who, while going beyond his jurisdiction and without getting the approval from Deputy Commissioner, Ropar and without bringing it to the notice of the Deputy Commissioner, sent the said application to the Sadar Kanungo on 11.8.1997. Sh.P.S.Sodhi marked this application to the Sadar Kanungo vide endorsement No.3366 dated 12.8.1997 and forwarded the same to Darshan Singh, Naib Tehsildar for necessary action and signed for Deputy Commissioner, Ropar. Darshan Singh, Naib Tehsildar Majri, in place of sending the letter back to the Deputy Commissioner, Ropar, sent the letter back to Sh.P.S.Sodhi, District Revenue Officer in view of letter No.1315-31 dated 3.3.1996 and sought the permission to partition the shamlat land and enter the mutation. All the suspects without getting permission of Deputy Commissioner, Ropar and without bringing it to the notice of the Deputy Commissioner, Ropar, in order to misappropriate the shamlat land, got order No.3461 dated 5.9.1997 issued for Deputy Commissioner, Ropar by misusing their official position. They have tampered with the record in conspiracy with each other to misappropriate government land. In this way, Sh.Darshan Singh, Naib Tehsildar, Jaswant Singh, Halqa Patwari, Shingara Singh, Patwari, P.S.Sodhi, District Revenue Officer and Ranjit Singh, Clerk, office of Additional Director (Consolidation), District Ropar have committed offences under Sections 467, 468, 471, 120-B IPC and Sections 13 (1) (d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

On the basis of the said written secret information, an FIR

Ex.PW19/A was registered at Police Station Vigilance Bureau, Patiala on 20.8.1999.

During the course of investigation, statements of the witnesses were recorded and it came out that the Panchayat of the village had approached DDPO against the order dated 10.9.1996 and that the said partition order has been cancelled on 6.1.1998 and possession has been restored to Gram Panchayat. During investigation, it was found that Ranjit Singh and Gurmit Singh, in connivance with each other, forged the signatures of Amrik Singh, Additional Director (Consolidation) and got entered the mutation of 129 acres of land of village Mianpur Changer. Darshan Singh, Naib Tehsildar died during investigation. Sanction qua P.S.Sodhi, the then District Revenue Officer was declined by the government, therefore, they were kept in column No.2 of the challan. Bhag Singh, Sucha Singh and Bachan Singh also died and therefore, challan was presented against Jaswant Singh, Dalwinder Singh, Shamsheer Singh and Gurmit Singh only.

All the accused were charge sheeted under Sections 467, 468, 471, 120-B IPC and Sections 13 (1) (d) read with Section 13(2) of the Prevention of Corruption Act, 1988, to which they pleaded not guilty.

In support of its case, prosecution examined as many as 25 witnesses.

When examined under Section 313 Cr.P.C., Dalwinder Singh took the plea that he was posted as Sadar Kanungo. He received a letter forwarded by the Superintendent of Deputy Commissioner and in the routine, forwarded the same to Naib Tehsildar in the discharge of the official duties. Other accused denied the allegations levelled against them.

In defence evidence, accused examined Davinder Singh, SDM and closed their defence evidence.

After hearing the prosecution, learned counsel for the accused and going through the file, the accused-appellants were convicted and sentenced as aforesaid.

It comes out that at the time of alleged commission of crime, Jaswant Singh was posted as Kanungo, Dalwinder Singh was posted as Sadar Kanungo, Shamsher Singh was posted as Patwari and Gurmit Singh was a private person, who had moved the application before Additional Director (Consolidation) for partition of the shamlat land. This Court will confine only to the role of the above noted four persons who were put to trial and were convicted and sentenced.

PW1 Manga Singh simply stated that land measuring 150-200 acres costing about Rs.30 – Rs.35 lakhs per acre was misappropriated by the accused and has been sold by them. He alleged that order of Amrik Singh Additional Director (Consolidation) was forged. However, he does not know who forged the order.

PW2 Bachan Singh also made a similar statement. Therefore, their statements are just oral assertions without any evidence to support their assertions.

PW3 Ajit Singh also made a similar statement. However, he added that partition was done in forged manner and Rs.7 lakhs were given to Ranjit Singh, Clerk of the Director. Though in cross-examination, he stated that said payment was not made in his presence.

PW4 Sarwan Singh also made a similar statement.

PW5 Amrik Singh stated that he was holding the charge of

Additional Director (Consolidation) Punjab at Mohali from 12.7.1994 to 14.10.1996. On 10.9.1996, he never passed the order Mark A. He passed the order Mark B, which is a photocopy. He stated that partition application was dismissed as withdrawn on 10.9.1996. He further deposed that original order Mark B which was passed by him regarding withdrawal of the partition application is not on the file and was taken out by the person who forged his order, photocopy of which is Mark A and Mark C. He further stated that the interim order Mark D dated 10.9.1996, which is typed in Punjabi and allegedly signed by him, was not passed or signed by him. Order is forged and fabricated. He further stated that the original of Mark B is not on the Court file and has been replaced with the forged and fabricated order. He further stated that shamlat land of village Mianpur Changer was not partitioned by him. In cross-examination, he stated that he used to dictate final order in Punjabi and English. He was confronted with Mark A, which is photocopy of the disputed order. He stated that his signatures on the said order are forged. He admitted that he was taken by the Investigating Officer before Executive Magistrate, Ludhiana Sh.Ram Singh. He had refused to give his signatures because he had retired one year and four months back and had no practice of his signatures. He further stated that the original petition which was presented before him was not on the file. His one page order passed in the case is also not on the file. The petition presented before him is Ex.DG, which bears his signatures Ex.DG/1. He further stated that decisions used to be entered in the pronouncement register. He had passed the one page order regarding consignment. However, said order is not on the index. There is no entry in the index. Docket Mark C also does not bear his signatures. During further

cross-examination, he stated that he was transferred when the file was lost from the record room.

PW5/A Roshan Lal Verma proved the letter No.2/96/20/29 dated 21.6.1996 received from the Special Secretary to Government of Punjab, Rural Development and Panchayat Department, Chandigarh which was addressed to Deputy Commissioner, Ropar (Ex.PW5/A), vide which, the partition of the shamlat land was prohibited.

PW6 Dalip Singh is another crucial witness. He remained Sarpanch of village Mianpur Changer from 1993 to 1998. He stated that a firm Punjab Agro Hitech Private Limited Chandigarh Sector 35 sent some dealers to their village to contact the villagers to sell their land @ Rs.60,000/- per acre. They contacted some villagers to sell their land @ Rs.60,000/- per acre. They contacted Gurmit Singh son of Piara Singh to purchase the said land. Some other persons entered into agreement with those dealers. Said land was common land and was not partitioned. The villagers filed an application before Additional Director (Consolidation) Mohali for partition of the said land. 10 persons out of the villagers had not agreed to sell the land @ Rs.60,000/- per acre as they demanded Rs.one lakh per acre. Amrik Singh, the then Additional Director (Consolidation) asked the villagers that their case is not complete. Then counsel for the petitioner withdrew the said case with liberty to file fresh one. Therefore, Amrik Singh the then Additional Director (Consolidation) dismissed the said case as withdrawn. He further stated that there was one Clerk, namely, Ranjit Singh in the office of Director Consolidation. He asked the villagers not to file fresh suit as it will prolong for number of years and persuaded them to contact him for partition of the said land. The above said firm and

the villagers contacted him for the partition of the land. Ranjit Singh made an agreement regarding partition of the land and the mutations of the said land in their names. Therefore, no new case was filed for partition, as the bargaining took place with said Ranjit Singh. Ranjit Singh contacted the retired Kanungo Ajmer Singh and another retired Kanungo and paid them Rs.30,000/- each. Ranjit Singh was resident of Kharar. He handed over record to those Kanungos. Then in one month there was partition of the land. There was a rumor in the village that the land was partitioned by the Consolidation Department. He was not summoned. He being Sarpanch got a letter from the BDPO Ropar to explain what the Panchayat is doing regarding sale of shamlat land. He further stated that since the liability was sought to be fastened upon him, he took the revenue paper and filed case before DDPO, Ropar. DDPO, Ropar on 6.1.1998 decided the case in favour of the Gram Panchayat and restrained the villagers not to sell the land. He further stated that fake partition was got done by Ranjit Singh. The order was having 7-8 pages. Naib Tehsildar of village Majri block was registering sale deeds in spite of the stay order passed by DDPO. When he supplied the copy of the stay order to Tehsildar, Tehsildar told him that he is not registering the sale deeds. At that time, 42 sale deeds were already executed. He obtained the signatures of Naib Tehsildar on the copy of the stay order. He further stated that the villagers got sale deeds executed @ Rs.one lakh per acre. In fact, these were executed @ Rs.20,000/- per acre though the actual receipt was of Rs.one lakh per acre. He further stated that Amrik Singh has made a statement before Hon'ble High Court that he has not partitioned the land. He disclosed all the facts to the Vigilance Bureau.

Then the then Sarpanch Tarlochan Singh called all 140 persons of the

village and asked them to get themselves bailed out. Sarpanch collected Rs.80,000/- to get them bailed out, out of which, he paid Rs.30,000/- to the Advocate and Rs.30,000/- were given as illegal gratification to DSP Vigilance Malwinder Singh Sidhu for not challenging the bails of said 140 persons who had sold their land. Defaulting persons were not been challaned by the Vigilance Department. All the said 140 persons are liable to be challaned but they have not been challaned. In cross examination, he stated that the persons who have been challaned are innocent.

PW7 Ramakant Sharma, Junior Scale Stenographer, Financial Commissioner Secretariat, Punjab, Chandigarh stated that from April 1992 to July 2001, he remained posted as PA to Additional Director (Consolidation). On 30.8.2000, Clerk Amin Chand, who was also posted in the above said office, produced before him relevant record which is addressed to the Court of Additional Director Consolidation, Punjab. At the foot of the said writing which is written as Ramakant at point Mark-X, does not bears his signatures. In cross-examination, he maintained that he has not brought any document containing the typed material from the said machine. The same was in Punjabi as well as in English.

PW8 Sukhwinder Kumar, Junior Assistant, office of the Director Land Record, Punjab, Jalandhar, Consolidation Wing, Jalandhar stated that from the year 1996 to 1998, he was posted in the office of Assistant Director (Consolidation), Punjab Chandigarh, Camp at Mohali. At that time, Amrik Singh was posted as Additional Director Consolidation and he was posted as Ahlmad. On 10.9.1996, case No.52-1996 under Section 42 of the Consolidation Act was dismissed as withdrawn. However, one page order passed on 10.9.1996 is not on the said file (Ex.PW8/A). He

further stated that at the time of consigning, file was containing page nos.1 to 36 and now number has been tampered and written as 54. In cross-examination, he revealed that a departmental inquiry was conducted in which Ranjit Singh was found guilty in tampering the said file. Ranjit Singh is not accused in the said case. Amrik Singh Additional Director (Consolidation) used to dictate order to the steno directly.

PW9 Tarlochan Singh, retired Senior Assistant, Deputy Commissioner Office, Ropar, stated that in August and September 1997, he was having charge of Superintendent Revenue in the office of Deputy Commissioner, Ropar. All the correspondence of branch of Sadar Kanungo used to be dealt by him. On 5.9.1997, Dalwinder Singh Sadar Kanungo presented him an application for entering the mutation of village Mianpur Changer regarding shamlat land. He told him that these kinds of applications are dealt with at the Superintendent level and are sent to the subordinate offices under rules for necessary action. He put his signatures on the endorsement of the application in his capacity as Superintendent, which bears endorsement No.3461 dated 5.9.1997, which was sent to the Naib Tehsildar Majri. Said application was filed by Gurmit Singh.

PW10 Hans Raj Superintendent Grade II, Commissioner Office, Patiala merely proved death certificate of Darshan Singh.

PW11 Rajan Pal, Clerk Tehsil Office, Mohali proved the sanction to prosecute Jaswant Singh.

PW12 Ujaggar Singh stated that in the year 1997, he was Record Keeper in the office of Deputy Commissioner, Ropar. On that date, Ranjit Singh, Clerk of the office of Director (Consolidation), Punjab Mohali brought a copy of the letter Mark A bearing No.226/VRK dated 5.9.1997

for collection of file pertaining to village Mianpur Changer G No.3961 and 3964 in petition No.52/1996, which was to be submitted to Hon'ble Punjab and Haryana High Court. He identified the signatures of said Ranjit Singh.

PW13 Lajya Ram, proved certain letters.

PW14 Sucha Singh proved service book of Shamsher Singh, Patwari.

PW15 B.K. Garg, IPS, I.G. Security, Punjab proved the part investigation in recording statements of some of the witnesses.

PW16 Jasbir Singh, Patwari Halqa, Akalgarh, Tehsil Kharar stated that in the year 1999, he was having additional charge of Halqa Patwari Mianpur Changer. He brought the original record and stated that Shamsher Singh Patwari made the entry regarding mutation in pursuance to the order from the Additional Director (Consolidation) dated 10.9.1996. Jasbir Singh Kanungo attested the same and Naib Tehsildar Darshan Singh sanctioned the same.

PW17 Tarlochan Singh stated that in the year 2000, he was Sarpanch of the village. He stated that on account of the order passed by the DDPO, land was transferred back to Gram Panchayat and is in possession of the Gram Panchayat.

PW18 Ram Singh proved that while working as Tehsildar-cum-Executive Magistrate, Ludhiana, Amrik Singh appeared before him and refused to give specimen signatures on 19.11.1999.

PW19 Malwinder Singh Sidhu, SP Detective Tarn Taran proved inquiry report as well as lodging of FIR.

PW20 Parkash Singh Patwari, Halqa Landran, stated that in the year 2000, he was working as Assistant Office Kanungo, Kharar. The

applications which received in the office of Kanungo Kharar were marked to Tehsildar. Gurmit Singh, resident of village Mianpur Changer moved an application for getting partition of the Shamlat land of village Mianpur Changer, which was marked by Naib Tehsildar, Darshan Singh to the office of Kanungo. He sent the same to the Block Majri for necessary action. He further stated that the original record is not available anywhere in the office despite the best efforts. Copy of the same is Ex.PW9/A.

PW21 Daljit Singh, Senior Assistant, LPA Branch, Deputy Commissioner Office, Ropar proved regarding depositing of file and same being given in custody of Ujjagar Singh.

PW22 Harinder Singh, Office Kanungo, Chamkaur Sahib proved the service books of Dalwinder Singh and Shamsheer Singh accused.

PW23 Rama Kant Clerk DDPO Office, Ropar produced the copy of the order dated 6.1.1989 passed by Kuldip Singh the then DDPO Ropar, vide which, land was restored to Gram Panchayat.

PW24 Jasbir Singh, Junior Assistant, office of Deputy Commissioner, Ropar and PW25 Rajanpaul, Clerk office of Tehsildar, Mohali, proved the sanction for prosecution of some of the accused.

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

In this case, gist of the allegations is that an application for partition of shamlat land, which was around 129 acres, situated at village Mianpur Changer, was pending before Additional Director (Consolidation), District Ropar. According to the prosecution, the said application was withdrawn by counsel on 10.9.1996. However, an order of the same date was forged to show that partition has been allowed in favour of the co-

sharers in the shamlat land. It also comes out from the evidence of the witnesses, mentioned above, that the original order dated 10.9.1996 and the interim orders and partition details are missing from the file and only photostate copies are available on the judicial file. It appears that after forgery came to the light, somebody ensured that the original orders are destroyed. It also comes out that Gurmit Singh accused-appellant along with some other villagers, moved an application dated 10.8.1997 along with photostate copies of the said forged orders, before Dalwinder Singh, Sadar Kanungo, Ropar, claiming that they have partitioned the said shamlat land. They have already obtained order from consolidation authorities. The said order was initially produced before Naib Tehsildar, Majri who stated that a permission from the higher authorities should be obtained.

Therefore, application was filed in the office of Deputy Commissioner, Ropar and a request was made that the application should be sent to the concerned authorities for entering the mutations. It also comes out that the said application was presented by Dalwinder Singh, Sadar Kanungo before the then Superintendent Revenue of office of the Deputy Commissioner, Tarlochan Singh (PW9), who made an endorsement No.3366 dated 12.8.1997 forwarding the said application to Naib Tehsildar Majri for entering the mutation in accordance with law. Tarlochan Singh did not bring the said application to the notice of the Deputy Commissioner that the shamlat land of the village is being partitioned and that the government has already issued a letter dated 9.4.1997 i.e. before the filing of the said application, wherein such fraud was brought to the notice of all the Deputy Commissioners, including Deputy Commissioner, Ropar. It was also not brought to the notice of the Deputy Commissioner that Additional

Director (Consolidation) has no power to partition the shamlat land. Therefore, even if an application was filed, it was the duty of Tarlochan Singh, the then Superintendent Revenue of the office of Deputy Commissioner, Ropar, to bring it to notice of the Deputy Commissioner for appropriate orders. However, without bringing it to the notice of the Deputy Commissioner, he simply forwarded the application, without any authority, to Naib Tehsildar, Majri. It comes out that Naib Tehsildar, Majri did not act upon that application and vide endorsement No.768 dated 29.8.1997 returned the same to the District Revenue Officer, bringing it to his notice a letter No.1315-31 dated 8.7.1996, vide which, there is a ban regarding partition of the shamlat land. It was also brought to his notice that the application is for partition of shamlat land and the photostate copies of the order of the Additional Director Consolidation, Punjab is attached. Therefore, permission be granted to enter the mutation. Sh.P.S.Sodhi, who was then District Revenue Officer, did not bring it to the notice of Deputy Commissioner and again sent the same to Naib Tehsildar, Majri with endorsement No.3461 dated 5.9.1997, stating that the photostate copy of the order of the Additional Director (Consolidation) has not been received, even then he directed Naib Tehsildar that shareholders in village Mianpur Changer should be heard and mutation be entered as per rules. This time Naib Tehsildar, Majri forwarded the same with his endorsement to Field Kanungo, namely, Jaswant Singh, Khijrabad on 11.9.1997, who then forwarded the same to Shamsheer Singh, Halqa Patwari. Accordingly, some of the mutations were sanctioned. However, when the Sapranch of the village, namely, Dalip Singh (PW6) came to know about the same, he moved an application before DDPO, Ropar, who stayed the said order and

got the possession delivered back to the Gram Panchayat.

First of all, I will discuss the role of three officials, namely, Dalwinder Singh, Sadar Kanungo, Jaswant Singh, Halqa Patwari and Shamsheer Singh, Patwari.

I am of the view that when Sadar Kanungo presented the application before Superintendent, Tarlochan Singh, said Tarlochan Singh committed illegality by not bringing it to the notice of Deputy Commissioner about the letter received from the Government and forwarded the same to Naib Tehsildar, Majri with his own endorsement and signed for Deputy Commissioner. When the said application was returned by Naib Tehsildar, Majri to the District Revenue Officer, Sh.P.S.Sodhi bringing into his notice, the letter of the Government, Sh.P.S.Sodhi also did not act upon the same and without bringing it to the notice of the Deputy Commissioner, again sent the application to Naib Tehsildar Majri. Unluckily, the Government did not grant sanction to prosecute Sh.P.S.Sodhi, District Revenue Officer. Therefore, he has not been challaned. Tarlochan Singh, Superintendent was also not challaned and he was merely made prosecution witness. Therefore, illegality, if any, is on the part of Tarlochan Singh, Superintendent Revenue of office of Deputy Commissioner, Ropar (PW9) and Sh.P.S.Sodhi, District Revenue Officer.

Once, the application is received, the Naib Tehsildar was left with no alternate but to forward the same to Sadar Kanungo and Sadar Kanungo was left with no alternate but to forward the same to Patwari, who was left with no alternate but to enter the mutations.

Therefore, Dalwinder Singh, Sadar Kanungo, Jaswant Singh, Halqa Patwari and Shamsheer Singh, Patwari performed their duties and it

cannot be said that they had anything to do with forgery nor it can be said that they entered into any conspiracy with the forger of the said order to commit the offence of forgery.

Section 471 IPC pertains to using as genuine a forged document. There is nothing on file to show that Dalwinder Singh, Sadar Kanungo, Jaswant Singh, Halqa Patwari and Shamsheer Singh, Patwari knew that the said order is forged. They merely acted on the orders passed by the superior authorities. Therefore, they could not be convicted under Sections 120-B and 471 read with Section 120-B IPC.

Consequently, CRA-S-4526-SB-2016, CRA-S-4573-SB-2016 CRA-S-173-SB-2017 qua Dalwinder Singh, Sadar Kanungo, Jaswant Singh, Halqa Patwari and Shamsheer Singh, Patwari are allowed and they stand acquitted of the charges under Sections 120-B and 471 read with Section 120-B IPC. Their bail bonds and surety bonds are discharged.

Now, I will come to the role of Gurmit Singh. Undoubtedly, Gurmit Singh along with some other villagers had filed an application before Additional Director (Consolidation) for partition of shamlat land. Therefore, Gurmit Singh was interested that the land be partitioned so that he may be able to sell the same. Statement of Amrik Singh (PW5) the then Additional Director (Consolidation) clearly shows that he had not passed the forged order, photostate copy of which is on file as Mark A. In fact, it appears that after committing the forgery, original file was destroyed or lost to ensure that the original and the forged orders are not found.

Now, question would arise as to whether this Court can convict the accused for being in possession of the forged document despite the fact that the original forged order is not found?

I am of the view that if the accused after committing forgery destroyed the original documents and it is proved that the forged document once existed and was used by the accused, he could be convicted for using it as genuine, even if, it is not proved that it was accused who himself forged the said document. Mere fact that Amrik Singh, Additional Director (Consolidation) did not furnish his specimen signatures does not mean that he was involved in the crime. Forged order is dated 10.9.1996 and was used a year later on 12.8.1997, at which time, Sh.Amrik Singh had already retired and some other officer had joined. In addition to the statement of Amrik Singh, regarding forgery of order, Ramakant Sharma (PW7) and Sukhwinder Kumar (PW8) also proved that said partition application was withdrawn. It also comes out from the statement of Sukhwinder Kumar (PW8) that a departmental inquiry was conducted, in which Ranjit Singh, Ahlmad/ Clerk of said Additional Director was found guilty. However, unluckily, in this case, said Ranjit Singh was also not challaned though he was named in the FIR. Therefore, it is clear that the order dated 10.9.1996 of Additional Director (Consolidation) was forged in his office by somebody. This is likely to have been done in connivance with some of the applicants. However, as the main culprits were never interrogated nor any findings were recorded against them, therefore, it is not possible to hold as to whether Gurmit Singh was involved in the forgery of the record. However, the fact remains that counsel for Gurmit Singh had withdrawn the said application on 10.9.1996 and therefore, he knew that no such partition order exists. Gurmit Singh not only approached Naib Tehsildar Majri, as stated in the application but he also approached the office of the Deputy Commissioner and then pursued the application. He got mutation entered

from the Patwari and then he along with some of the villagers even sold the land. Total 42 sale deeds were executed by different shareholders. When such type scam takes place, first target of the accused is to make the original forged document disappear. It happened in this case also. Even the original application of Gurmit Singh moved before Deputy Commissioner, disappeared and only photostate copy of the same is available.

The fact that Gurmit Singh used the said forged order to press for entering of mutation and got the fruit of the said mutation, atleast temporarily, goes to show that Gurmit Singh fully knowing that the said order is forged, used the same. Since, it is not proved that Gurmit Singh himself forged the said order or entered into the criminal conspiracy with any other person, to forge the said document, therefore, his conviction under Sections 467, 468 and 120-B IPC is not sustainable in the eyes of law, though it is proved that Gurmit Singh used the said forged order as genuine. Therefore, he was rightly convicted under Section 471 IPC read with Section 120-B IPC on account of his conspiracy with the other villagers in using the said order.

Accordingly, CRA-S-4526-SB-2016, CRA-S-4573-SB-2016 CRA-S-173-SB-2017 qua Dalwinder Singh, Sadar Kanungo, Jaswant Singh, Halqa Patwari and Shamsher Singh, Patwari are allowed and they stand acquitted of the charges under Sections 120-B and 471 read with Section 120-B IPC. Their bail bonds and surety bonds are discharged. Needless to say that any punitive action taken, only on the basis of the impugned judgment, will also liable to be reversed.

As a result of the foregoing discussion, CRA-S-4685-SB-2016, filed by Gurmit Singh is partly allowed and his conviction and sentence

under Sections 467, 468 and 120-B IPC is set aside. However, his conviction and sentence under Section 471 IPC is maintained. His bail bonds and surety bonds are cancelled. He be re-arrested and committed to jail to undergo the remaining part of the sentence.

A copy of the order be placed on the connected case files.

31.07.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	Yes