

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

CRR-1914-2019 (O&M)
Date of decision : 30.09.2019

Paraminder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Naveen Sharma, Advocate for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

ANIL KSHETARPAL, J. (ORAL)

Through this revision petition, Parminder Singh petitioner, has assailed the correctness of judgment of conviction and order of sentence passed by the Sub Divisional Judicial Magistrate, Payal, affirmed in the appeal.

As per case set up by the prosecution, Mohinder Singh was owner of the property whereas his mother-Daleep Kaur and his brother-Sukhwinder Singh had obtained a loan by impersonation. In the aforesaid loan transaction, petitioner-Parminder Singh was recorded/shown as Guarantor. The Investigating Agency included the name of the petitioner as an accused only on the ground that on the loan document, name of the petitioner exists as a Guarantor.

On 12.09.2019, learned counsel for the petitioner had

contended that the petitioner has never signed any document to prove that he had undertaken to repay the amount of loan or had stood as a guarantor, therefore, petitioner could not be convicted.

Today, learned counsel for the petitioner has reiterated that the petitioner has not signed any document and, therefore, there is no evidence against the petitioner to prove that the petitioner was also party to the aforesaid act of impersonation. Record of the Court below has been requisitioned. It is apparent that the name of the petitioner has been mentioned on the appraisal note for sanction of the loan, however, prosecution has not produced any document to prove that the petitioner has ever signed any document in token of having given any guarantee.

Learned counsel for the petitioner further contends that the loan amount stands repaid. In the present case, alleged loan was taken from Punjab and Sind Bank. A nationalized bank cannot be expected to include the name of a Guarantor or accept guarantee from a person who has not signed any document. On the reading of the judgment passed by the Court, it may be noted that learned Additional Session Judge while noticing the contention of the learned counsel for the petitioner has recorded as under:-

“19. As far as the arguments of learned Counsel for the appellant that the witnesses of prosecution have admitted that the appellant had not signed any loan document are concerned, this Court is of the considered view that though it has been stated by PW-2 Mohinder Singh complainant that Parminder Singh never signed on any loan paper in his presence, but the official of the bank i.e. PW-1 Charan Singh, Field Officer has duly proved on record the loan documents in this case and there was no need of putting the

signatures on the loan documents by Parminder Singh in the presence of complainant Mohinder Singh. Even otherwise, Mohinder Singh PW2 has stated that Parminder Singh never signed on any loan documents in his presence but he has never stated that Parminder Singh never signed on any loan document.”

Counsel for the State is unable to controvert the abovesaid position.

In the considered view of this Court, before an accused can be convicted, it is the duty of the prosecution to prove beyond the shadow of reasonable doubt that the accused has committed any offence. PW1 Charan Singh, Field Officer has proved the loan document but has stated that there was no need of putting signatures on the loan document by Parminder Singh. Such stand taken and accepted by the learned Additional Session Judge is clearly erroneous. It does not appeal to logic that guarantee furnished by someone would be accepted without getting his signatures. Hence, revision petition is allowed.

Judgment of conviction and order of sentence qua the petitioner are set aside.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

30.09.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No