

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

1. **CRA-S-1419-SB-2004**
Reserved on:22.11.2022
Date of Decision :05.12. 2022

Yusuf and others ...Appellants
Vs.
The State of Haryana ...Respondent

2. **CRA-S-1433-SB-2003**
Anil Gupta ...Appellant
Vs.
State of Haryana ...Respondent

3. **CRA-S-1446-SB-2004**
Bhupinder Singh ...Appellant
Vs.
State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present:- Mr. Kapil Aggarwal, Advocate
for the appellant(s) in CRA-S-1433-SB-2004.

Mr. Inderpreet Singh, Advocate for
Mr. J.S. Mehendiratta, Advocate
for the appellant(s) in CRA-S-1446-SB-2004.

Mr. S.S. Dinarpur, Advocate
for the appellants in CRA-S-1419-SB-2004.

Ms. Sheenu Sura, DAG, Haryana.

N.S.SHEKHAWAT, J

1. This judgment shall dispose of above mentioned three appeals, as the same arise out of a common impugned judgment of conviction dated 08.07.2004 and order of sentence dated 09.07.2004, passed by the learned Additional Session Judge, Yamuna Nagar, at Jagadhri, whereby, the appellants, namely, Anil Gupta, Bhupinder

Singh, Yusuf, Liakat Ali and Rifakat Ali had been convicted under Sections 489-C IPC read with Section 120-B IPC and sentenced to undergo rigorous imprisonment for a period of five years each and also to pay a fine of Rs.2000/- each alongwith a default stipulation, whereas, appellants Anil Gupta and Bhupinder Singh had been convicted additionally under Section 201 IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/- each alongwith a default stipulation.

2. The brief facts of the case are that the FIR in the instant case was got registered by Jarnail Singh Thakur, Vigilance Officer of Ambala-Kurukshetra Rural Bank. The complainant alleged that on 08.09.1999, Jaspal Singh Jass, Chairman of their bank received a secret information that Yusuf son of Shakoor and his wife Nasima had deposited 100 counterfeit currency notes of the denomination of Rs.500/-, i.e. total Rs. 50,000/- in their joint bank account No. 2421 in Malakpur Khaddar Branch of Ambala-Kurukshetra Rural Bank by colluding with Liakat Ali, Shokat Ali and Anil Gupta, Branch Manager of the bank and cashier Bhupinder Singh. Jaspal Singh Jass, the Chairman informed the complainant and Yudhisther Lal Arora, the Chief Vigilance Officer, Head Office, in this regard and asked them to raid the branch at village Malakpur Khaddar and directed them to recover the counterfeit currency notes. As per his orders, the complainant and Yudhisther Lal Arora reached the branch on

08.09.1999 itself and Anil Kumar Gupta, Branch Manager, Bhupinder Singh, Cashier met them there. First of all, they checked the cash of the branch, but no counterfeit currency notes were found. Thereafter, they checked the saving account No. 2421, which was opened on 21.08.1999 by Yusuf son of Shakoor and his wife Mrs. Nasima by depositing a sum of Rs. 300/-. Shokat Ali had introduced them for opening this bank account. On 27.08.1999, Yusuf account holder had deposited a sum of Rs. 52,000/-, in which, hundred notes of denomination of Rs.500/- and twenty notes of the denomination of Rs.100/- were included and from the same account No. 2421, a sum of Rs. 50,000/- was withdrawn on 06.09.1999 by using a withdrawal form and the payment detail has been written on the backside of the payment voucher to be 100x500. An enquiry was made from Anil Kumar Gupta, Branch Manager and Bhupinder Singh Cashier regarding the deposit of Rs.50,000/-, which were of the denomination of Rs.500/-. On this Bhupinder Singh Cashier and Anil Kumar Gupta Branch Manager told that Yusuf and Nasima had come with Liakat Ali and Shakuat Ali and had given five notes of the denomination of Rs. 500/-, i.e. Rs. 2500/- for depositing the same in their bank account on 07.09.1999 and these were counterfeit currency notes and they have burnt the same. As evidence, Anil Kumar Gupta, Branch Manager had shown a letter dated 07.09.1999 written by Yusuf to Anil Kumar Gupta, in which, it was mentioned

that Yusuf had given five notes of the denomination of the 500/- for deposit and the manager told that the same were fake currency notes and Yusuf had apologized and had said that either the notes may be burnt or they may do whatever they want. It has been mentioned in the end of the letter that notes had been burnt and on this Yusuf Account Holder, Bhupinder Singh Cashier and Anil Kumar Gupta Branch Manager had also signed and the two witnesses Liakat Ali and Rajinder Sikka had also signed. The complainant had taken the said letter in his possession and deposited with the head office. The complainant and Yudhishtir Lal Arora, Chief Vigilance Officer had submitted a report to the Chairman and on 10.09.1999 the Chairman directed them to seal the record relating to account No. 2421 and inquiry was made against Anil Gupta Branch Manager and Bhupinder Singh Cashier as to why they had burnt the fake currency notes. On this they told that the five notes of denomination of Rs. 500/- were not completely burnt but half burnt notes are with them and 5 half burnt notes were handed over to him by Anil Gupta, Branch Manager. Anil Gupta Branch Manager and Bhupinder Singh Cashier informed that the five notes were given by Yusuf and his wife Nasima to deposit the same on 27.08.1999 and Shokat Ali and Liakat Ali had come with them. The complainant raised the suspicion that on 27.08.1999, a sum of Rs. 50,000/- was deposited by Yusuf and out of them all hundred notes of the denomination of Rs. 500/-,

i.e., total Rs. 50,000/- were of counterfeit currency notes and they had colluded with each other and had used the fake currency notes and had committed offence in collusion with each other.

3. During the course of investigation, the accused were arrested on different dates and challan was presented against the appellants as well as Nasima and Shokat Ali. The learned trial Court ordered framing of charge under Sections 489-B, 489-C, 120-B and 201 IPC against the appellants and Nasima and Shokat Ali. Vide the impugned judgment, the learned trial Court acquitted Nasima and Shokat Ali of the charges, whereas the present appellants were acquitted of the charge under Section 489-B IPC. However, all the accused were held guilty for commission of the offences punishable under Section 489-C read with Section 120-B IPC and Anil Kumar Gupta, Branch Manager and Bhupinder Singh, Cashier were additionally convicted under Section 201 of the IPC and were sentenced.

4. Challenging the said judgment and order, the appellants have preferred three above mentioned different appeals before this Court.

5. Learned counsel for the appellants submitted that no offence under Section 489-C IPC had been proved against the present appellants. In fact, the necessary ingredients to make out the offence under Section 489-C are completely missing in the present

case. Even, no currency notes were intended to be used as a genuine as all the currency notes had been burnt. Even, there was no *mens rea* on the part of the appellants, which is the pre-requisite for convicting the appellants under Section 489-C IPC. Still further, the investigation in the instant case was tainted and the statements of PW13 Jarnail Singh Thakur and PW15 ASI Krishan Singh clearly showed that the complainant was never associated in the investigation and the appellants had been falsely implicated on political grounds. Still further, the appellant Anil Gupta had himself called the police to the bank regarding the five currency notes destroyed on 07.09.1999. Still further, even recovery of 95 half burnt currency notes was doubtful as no independent witness was joined and even ash of burnt currency notes was not taken into possession by the police. Learned counsel further submitted that it was highly improbable that a person would first scatter 95 currency notes on the ground in bank premises and put it on the fire with the match stick and that too without using any fuel. They further submitted that even the place of handing over the compliant Ex.PN by the complainant PW13 Jarnail Singh Thakur to the police was doubtful and the appellants are liable to be acquitted by this Court.

6. Learned State counsel has vehemently opposed the statements made by the learned counsel for the appellants. She has further submitted that the three appellants, namely, Yusuf, Liakat Ali

and Rifakat Ali were found in possession of fake currency notes and have been rightly convicted under Section 489-C of IPC. Even Anil Gupta, Branch Manager and Bhupinder Singh Cashier tried to burn the fake currency notes and, thus, 95 currency notes were also recovered at their instance and the offence under Section 201 IPC clearly made out against them. She further submitted that even the official witnesses examined by the prosecution were the competent witnesses and their testimonies could not be discarded on the ground that they were serving in the bank or with the police rather all the witnesses had proved the case against the appellants beyond the shadow of reasonable doubt.

7. I have heard learned counsel for the parties and with their able assistance, I have gone through the records of the case.

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8. Vide the impugned judgment, the learned trial Court had convicted Yusuf, Liakat Ali and Rifakat Ali, all three appellants under Sections 489-C read with Section 120-B IPC and were sentenced accordingly. I find no force in the arguments raised by the learned counsel for the appellants that the necessary ingredients to make out the offence under Section 489-C IPC are completely missing in the instant case. In fact, the prosecution had examined seventeen witnesses to prove the charge against the present three appellants. The prosecution examined PW2 Barkha Ram ASI, who

had partly investigated the present case. He clearly stated that he was in possession of one letter dated 07.09.1999, in which, Yusuf, appellant/accused had apologized about keeping fake currency notes and said letter was taken into possession vide Ex.PB. The prosecution further examined PW4 HC Didar Singh, in whose presence, 22 currency notes of the denomination of Rs. 500/- each were got recovered by Liyakat, appellant No. 2 as per his disclosure statement and these fake currency notes were taken into possession by the police vide Ex.PC after sealing the same in a plastic container bearing seal inscription “KS”. SI Des Raj had handed over to him the currency notes, which were duly sealed with the seal bearing inscription “DR” and these currency notes were sent by him to FSL Madhuban by hand through Constable Suresh Kumar. He proved on record the memo of recovery Ex.PC as well as currency notes as Ex.P1 to Ex.P22. The prosecution further examined PW7 Rajinder Sikka, an independent witness. In his presence, Anil Gupta, Bank Manager asked Yusuf as to from where he had taken five fake currency notes of Rs. 500/- denomination. Yusuf appellant No. 1/accused apologized from him. The prosecution further examined PW8 SI Des Raj. On 13.05.2000, he had recovered eight fake currency notes of Rs. 500/- denomination from Rifakat Ali and the currency notes were exhibited as Ex.P23 to Ex.P30 and were taken into possession by him vide memo Ex. PF. He also identified

accused Rifakat Ali in the Court. Similarly, the prosecution examined PW13 Jarnail Singh Thakur, Senior Inspector, Punjab National Bank, who had found that Yusuf appellant No. 1 had tried to deposit five fake currency notes of the denomination of Rs. 500/- and he was caught by the bank officials. Later on, the said five currency notes were half burnt by Anil Gupta, Bank Manager.

9. Thus, there was ample evidence against all the appellants that all the appellants were in possession of counterfeit currency notes and had reasons to believe the same to be counterfeit and were also intending to use the same as genuine.

10. In view of the above, it is apparent that all the three appellants were in possession of counterfeit currency. Not only that, Yusuf and his wife Nasima opened an account dated 21.08.1999 for a sum of Rs. 300/-, however, then an amount of Rs. 52,000/- was deposited in the said account and within next ten days, there was a withdrawal of Rs. 50,000/- from the same account, which clearly shows that the account was opened and operated to deposit the fake currency notes in the said account. Even Yusuf, when he was caught by Anil Gupta, Bank Manager, had tendered unconditional apology before the Manager of the bank on 07.09.1999 and he requested the bank manager to burn the notes and he would have no objection to the same and the same were actually set on fire by the bank officials. Thus, the argument by the learned counsel for the appellants that

they had no knowledge with regard to the fake currency notes, is liable to be rejected by this Court. Apart from that, even the notes were sent to the FSL and vide report Ex.PAA, the same were found to be counterfeit currency notes. Thus, the learned trial Court has rightly convicted the said appellants under Section 489-C IPC and the impugned judgment of conviction is liable to be upheld by this Court.

11. However, the appellants are undergoing the agony of trial/appeal since 10.09.999. Accused Yusuf has undergone 01 year, 01 months and 25 days of actual sentence whereas Liakat Ali had undergone 07 months and 20 days of actual sentence and Rifakat Ali had undergone 02 months and 01 day of actual custody. The custody certificate further shows that two more cases were registered against Yusuf. However, he is shown to have been acquitted. After the year 1999, he is not shown to have been involved in any other criminal cases. Similarly as per the custody certificate, no FIR was registered against Liakat Ali and Rifakat Ali as well.

12. Consequently, their sentence is reduced to the one already undergone by them. However, the amount of fine imposed upon them is ordered to be increased from Rs. 2000/- to 50,000/- each, which shall be deposited within a period of six months in the Punjab and Haryana High Court Bar Association Lawyer's Family

Welfare Fund from today, failing which, the appellants shall further undergo rigorous imprisonment for a period of one year.

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13. I have considered the rival submissions made by learned counsel for the appellants in both the appeals as well as learned State counsel and find that the impugned judgment and order of sentence are legally unsustainable.

14. To prove the charge against the present appellants, namely, Anil Gupta and Bhupinder Singh the prosecution heavily placed reliance on the statements of PW12 Jaspal Singh Jass, PW13 Jarnail Singh Thakur, PW15 ASI Krishan Singh, PW16 Karan Singh Retired Inspector and PW17 Yudhister Lal Arora, Retired Senior Manager of the Bank. The prosecution examined PW12 Jaspal Singh Jass, Chairman of the Bank, who had exhibited the appointment letters of both the appellants and also exhibited the sanction order for prosecution as Ex.PM. His testimony does not advance the case of the prosecution in any manner. The prosecution examined Jarnail Singh Thakur, Senior Inspector, Punjab National Bank as PW13, who had visited the branch of the bank on 08.09.1999. He stated that they had checked the cash deposit in the bank, but they did not find any fake currency notes in the total cash. During the inquiry, he found that Yusuf, co-accused had tried to deposit a sum of Rs. 50,000/- in the bank. He further stated that he had verified the facts from Anil Gupta,

Branch Manager, appellant and Bhupinder Singh Cashier, appellant and it was disclosed to him by Anil Gupta on 08.09.1999 that on 07.09.1999 five fake currency notes in the denomination of Rs. 500/- were tried to be deposited by Yusuf in the bank and these were destroyed and a letter to that effect was handed over to him by Anil Gupta. Later Anil Gupta had produced the five half burnt currency notes before him. He stated that on the same day, 95 half burnt fake currency notes of denomination of Rs. 500/- were taken into possession by the police from Anil Gupta and Bhupinder Singh in his presence vide seizure memo Ex.PQ. The prosecution further examined PW15 ASI Krishan Singh, who stated that on 10.09.1999, Jarnail Singh Thakur, Vigilence Officer, had produced five half burnt currency notes of denomination of Rs. 500/- before Karan Singh SHO, which were taken into police possession vide recovery memo Ex.PO. Thereafter, he came to know that Anil Kumar Gupta, appellant was putting the currency notes on fire and they extinguished the fire and took into possession 95 half burnt currency notes vide seizure memo Ex.PQ. Similarly, PW16 Karan Singh Retired Inspector also supported the testimony of PW15 ASI Krishan Singh. PW16 Karan Singh Retired Inspector stated that PW13 Jarnail Singh Thakur had produced the half burnt currency notes of Rs. 500/- denomination which were taken into possession by him and, thereafter, all of them went to the bank. They saw that on left side of the bank premises, one

person was putting the currency notes on fire and the said currency notes were taken into possession by them.

15. In fact, the present appellants have been charged for keeping in their possession counterfeit currency notes, knowing or having reasons to believe that the same were forged and counterfeit currency and which was intended to be used as genuine. In the instant case, it is apparent case of the prosecution that Anil Gupta had produced five half burnt currency notes alongwith apology letter of Yusuf before the police as well as higher officers of the bank. He had gone to conduct the raid at the bank. These half burnt counterfeit currency could not have been used in place of genuine currency notes. Still further, when these five notes were recovered from Yusuf, he was questioned by the bank officials and he tendered his apology vide letter Ex.PB. In the said letter, he not only apologized for depositing five notes, but also requested the bank officials that the said counterfeit currency notes may be set on fire and he shall have no objection to the same. He also assured the bank officials that he would not repeat it and in case he does so in future, the matter may be reported to the police. It appears that in good faith, the bank officials had set the counterfeit currency notes on fire and also informed their higher police officials in the head office of the bank. In fact, from the facts of the case, it is apparent that there was no *mens rea* for commission of the offence by the present appellants and in good faith,

they had set the counterfeit currency notes on fire and had taken an apology letter from Yusuf and informed their higher bank officials. Had there been any intention on the part of the appellants to keep the counterfeit currency notes with themselves to use the same as genuine, they would have never set the currency notes on fire. Thus, it is evident that the present appellants have been wrongly convicted by the trial Court.

16. Apart from that, from a perusal of the testimony of PW7 Rajinder Sikka, Numberdar of the village, it is apparent that on 07.09.1999, he was called to the bank by Anil Gupta, Bank Manager. Accused Yusuf and Liyakat Ali were present in branch of the bank and Anil Gupta Manager was questioning them about the deposit of five fake currency notes of Rs. 500/- each. He further deposed that in his presence, Anil Gupta, Branch Manager, telephonically contacted the head office at Ambala and as per the instructions, he had sought a written apology from Yusuf etc., The apology was marked as Mark A. The said apology was taken into possession by PW2 Barkha Ram vide memo Ex.PB and the apology was later made part of record as Ex.P-34. This fact also establishes that even as per the witnesses of the prosecution also, both the appellants, i.e. Anil Gupta and Bhupinder Singh Cashier were performing their duties in accordance with the instructions received from the Head Office of the Bank. Apart from that, from a perusal of the statement of PW13 Jarnail

Singh Thakur, complainant, it is apparent that the police had been called by Anil Gupta appellant himself and it cannot be believed that both the present appellants had conspired with other accused and both the appellants are entitled to benefit of doubt.

17. Resultantly, both the appeals succeed. The judgment of conviction dated 08.07.2004 and order of sentence dated 09.07.2004, passed by the learned Additional Session Judge, Yamuna Nagar, at Jagadhri qua Anil Gupta and Bhupinder Singh are ordered to be set-aside and they are acquitted of the charges framed against them.

18. All pending applications, if any, are disposed off, accordingly.

19. The case property, if any, may be dealt with as per the rules after expiry of period of limitation for filing the appeal.

20. Records of the Court below be sent back.

05.12. 2022

amit rana

(N.S.SHEKHAWAT)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No