

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

227

CRR-1323-2017

Date of Decision: April 24, 2018

Gurdev

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Ram Niwas Lohan, Advocate with
Mr. Rishab Lohan, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

Sudhir Mittal, J. (Oral)

The petitioner was employed as Village Employment Assistant under the National Rural Employment Guarantee Act, 2005 (for short NREGA) on the basis of his qualification. A cheque of ₹ 2000/- was issued to him on account of his salary in March 2010. However, a cheque of ₹ 22,000/- was presented to the bank and the said amount was transferred into the account of the petitioner. Thereafter, a complaint was filed by the erstwhile Sarpanch, who had issued the cheque. Based thereon, FIR No. 124 was registered against the petitioner.

2. Vide judgment dated 22.03.2015, the Judicial Magistrate Ist Class, Kaithal, acquitted the petitioner. The State appealed against the said judgment and the learned Sessions Judge, Kaithal, allowed the same vide judgment dated 06.03.2017. Vide the order of sentence of even date, the petitioner was sentenced as

below:-

Section IPC	RI	Fine	In default of payment of fine, RI
420	Three years	₹ 1000/-	Two months
467	Three years	₹ 1000/-	Two months
468	Two years	₹ 500/-	One month
471	One year	-	-

3. Hence, the present revision petition.
4. Learned counsel for the petitioner submits that the original cheque has been lost from the Forensic Science Laboratory. There is also no direct evidence on record to establish the fact of forgery and therefore, the learned appellate Court has committed an error of reversing the well-reasoned judgment passed by the learned trial Court.
5. The argument of learned counsel for the petitioner is however, opposed by learned State counsel by stating that the guilt of the petitioner has been established by the evidence on record and no interference is called for.
6. The learned appellate Court has held as follows:-
- “ *The circumstances established on record by the prosecution through cogent documentary evidence, are of conclusive nature, consistent only with guilt of the accused and no other inference is possible except that it was the accused, who after delivery of cheque No.419334 for Rs.2000/-, made interpolation in the amount of the cheque by adding figure '2' before Rs.2,000/- and by forging the amount in words, presented the cheque and withddrew Rs. 22,000/- which was transferred to his account. Beneficiary of the forgery is the accused alone and prosecution could not be expected to produce direct evidence of the forgery by producing the witness who had seen the*

accused forging the cheque. The only inference deducible from the proved circumstances on record is that cheque bearing No.419334 was forged by the accused himself by making interpolation and changes in the amount in figures as well as in words intending to use the same for the purpose of cheating Gram Panchayat, Rapria Patti, Balu and the cheque was used as genuine by the accused knowing that it was a forged document. Be presenting the forged cheque in Punjab National Bank, Balu, accused dishonestly withdrew amount of Rs.22,000/- instead of Rs,2,000/- and cheated the Gram Panchayat. Accused, by presenting the forged cheque of Rs.22,000/- in PNB, Balu, deceived not only the Gram Panchayat but also the bank authorities and induced delivery of Rs.22,000/- The cheque undoubtedly was a valuable security. Offences under Sections 420, 467, 471 IPC are fully proved against the accused.

7. The aforementioned findings are neither illegal nor perverse. The proceedings book of the Gram Panchayat has been produced on record as Ex.P-3 wherein it is recorded that the Village Employment Assistant was to be appointed under the NREGA scheme. The said proceedings book also establishes that the petitioner was appointed and the remuneration was to be determined by Sarpanch-Fateh Singh. The cash book entry dated 23.03.2010 is Ex. P-2 on the record in which it is recorded that a cheque for ₹ 2000/- was issued to the petitioner in lieu of remuneration. The then Sarpanch, a Panch and the Panchayat Secretary had also appeared as witnesses to state that the petitioner was employed on a salary of ₹ 2000/- per month and that a cheque of ₹ 2000/- was issued to him. The cheque in dispute is on record as Ex. P-7/ Ex. PW1/A and was proved by way of secondary

evidence. Statements of account of the Gram Panchayat as well as of the petitioner have also been brought on record which show that a sum of ₹ 22,000/- was debited from the account of the Gram Panchayat and was credited to the account of the petitioner on the same date.

8. I have also seen photocopy of the cheque and it is apparent therefrom that amount mentioned in words is not in the same handwriting as the handwriting in which name of the drawee is written. Apart from the petitioner, there is no other beneficiary of the transaction and therefore the learned appellate Court has rightly concluded that the prosecution has established the guilt of the petitioner beyond reasonable doubt although on the basis of circumstantial evidence.

9. In view of the above, the present petition is without any merit and is dismissed.

April 24, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	Yes