IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 16.11.2021

1. CRA-S-1139-SB-2001 (O&M)

Ramesh Kumar

...Appellant

Versus

State of Punjab

...Respondent

2. CRA-S-1182-SB-2001 (O&M)

Amar Jeet Singh Grewal

...Appellant

Versus

Central Bureau of Investigation

...Respondent

3. CRA-S-1196-SB-2001 (O&M)

Surjit Singh @ Surjit Singh Bassi

...Appellant

Versus

Central Bureau of Investigation

...Respondent

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4. CRA-S-1210-SB-2001 (O&M)

Sukhdev Singh

...Appellant

Versus

Central Bureau of Investigation

...Respondent

5. CRA-S-1248-SB-2001 (O&M)

Urjit Singh and another

...Appellants

Versus

State of Punjab

...Respondent

6. CRA-S-1252-SB-2001 (O&M)

Ravinder Kaur and another

...Appellants

Versus

Central Bureau of Investigation

...Respondent

7. CRA-S-1253-SB-2001 (O&M)

Gurminder Singh Sidhu

...Appellant

Versus

Central Bureau of Investigation

...Respondent

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CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Paras Talwar, Advocate,
Mr. Deepanshu Mehta, Advocate
for the appellant (in CRA-S-1139-SB-2001).

Mr. Sapan Dhir, Advocate
for the appellant (in CRA-S-1182-SB-2001).

Mr. S.S. Rangi, Advocate
for the appellant (in CRA-S-1196-SB-2001).

Mr. B.S. Sidhu, Advocate
for the appellant (in CRA-S-1210-SB-2001).

Ms. Vibha Nagar, Advocate for
Mr. Pritam Singh Saini, Advocate
for the appellants (in CRA-S-1248-SB-2001).

Mr. J.S. Lalli, Advocate
for the appellant(s) (in CRA-S-1252 & 1253-SB-2001).

Mr. Sumeet Goel, Sr. Advocate with
Mr. Sangram Singh, Advocate
for the respondent-CBI.

Mr. Joginder Pal Ratra, DAG, Punjab.

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ARVIND SINGH SANGWAN, J.

Vide this common judgment, all the abovementioned appeals are being decided together, as these are arising out of the same judgment dated 06.09.2001 passed by the Special Judge, CBI, Punjab, Patiala

Prayer in all these appeals is to set aside the judgment of conviction dated 06.09.2001, vide which appellants Gurminder Singh Sidhu and Surjit Singh Bassi under Section 120-B of the Indian Penal Code (for short ‘IPC’) read with Sections 420, 467, 468, 471, 477-A IPC and Section 5

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(2) of Prevention of Corruption Act, 1947 (for short 'PC Act'), appellants Sukhdev Singh, Urjit Singh, Ravinder Kaur, Harnek Singh, Ramesh Kumar and A.J.S. Grewal under Section 120-B IPC read with Section 420 IPC and appellant Ram Avtar Singla under Section 120-B IPC read with Sections 420 & 471 IPC as well as the order of sentence of even date, vide which appellants were ordered to undergo following imprisonment: -

Sr. No.	Name of the convict	Offence under Section	Sentence
1.	G.S. Sidhu	120-B IPC read with Section 420 IPC	R.I. for 01 year and a fine of Rs.1000/-. In default thereof, further undergo R.I. for 2 months
		420 IPC	R.I. for 03 years and a fine of Rs.2000/-. In default thereof, further undergo R.I. for 4 months
		467 IPC	R.I. for 02 years and a fine of Rs.1500/-. In default thereof, further undergo R.I. for 3 months
		468 IPC	R.I. for 02 years and a fine of Rs.1500/-. In default thereof, further undergo R.I. for 3 months
		471 IPC	R.I. for 02 years and a fine of Rs.1500/-. In default thereof, further undergo R.I. for 3 months
		477-A IPC	R.I. for 03 years and a fine of Rs.2000/-. In default thereof, further undergo R.I. for 4 months
		5 (2) of PC Act	R.I. for 03 years and a fine of Rs.2000/-. In default thereof, further undergo R.I. for 4 months
2.	Surjit Singh Bassi	120-B IPC read with Section 420 IPC	R.I. for 09 months and a fine of Rs.500/-. In default thereof, further undergo R.I. for 1 month
		420 IPC	R.I. for 02 years and a fine of Rs.1500/-. In default thereof, further undergo R.I. for 3 months

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		467 IPC	R.I. for 01 year and a fine of Rs.1000/-. In default thereof, further undergo R.I. for 2 months
		468 IPC	R.I. for 01 year and a fine of Rs.1000/-. In default thereof, further undergo R.I. for 2 months
		471 IPC	R.I. for 01 year and a fine of Rs.1000/-. In default thereof, further undergo R.I. for 2 months
		477-A IPC	R.I. for 02 years and a fine of Rs.1500/-. In default thereof, further undergo R.I. for 3 months
		5 (2) of PC Act	R.I. for 02 years and a fine of Rs.1500/-. In default thereof, further undergo R.I. for 3 months
3.	Sukhdev Singh	120-B IPC read with Section 420 IPC	R.I. for 03 months and a fine of Rs.500/-. In default thereof, further undergo R.I. for 1 month
		420 IPC	R.I. for 6 months and a fine of Rs.1000/-. In default thereof, further undergo R.I. for 2 months
4.	Ram Avtar Singla	120-B IPC read with Section 420 IPC	R.I. for 09 months and a fine of Rs.500/-. In default thereof, further undergo R.I. for 1 month
		420 IPC	R.I. for 02 years and a fine of Rs.1500/-. In default thereof, further undergo R.I. for 3 months
5.	Urjit Singh	120-B IPC read with Section 420 IPC	R.I. for 03 months and a fine of Rs.500/-. In default thereof, further undergo R.I. for 1 month
		420 IPC	R.I. for 6 months and a fine of Rs.1000/-. In default thereof, further undergo R.I. for 2 months
6.	Ravinder Kaur	120-B IPC read with Section 420 IPC	R.I. for 03 months and a fine of Rs.500/-. In default thereof, further undergo R.I. for 1 month
		420 IPC	R.I. for 6 months and a fine of Rs.1000/-. In default thereof, further undergo R.I. for 2 months

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7.	Harnek Singh	120-B IPC read with Section 420 IPC	R.I. for 6 months and a fine of Rs.1000/-. In default thereof, further undergo R.I. for 2 months
		420 IPC	R.I. for 01 year and a fine of Rs.1500/-. In default thereof, further undergo R.I. for 3 months
8.	Ramesh Kumar	120-B IPC read with Section 420 IPC	R.I. for 6 months and a fine of Rs.1000/-. In default thereof, further undergo R.I. for 2 months
		420 IPC	R.I. for 1½ year and a fine of Rs.2000/-. In default thereof, further undergo R.I. for 2 months
9.	A.J.S. Grewal	120-B IPC read with Section 420 IPC	R.I. for 3 months and a fine of Rs.500/-. In default thereof, further undergo R.I. for 1 month
		420 IPC	R.I. for 06 months and a fine of Rs.1000/-. In default thereof, further undergo R.I. for 2 months

Brief facts of the case are that G.S. Sidhu was posted as Branch Manager, Punjab and Sind Bank, Nabha Branch, District Patiala during the years 1986-1988. Surjit Singh Bassi was posted as Clerk-cum-Cashier in the said branch during the aforesaid period. Appellant Sukhdev Singh, Ram Avtar Singla, Urjit Singh, A.P. Singh, Ravinder Kaur, Harnek Singh, Om Parkash Arora and Ramesh Kumar were having current accounts in the name of their firms and A.J.S. Grewal was having saving bank account in the said bank. It is further stated that Sukhdev Singh had opened a current account No.1090 in the aforesaid Bank on 26.03.1987 and as on 08.07.1987, outstanding credit balance in the account was Rs.359/-. He presented following 17 cheques between the period from 07.09.1987 to 28.03.1988 with dishonest intention,

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as there was no balance to honour the cheques in the account. The details of the cheques are given below: -

Sr. No.	Cheque No.	Date of Cheque & date of payment	Amount in Rs.
1.	352830	07.09.87	1,00,000.00
2.	352837	11.09.87	10,000.00
3.	352838	17.09.87	55,000.00
4.	352839	21.09.87	1,00,000.00
5.	352840	29.09.87	2,00,000.00
6.	352841	30.09.87	1,00,000.00
7.	352844	08.10.87	50,000.00
8.	352845	10.10.87	50,000.00
9.	352846	22.10.87 (paid on 12.10.87)	10,000.00
10.	352847	22.10.87 (paid on 12.10.87)	30,000.00
11.	355782	20.1.88	2,00,000.00
12.	355703	25.1.88	2,00,000.00
13.	355706	6.2.88	2,00,000.00
14.	355707	25.2.88	2,00,000.00
15.	355709	9.3.88	2,00,000.00
16.	355710	16.3.88	2,00,000.00
17.	355711	28.3.88	2,00,000.00

The aforesaid 17 cheques were handled by appellant G.S. Sidhu, who dishonestly passed them for payment directly without getting them routed through the Clerks/officers of the bank and arranged their payments. No credit entries were reflected in the ledger sheet of firm M/s Sunshine Engineering Works for debiting the amount of the cheque in the account. There was no sufficient credit balance in the account to honour the amount of cheques. The cheques mentioned at Sr. No.1, 3, 7 & 8 were filled by Surjit Singh Bassi. Eight cheques mentioned at Sr. No.1, 3, 4, 5, 6, 8, 9 & 10 have

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been entered in the token books by Surjit Singh Bassi. Although he was not supposed to do so, as he was posted as Cashier. He had made the payment of all the cheques except the cheque mentioned at Sr. No.2. The Govt. Examiner of Questioned Documents had given positive opinion with respect to the writing/signatures of G.S. Sidhu, Surjit Singh Bassi and Sukhdev Singh appearing on the cheques. Surjit Singh Bassi had also affixed the cash paid stamp on some of the cheques as under: -

Sr. No.	Cheque No.	Date up in the cash paid stamp	Payment made on
1.	352838	5.9.87	7.9.87
2.	352839	19.9.87	21.9.87
3.	352846	10.10.87	12.10.87
4.	352847	10.10.87	12.10.87
5.	355703	24.1.88	25.1.88
6.	355710	14.3.88	16.3.88

Besides Surjit Singh Bassi affixed cash receipt stamp instead of cash paid stamp on cheque No.352844. As such the prosecution had alleged that G.S. Sidhu, Manager, in collusion with Surjit Singh Bassi and Sukhdev Singh, had defrauded the Bank to the tune of Rs.21,05,000/-.

It is further alleged that on 25.11.1986, Ram Avtar Singla deposited pay in slip mentioning the factitious cheque No.727562 dated 25.11.86 for Rs.1,80,000/- drawn on Oriental Bank of Commerce, Ambala Cantt in current account No.1062 of one fictitious person Naresh Kumar, maintained in Punjab and Sind Bank, Nabha. G.S. Sidhu dishonestly allowed the fictitious cheque for discounting against OBP No.234 dated 25.11.86. The amount of Rs.955/- was deducted as commission and the balance

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amount of Rs.1,79,045/- of the fictitious cheque was credited in account No.1062 of Naresh Kumar. The said fictitious person Naresh Kumar presented cheque No.676278 dated 25.1186 for Rs.1,80,000/- for cash payment, which was passed by G.S. Sidhu. The payment of the said cheque had been received by Ram Avtar Singla. The Govt. Examiner of Questioned Documents had given positive opinion on the signatures on the back of the cheque to be that of Ram Avtar Singla in token of receipt of the amount. The entry in the ledger sheet has been initialled by G.S. Sidhu. The payment of the amount was made on 25.11.86, but the cash paid stamp was found to be dated 24.11.86. Cheque No.727562 deposited by Ram Avtar Singla had been found to be fictitious, as no account was found in existence either in the name of Ram Avtar Singla or Naresh Kumar in Oriental Bank of Commerce, Ambala Cantt. As such, it had been alleged that G.S. Sidhu, in criminal conspiracy with Ram Avtar Singla, cheated the bank to the tune of Rs.1,80,000/-.

Urjit Singh and A.P. Singh were two directors of firm M/s Hotel Nidhi Pvt. Ltd., Dehradun and a current account No.918 was opened on 20.8.85 in Punjab and Sind Bank, Nabha Branch. Account opening form and specimen signatures card has been approved by G.S. Sidhu and there was a credit balance of Rs.1,76,111.47 in the account as on 30.9.86. On that day, G.S. Sidhu further prepared a fictitious pay in slip purported to have purchased 05 cheques amounting to Rs.2,25,000/-, Rs.2,24,450/- were credited in account No.918 after charging Rs.550/- as commission. G.S.

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Sidhu had approved the credit vouchers. A.P. Singh prepared 07 cheques, particulars thereof are given hereinbelow: -

Sr. No.	Cheque No.	Date of Cheque	Amount of cheque
1.	106309	26.9.86	96,400/-
2.	106310	26.9.86	45,860/-
3.	106311	26.9.86	66,700/-
4.	106312	26.9.86	40,000/-
5.	106313	26.9.86	50,000/-
6.	106315	26.9.86	22,500/-
7.	106317	26.9.86	75,000/-

These cheques were presented to Punjab and Sind Bank, Nabha Branch on 30.9.1986 by A.P. Singh with request to issue 07 drafts i.e. 06 payable at Dehradun and one at New Delhi. These 07 cheques were passed by G.S. Sidhu for issuance of demand drafts. Accordingly, following 07 drafts were issued by Punjab & Sind Bank, Nabha Branch: -

Sr. No.	DD No. & Date	Amount	Name of the party in whose favour the draft was issued	Payable at
1.	012275/19/86	30.9.86	45,860.00 96,400.00	Pb & Sind Bank, Madhuban Hotel, Dehradun
2.	012276/19/86	30.9.86	45,860.00	-do-
3.	012277/20/86	30.9.86	66,700.00	-do-
4.	012278/21/86	30.9.86	75,000.00	-do-
5.	012279/22/86	30.9.86	50,000.00	-do-
6.	012280/23/86	30.9.86	40,500.00	-do-
7.	012281/24/86	30.9.86	22,500.00	Pb & Sind Bank, H-Block, Cannaught Circus, New Delhi

The Govt. Examiner of Questioned Documents had given positive opinion in respect of writing and signatures on the cheques as that of A.P. Singh and on the demand drafts as that of G.S. Sidhu. Both of them in

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criminal conspiracy cheated the bank.

On 28.07.87, G.S. Sidhu got prepared a debit voucher for Rs.2,00,200/- and approved himself the same. On the back of the said debit voucher, A.P. Singh had put his signatures for preparation of a draft against account No.918 of the party. The credit voucher dated 28.7.88 was prepared and approved by G.S. Sidhu without any entry in the ledger sheet against the account, as there was only Rs.1,660.35 in the credit side of the said account. A draft in favour of Ravinder Kaur wife of A.P. Singh for Rs.2 lac payable at Hotel Madhuban Branch, Dehradun vide No.277478/1/87 dated 28.7.87 was issued by the bank. The Govt. Examiner of Questioned Documents had given positive opinion in respect of writing and signatures of G.S. Sidhu on credit and debit vouchers. As such G.S. Sidhu, in conspiracy with A.P. Singh, defrauded the bank to the tune of Rs.2 lacs.

Urjit Singh was maintaining a saving bank account No.3181 in Punjab National Bank, Race Course Branch, Dehradun. An amount of Rs.59.05 was outstanding in credit balance as on 12.8.86. He issued two cheques bearing No.567844 and 567845 dated 12.8.86 for a total amount of Rs.1 lac from the said account dishonestly. He filled up two pay in slips dated 12.8.86 for Rs.50,000/- each mentioning therein the aforesaid cheques of Punjab National Bank, Dehradun. Both the cheques were purchased by G.S. Sidhu at Punjab and Sind Bank, Nabha and credit of Rs.99,400/- was given in account No.918 of M/s Hotel Nidhi Pvt. Ltd. The amount of Rs.600/- was taken as bank commission. Against this account, there was

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balance of Rs.111.82 as on 12.8.86 Punjab & Sind Bank, Nabha before the credit of Rs.99,400/-. Urjit Singh issued cheque No.508594 dated 29.7.86 duly signed by him for withdrawal of Rs.50,000/- through clearing. A.P. Singh produced another cheque No.508591 dated 12.8.86 for withdrawing of Rs.50,000/- from the said account. The amount was received by Urjit Singh. Both these cheques were passed by G.S. Sidhu. The Govt. Examiner of Questioned Documents had given positive opinion in respect of writing/signatures of Urjit Singh and A.P. Singh. Two cheques bearing No.567844 and 567845 were sent to drawee branch at Dehradun, which were received back dishonoured. G.S. Sidhu returned these cheques to Urjit Singh instead of taking action either to recover the amount or any other action. As such, G.S. Sidhu, in conspiracy with Urjit Singh and A.P. Singh, dishonestly and fraudulently gave credit in account No.918 and caused loss to the bank.

G.S. Sidhu purchased two fictitious cheques without any particulars amounting to Rs.30,000/- and Rs.69,000/- vide pay in slip dated 30.9.86 duly filled in by himself. The proceeds amounting to Rs.98,750/- after charging Rs.250/- as commission, were credited in current account No.919 of M/s Sunny & Company, Dehradun. Ravinder Kaur, partner of M/s Sunny & Company, Dehradun, presented cheque No.516876 dated 26.9.86 for Rs.89,000/- for getting issued a draft in favour of UPFC. The endorsement on the back of the cheque was written by A.P. Singh and signed by Ravinder Kaur. The draft No.812274/17/86 dated 30.9.86 was issued for Rs.89,000/- payable at Madhuban Hotel, Dehradun. The Govt. Examiner of

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Questioned Documents had given positive opinion in respect of signatures of Ravinder Kaur as well as writing/signatures of G.S. Sidhu on the pay in slip and cheques and also on the writings of A.P. Singh. As such, G.S. Sidhu, in conspiracy with Ravider Kaur and A.P. Singh, cheated the bank to the tune of Rs.89,000/-.

G.S. Sidhu prepared SCRA debit vouchers No.107276 dated 29.12.86 for Rs.3,24,000/- and passed by himself for debiting the amount to Inter Branch Suspense Account by mentioning fictitious particulars therein, but did not post the said voucher in the Inter Branch Suspense Account register although the amount is found shown on 29.12.86 in day book and General Ledger of the Bank. The fraudulent and dishonest action on his part to adjust the earlier fictitious credit of Rs.2,25,000/- and Rs.99,000/- i.e. total Rs.3,24,000/-.

Atam Singh, partner of M/s Atam Singh & Company, Nabha opened a current account No.1020 with Punjab & Sind Bank, Nabha on 13.6.86. On the same day, Atam Singh submitted cheque No.708941 dated 13.6.86 for Rs.80,000/- for payment, which was approved by G.S. Sidhu in spite of the fact that there was no credit balance in the account. On 20.6.86, Atam Singh submitted another cheque No.700945 dated 19.6.86 for Rs.2,00,000/-, which was passed by G.S. Sidhu without having any balance against the said account. G.S. Sidhu allowed an over draft of Rs.2,80,000/- to Atam Singh by causing loss to the bank, however, the amount was repaid by Atam Singh with interest by April, 1987.

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Harnek Singh, proprietor of M/s Kissan Engineers opened a current account No.696 on 8.4.81 with Punjab & Sind Bank, Nabha. Harnek Singh presented cheque No.352476 dated Nil for Rs.25,000/- on 20.2.87 and G.S. Sidhu passed the said cheque and arranged payment to Harnek Singh, but did not debit the amount of cheque in the ledger sheet, as there was already debit balance of Rs.53,557.32 on the said date. The said cheque was filled in by Surjit Singh Bassi and entered the same in token book unauthorizedly, as he was not deputed for that job. The Govt. Examiner of Questioned Documents had given positive opinion on the signatures of G.S. Sidhu and Harnek Singh. As such, G.S. Sidhu, in conspiracy with Surjit Singh Bassi, had favoured Harnek Singh dishonestly and unauthorizedly.

G.S. Sidhu passed 12 cheques purporting to have been presented by Harnek Singh, proprietor of M/s Kissan Engineers and arranged payments: -

Sr. No.	Cheque No.	Date	Amount in Rupees
1.	037550	14.2.87	40,000.00
2.	352477	6.6.87	50,000.00
3.	352277	1.7.87	29,700.00
4.	106973	1.7.87	50,000.00
5.	352478	28.9.87	10,000.00
6.	352480	3.10.87	3,000.00
7.	352482	27.10.87	60,000.00
8.	352486	5.1.88	42,000.00
9.	356884	25.1.88	65,000.00
10.	356886	1.2.88	2,15,000.00
11.	352279	27.2.88	41,500.00
12.	367115	16.5.88	40,000.00

The cheques mentioned at Sr. No.1, 2, 3, 4, 5 & 7 were filled in

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by Surjit Singh Bassi and entered the particulars of cheques in the token book unauthorizedly, but intentionally did not make debit entry in the ledger sheet of account No.698 of the party, as there was no such amount in the account on these dates, except of 28.9.87. Two cheques mentioned against Sr. No.1 and 2, which were presented on 14.2.87 and 6.6.87 were entered in the ledger sheet on 28.7.87 i.e. after a gap of 135 days and 23 days respectively. The Govt. Examiner of Questioned Documents had given positive opinion in respect of signatures of G.S. Sidhu on all, but one cheque. As such, G.S. Sidhu, in collusion with Surjit Singh Bassi, had defrauded the bank.

G.S. Sidhu passed cheque No.352483 dated 10.12.87 for Rs.5,00,000/- purported to have been presented by Harnek Singh, proprietor of M/s Kissan Engineers against current account No.696, but did not make any debit entry of the amount in the said account. G.S. Sidhu had also wrongly mentioned the date on the cheque as 10.12.87 instead of 10.11.87. The amount of Rs.5,00,000/- was shown to be received by Harnek Singh but in fact, a draft No.382601 was prepared for Rs.5,00,000/- and approved by G.S. Sidhu on 10.11.87 in the name of M/s Dayal Metal Trading Company, Jagadhari and was handed over to the said firm. No entry was made of this amount against account No.696. After 37 days, the said party returned the amount of Rs.5,00,000/- vide draft No.790592/1/87 dated 16.12.87 issued by New Bank of India, Jagadhri, which was received in Punjab & Sind Bank, Nabha through clearing on 17.12.87. G.S. Sidhu approved a pay in slip for

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Rs.5,00,000/- purportedly received from M/s Kissan Engineers, but credit entry was not made in the ledger sheet. G.S. Sidhu favoured M/s Dayal Metal Trading Company for 37 days unauthorizedly by adopting dishonest means and caused loss to the bank towards interest of Rs.10,000/- approximately.

One fictitious Naresh Kumar, proprietor of M/s Naresh Kumar & Company opened a current account No.1062 on 11.11.86 with Punjab & Sind Bank, Nabha. The specimen signatures of said Naresh Kumar had been duly verified and approved by G.S. Sidhu. On the same day i.e. 11.11.86, G.S. Sidhu gave a fictitious credit of Rs.4,23,500/- in the ledger sheet of the said account. The said amount was shown as debited to OBP account as reflected in day book of the bank dated 11.11.86. The said fictitious Naresh Kumar presented cheque No.676276 dated 11.11.86 of Rs.2,50,000/- requesting to the bank for issue of two demand drafts. This cheque was passed by G.S. Sidhu for issuing the demand drafts and he also passed the relevant vouchers. Thereafter, demand drafts amounting to Rs.1 lac and Rs.1.50 lac were prepared after charging commission of Rs.250/- and Rs.300/-. One demand draft No.382500/59/86 for Rs.1 lac was issued in favour of Ram Avtar Singla drawn on Chandni Chowk, Delhi and other draft No.382499/82/86 for Rs.1.50 lac was issued in favour of M/s Jai Kishan Das Aggarwal and same was payable at Mandi Gobindgarh. The said fictitious Naresh Kumar presented another cheque No.676277 for Rs.1,75,000/- for cash payment and this cheque was passed by G.S. Sidhu and payment arranged. As such, the bank was cheated to the tune of Rs.4,25,000/-.

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Om Parkash Arora and Ramesh Kumar, partners of M/s Bhagwan Rice Mills, Nabha opened a current account No.1086 with Punjab & Sind Bank, Nabha on 25.2.87. G.S. Sidhu in order to give favour to the said party in a dishonest manner prepared fictitiously a debit voucher dated 17.3.87 for Rs.10,00,000/- vide two local bills purchased for Rs.5.00 lacs each and gave a credit of Rs.9,96,50/- in current account No.1086 of M/s Bhagwan Rice Mills, Nabha after charging Rs.3500/- as commission. Om Parkash Arora and Ramesh Kumar, partners of the said firm issued cheque No.352540 dated 17.3.86 (instead of 17.3.87) for Rs.7.00 lacs in favour of the bank for issue of two drafts. Accordingly, the bank issued two drafts No.277446/79/87 for Rs.5.00 lacs and No.277447/80/87 for Rs.2.00 lacs on 17.3.87 favouring Assistant Excise and Taxation Commissioner, Patiala payable at Model Town Branch, Patiala. These cheques and demand drafts were passed by G.S. Sidhu. On receipt of these drafts, Assistant Excise and Taxation Commissioner, Patiala got the payment through clearing from Punjab & Sind Bank, Model Town, Patiala. Om Parkash and Ramesh Kumar further presented cheque No.352541 dated 17.3.86 (instead of 17.3.87) for Rs.3.00 lacs for cash payment and this cheque was received by Om Parkash Arora. G.S. Sidhu, in order to hide the fictitious credit of Rs.10.00 lacs (which includes commission of Rs.3500/-) given to the said party on 17.3.87, debited the said amount to Inter Branch Suspense Account on 13.4.87 on the basis of fictitious vouchers prepared by him, but did not make any entry in the Inter Branch Suspense Account Registers.

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The cheque No.352545 dated 30.3.87 for Rs.4.00 lacs was presented by Om Parkash and Ramesh Kumar, partners of M/s Bhagwan Rice Mills, although they were having a debit balance of Rs.3,808.70 in their current account No.1086 on this date. This cheque was passed by G.S. Sidhu and payment was received by Om Parkash, but no entry of the said cheque was made in the ledger sheet of the firm. On 14.4.88, cheque No.367126 dated 31.3.88 for Rs.3.50 lacs in favour of AETC, Sangrur was received in the bank through clearing and the same was passed for payment by G.S. Sidhu, but no entry was made by him against the account of this cheque in the ledger sheet of account No.1086 of the party. The cheque is found signed by Om Parkash and Ramesh Kumar, partners of M/s Bhagwan Rice Mills. As such, G.S. Sidhu, in criminal conspiracy with Om Parkash and Ramesh Kumar, caused a loss of Rs.17.50 lacs to the bank with equal gain to the said partners.

A.J.S. Grewal had opened a saving bank account No.8472 in the Punjab & Sind Bank, Nabha on the introduction of G.S. Sidhu on 25.4.86. There was a credit balance of Rs.1,23,000/- in the said account on 29.5.86. A.J.S. Grewal conspired with G.S. Sidhu, who sanctioned 6 crop loans of Rs.25,000/- each in the name of A.J.S. Grewal, Dalip Singh, father of A.J.S. Grewal, Varnika Grewal, wife of A.J.S. Grewal, Naripjit Singh son of A.J.S. Grewal, Capt. Rattan Singh, employee of the school run by A.J.S. Grewal and Amar Kaur wife of Capt. Rattan Singh. The loan applications had been passed by G.S. Sidhu. An amount of Rs.1.00 lac was credit in account

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No.8472 of A.J.S. Grewal and the amount of Rs.50,000/- was credited to saving bank account No.8573, which was opened on 29.5.86 in the name of Capt. Rattan Singh. Thereafter, two drafts were issued on 29.5.86 for an amount of Rs.2.50 lacs and Rs.1.00 lac from two accounts favouring Gurdial Singh from Chandigarh, payable at Punjab & Sind Bank, Sector-17, Chandigarh. The amount of these drafts was actually utilized by A.J.S. Grewal for the purpose of a house by him at Chandigarh.

A.J.S. Grewal submitted two cheques bearing No.663271 dated 1.1.88 for Rs.51,000/- and 667110 dated 1.1.88 for Rs.50,00/- drawn on Gindlay Bank, Darjeeling, which were purchased by G.S. Sidhu vide pay in slip dated 8.2.88 and the amount was credit in account No.8472 of A.J.S. Grewal. On 9.2.88, A.J.S. Grewal submitted withdrawal form amounting to Rs.1.00 lac, which was passed by G.S. Sidhu and amount debited to the account. Two cheques dated 1.1.88 each sent for payment to Gindlay Bank, Darjeeling were received back as unpaid, as there was no amount in account No.10736 of A.J.S. Grewal, but G.S. Sidhu did not take any action to realize the amount from the party, but deliberately put date as 29.3.88 in realizing column of the OBP register with ill motive to help A.J.S. Grewal. As such, G.S. Sidhu defrauded the bank to the tune of Rs.1.00 lac in criminal conspiracy with A.J.S. Grewal.

It had been alleged that G.S. Sidhu and Surjit Singh Bassi, in criminal conspiracy with other accused, had cheated and defrauded Punjab & Sind Bank, Nabha Branch by abusing their official position as public servant.

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The competent authorities of G.S. Sidhu and Surjit Singh Bassi had given the sanction for the prosecution.

On completion of the investigation, the accused-appellants have been sent to face the trial in this Court.

On presentation of challan, the accused were summoned and were admitted on bail. Copies of documents as envisaged under Section 207 Cr.P.C. were supplied to them.

From the perusal of material on record, a prima facie case under Section 120-B IPC read with Section 420 IPC was made out against all the accused. The case under Sections 467, 468 IPC was also made out against accused G.S. Sidhu and Surjit Singh Bassi. The case under Section 471 IPC was made out against accused G.S. Sidhu, A.P. Singh, Ram Avtar Singla and Surjit Singh Bassi. Besides this, case under Section 477-A IPC and Section 5 (1) of PC Act punishable under Section 5 (2) of PC Act, 1947 was also made out against accused G.S. Sidhu and Surjit Singh Bassi. Charges were accordingly framed under the aforesaid Sections. The contents of the charge were read over and explained to all the accused in simple language. Accused pleaded not guilty and claimed trial.

The prosecution, in support of the case, examined 66 witnesses apart from producing documentary evidence to prove the guilt of the appellants.

Learned senior counsel for appellant Ramesh Kumar and learned counsel for other appellants have opted not to challenge the findings recorded by the trial Court on merits, however, submitted that they want to

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argue only on the factum of sentence awarded by the trial Court, in view of the fact that all the appellants are above the age of 70 years and the offence relates to the period 1986-88 and all the appeals pertains to 2001.

It is argued on behalf of appellants Gurminder Singh Sidhu, aged about 78 years and Surjit Singh, aged about 82 years that charge qua them, in addition to Section 120-B IPC read with Section 420 IPC, was under Section 5 (2) of PC Act, for which the sentence was awarded for three years. Learned counsel have referred to provisions of Section 5(2) of PC Act, 1947, to submit that any public servant, who commits criminal misconduct, shall be punishable with imprisonment for a term, which shall not be less than 01 year, but may extend to seven years and shall also be liable to pay the fine, provided that the Court may, for any special reasons recorded in writing, impose a sentence of imprisonment of less than 01 year. It is further submitted that appellant Surjit Singh was only a Cashier in the Bank and cheques were cleared by appellant G.S. Sidhu, Manager of the Bank and liability has been wrongly fastened upon him.

Learned counsel for appellant A.J.S. Grewal has argued that the allegation against the appellant is that he had procured two crop loans simultaneously of Rs.50,000/- each and has repaid the entire amount. It is further submitted that the appellant is aged about 97 years and is bed-ridden because of his age related multiple health problems and unable to walk, therefore, he may be released on probation.

Learned counsel for appellant Sukhdev Singh has argued that

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the Bank allowed him Over Draft facility, which is permissible under the Banking Regulation Act, 1949 and merely because he obtained the OD facility, he has been wrongly held guilty of the offence, though in the parallel proceedings before the Court, he had repaid the entire amount and nothing was pending against him. It is further argued that the appellant is presently aged about 80 years and is also facing age related health problems and prays for reduction of sentence.

Learned counsel for appellants Urjit Singh and Harnek Singh submits that they are senior citizens and are above age of 70 years and they had also availed OD facility and repaid the entire amount to the Bank.

Learned senior counsel for the respondent-CBI as well as learned State counsel have not disputed the factual position. It is submitted that appellants Gurminder Singh Sidhu and Surjit Singh Bassi being bank employees, in conspiracy with other accused, had illegally granted them OD facility, however, it is not disputed that later on, the entire amount had been repaid. It is further submitted that intention of the accused is to be seen on the date of commission of offence.

After hearing learned counsel for the parties, I find that the allegations pertain to 1986-1988 and primary allegations are against appellants Gurminder Singh Sidhu and Surjit Singh Bassi that without their being any proper authorization, they had granted the Over Draft facility to other accused persons, while clearing their cheques, however, it is not disputed that later on, all the appellants had cleared the amount in civil

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proceedings. It is also not disputed that that all the appellants are first offenders and when they were on bail during trial and appeal for a period of more than 33 years, they have neither misused the concession nor they are involved in any subsequent FIR and under Section 5(2) of PC Act, 1947, the Court, for the recorded reasons, can award the sentence less than 01 year.

In view of the above, considering the nature of offence, character and antecedents of the appellants and all mitigating circumstances, especially their present age, they are ordered to be released on probation of good conduct under Section 4 of the Probation of Offenders Act, on the following conditions: -

(a) They will remain on probation for a period of two years.

(b) They will be subject to the supervision of the Probation Officer and subject to the conditions laid down in the Probation of Offenders Act.

All the appeals stand disposed of, accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

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Whether speaking/reasoned Yes/No
Whether reportable: Yes/No

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