

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

(1) CRA-S-2490-SB-2007 (O&M)
Dari Ram ...Appellant

Versus

State of Haryana ...Respondent

(2) CRA-S-32-SB-2008 (O&M)
Gurcharan Singh and others ...Appellants

Versus

State of Haryana ...Respondent

Date of pronouncement: 09.09.2022

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. S.S. Sandhu, Advocate for the appellants.

Mr. Vijesh Sharma, Addl. AG Haryana.

H.S. MADAAN, J.

1. By this judgment, I intend to dispose of above mentioned two appeals arising out of the same judgment. Appeal No.CRA-S-2490-SB-2007 has been filed by appellant Dari Ram , whereas, appeal No. CRA-S-32-SB-2008 has been filed by appellants Gurcharan Singh, Inderjeet Singh and Mukhi.

2. Briefly stated the facts of the case, as per prosecution story are that Station House Officer of Police Station Sadar, Fatehabad had

forwarded Mukhi, Dari Ram, Gurcharan Singh, Inderjeet Singh, Ashok Kumar @ Shoki and Surender Singh @ Ladi, all of them being accused in FIR No.30 dated 13.01.2002, to face trial for offences under Sections 489-A, 489-B, 489-C and 489-D IPC.

As the prosecution story goes on 13.01.2002 at about 3.45 PM, ASI Charan Singh (hereinafter referred to as Investigating Officer/IO) along with other police officials from Police Station Sadar, Fatehabad while travelling in Govt. jeep bearing No.HR22-B-1180 being driven by Constable Krishan Kumar was on routine patrolling duty going from area of road leading to village Dhangar from village Bighar, where the IO received a secret information that all accused mentioned above were, indulging in illegal business of selling and circulating counterfeit Indian currency notes in the area and accused Dari Ram and Mukhi would come from Ratia side riding a Vicki moped carrying counterfeit currency notes for selling and circulating the same in village Bighar and in case a picket was laid, they could be apprehended while being in possession of counterfeit currency notes.

Accordingly, a naka was laid at T-point Bhodia-Bighar road; after about 30 minutes, a Vicki moped with two riders was spotted coming on road; the IO signaled that moped to stop and accordingly it came to a halt; on being enquired, the person driving the moped disclosed his name as Dari Ram son of Ram Lal whereas the pillion rider told his name as Mukhi Ram son of Dariya Ram; the riders were asked to show the registration certificate of the moped but they could not do so; personal

search of Dari Ram and Mukhi was conducted, which resulted in recovery of 50 currency notes of denomination of Rs.50 each bearing series No.4TT673084 on 30 currency notes and 4TT673085 on 20 currency notes; however, water marks and security threads were missing in those currency notes; five currency notes of denomination of Rs.100 each and one currency note of denomination of Rs.500 in which security thread and water marks were there of the total value of Rs.3500/- were recovered from the possession of accused Dari Ram, whereas 50 currency notes of denomination of Rs.50 bearing No.4TT673084 upon three currency notes, 4TT673085 on 10 currency notes, 4TT673086 on 37 currency notes in which water marks and security threads were missing as well as 05 currency notes of denomination of Rs.100 each and one currency note of denomination of Rs.500 in which water marks and security threads were there were recovered from the possession of accused Mukhi; all the recovered currency notes were put in envelopes which were converted into sealed parcels sealed with the seal of IO having impression 'CS'; seal after use was handed over to HC Rajbir Singh; both the sealed parcels were taken into police possession, vide recovery memo Ex.P4, duly attested by witnesses; Vicki moped was also taken into police possession, vide recovery memo Ex.P5.

Accused were arrested in this case as per rules, preparing requisite documents; ruqa Ex.P20 was sent to the police station on the basis of which formal FIR Ex.P21 was registered; the IO prepared rough site plan of the place of recovery Ex.P22.

After registration of the FIR, investigation in the case started; accused Dari Ram was interrogated, during the course of which, he stated that he had got counterfeit currency notes of value of Rs.5000/- from Inderjeet Singh through Gurcharan Singh by paying Rs.2500/- at the residence of Gurcharan Singh; accused Dari Ram stated that he did not know the location of house of Inderjeet Singh but he could locate house of Gurcharan Singh; his such disclosure statement was recorded as Ex.P6, thumb marked by accused Dari Ram and attested by HC Rajbir Singh and Constable Suresh Kumar.

Thereafter, accused Mukhi was interrogated who also suffered a similar disclosure statement Ex.P7 on the lines of accused Dari Ram ; such disclosure was thumb marked by accused Mukhi and attested by HC Rajbir Singh and Constable Suresh Kumar.

Thereafter, both these accused while in police custody proceeded towards Ratia and while in the area of Dhani Jakhan Dadi, accused Mukhi and Dari Ram pointed out towards a person who was coming to that place; such person on being asked disclosed his name as Gurcharan Singh @ Bahu; Gurcharan Singh @ Bahu was apprehended and his personal search was conducted which resulted in recovery of counterfeit currency notes worth Rs.1270/- including one counterfeit currency note of denomination of Rs.500/-, one of Rs.100, 13 of denomination of Rs.50 and one of denomination of Rs.20; those currency notes were taken into police possession, vide recovery memo Ex.P8, attested by witnesses; sealed parcels of those recovered notes were

prepared, sealed with seal of IO having inscription 'CS'; that seal was taken by IO from HC Rajbir Singh.

Accused Gurcharan Singh @ Bahu during investigation disclosed that he had taken counterfeit currency notes of value of Rs.25,000/- from Inderjeet Singh by paying him an amount of Rs.12,500/- and that on 11.01.2002 fake currency notes of value of Rs.5000/- were got supplied by him to Mukhi and Dari Ram from Inderjeet Singh against a sum of Rs.2500/- and he had taken Rs.1250/- and Rs.250/- as commission; his disclosure statement Ex.P9 had been recorded, duly thumb marked by him and attested by witnesses HC Rajbir Singh and Constable Vinod Kumar.

Further during the investigation of the case, accused Inderjeet Singh was apprehended from a place in front of his house situated at Tibba Colony, Fatehabad on pointing out of accused Gurcharan Singh; personal search of accused Inderjeet Singh was also carried out and 90 fake currency notes of denomination of Rs.50 each were recovered from his possession; those fake currency notes were converted into sealed parcels sealed with seal of IO having impression 'CS'; parcels were taken into police possession vide seizure memo Ex.P10, attested by witnesses; rough site plan of place of recovery was prepared Ex.P24.

Accused Inderjeet Singh, while in police custody was interrogated, during course of which he disclosed that he used to take fake currency notes from Shoki by paying Rs.100 of genuine currency for

receiving fake currency notes of value of Rs.300; he stated that he could point towards Ashok Kumar @ Shoki and location of his house; his disclosure statement had been recorded as Ex.P11, signed by accused Inderjeet Singh and attested by witnesses; thereafter in pursuance of such statement, Inderjeet Singh accused while in police custody took the police party to the house of accused Ashok Kumar located in Ward No.4 in Ratia; Ashok Kumar was standing in front of his house; he was apprehended and his personal search was conducted, which resulted in recovery of 100 fake currency notes of denomination of Rs.50 each; sealed parcel of the recovered fake currency notes was prepared, sealed with seal of IO having impression 'CS'; then said sealed parcel was taken into police possession, vide recovery memo Ex.P12, attested by witnesses and site plan of place of recovery was prepared as Ex.P25.

Then accused Ashok Kumar @ Shoki was interrogated, during the course of which he disclosed that the counterfeit currency notes were being prepared by Surender Singh @ Ladi on his asking at Computer Centre, Ratia but at that time, those were being prepared at house of Surender Singh @ Ladi, since the computer centre had been closed; he further disclosed that one key of the house where the computer was lying was with him where as other key was with accused Surender Singh @ Ladi; accused Ashok Kumar @ Shoki offered to get the computer and other articles recovered from the house of Surender Singh @ Ladi; his disclosure statement Ex.P13 was recorded, which was signed by accused and attested by witnesses.

Thereafter, Ashok Kumar in pursuance of disclosure statement got recovered colour laser printer Ex.P27, monitor Ex.P28, keyboard Ex.P29, CPU Ex.P30, colour scanner Ex.P31, mouse Ex.P32 from the disclosed place, which were taken into police possession, vide recovery memo Ex.P14 attested by witnesses; rough site plan of the place of recovery was prepared as Ex.P26.

The fake currency notes recovered from accused Dari Ram being Ex.P33 to P82; such notes recovered from Mukhi being Ex.P83 to P132; genuine currency notes recovered from Dari Ram and Mukhi, Mark A to A12; the fake currency notes recovered from accused Gurcharan Singh being Ex.P133 to P148; such notes recovered from the possession of Inderjeet Singh being Ex.P149 to P238; counterfeit currency notes recovered from accused Ashok Kumar @ Shoki Ex.P239 to P338.

During the course of investigation, the recovered currency notes were sent to the Forensic Science Laboratory, Haryana at Madhuban, Karnal for analysis and reports from there were received as Ex.P348 and P349.

On completion of investigation and other formalities, challan against accused Mukhi, Dari Ram, Gurcharan Singh, Inderjeet Singh and Ashok Kumar @ Shoki was prepared and filed in the Court of Illaqa Magistrate, Fatehabad, since, one of the accused Surender Singh @ Ladi could not be arrested and he had been declared a proclaimed offender. Such Magistrate supplied copies of documents relied upon in the challan

to the accused free of costs as provided under Section 207 Cr.P.C., and then finding that the offences for which the accused has been booked were exclusively triable by the Court of Sessions, vide order dt. 24.05.2002, committed the case to the Court of Sessions at Fatehabad and it was received in the Court of Addl. Sessions Judge-I, Fatehabad.

Subsequently, accused Surender Singh @ Ladi was arrested and supplementary challan against him was prepared and filed in the Court of Illaqa Magistrate, Fatehabad, Learned Magistrate after complying with provisions of Section 207 Cr.P.C., vide order dated 07.04.2003 committed the case to Addl. Sessions Judge-I, Fatehabad.

On receipt of original challan and supplementary challan, against Surender Singh @ Ladi, finding a prima facie case, charge for offences under Sections 489-A, 489-B, 489-C and 489-D of IPC was framed against all the accused, to which they pleaded not guilty and claimed trial.

3. During the course of prosecution evidence, it examined as many as 10 witnesses as detailed below:-

PW-1 Constable Lachhami Kant, a formal witness tendered in evidence his affidavit Ex.P1; inter alia in the affidavit, he deposed that on 19.03.2002, he was posted at PS Sadar, Fatehabad and on that day, MHC Jaspal Singh took out 05 parcels containing counterfeit currency notes duly sealed with seal having impression 'CS' and handed over the same to him along with RC no.611 dt. 19.03.2002 for the purpose of depositing the parcels at Reserve Bank of India, New Delhi; he

accordingly went there but the Bank Manager told him that the parcel should be brought by the IO himself, as such, he returned to the police station and deposited the parcels with MHC Jaspal Singh and during the period the sample parcels remained in his possession, neither he tampered with the same nor he allowed anybody else to do so.

PW-2 HC Jaspal Singh who stated that on 19.03.2002 he was posted as MHC at PS Sadar, Fatehabad; he tendered his affidavit in evidence as Ex.P2, testifying that on 03.03.2002, ASI Charan Singh (IO) had deposited with him five parcels sealed with seal having impression 'CS'; that on 19.03.2002, he had handed over such five sealed parcels along with docket to Constable Lachhami Kant for the purpose of depositing those at RBI, New Delhi; such Constable had gone there but was told that IO should come himself along with parcels, therefore, Constable Lachhami Kant had handed over such parcels to him; that on 21.03.2002, he handed over such sealed parcels along with docket to ASI Charan Singh, IO who deposited the same in the office of RBI at New Delhi and on return, handed over receipt to him; he stated that during the period, the sample parcels remained with him, no tampering therewith had taken place.

PW-4 HC Om Parkash, Reader to DSP City, Hisar stated that on 13.01.2002, he was posted as MHC, PS Sadar, Fatehabad; he tendered in evidence his affidavit as Ex.P3; inter alia in the affidavit, he stated that on 13.01.2002, ASI Charan Singh had deposited five sealed parcels with him and on 03.03.2002 and on his transfer, he had handed over such

parcels to MHC Jaspal Singh and that during the period such parcels remained in his possession, neither he nor anybody else tampered with the same.

PW-3 Inspector Vijay Kumar stated that on completion of investigation, he had prepared final report under Section 173 Cr.P.C. against all the accused except accused Surender Singh @ Ladi and the challan against the latter was prepared on 31.03.2003.

PW-5 HC Rajbir Singh, a witness of recovery; PW-6 ASI Charan Singh, the IO supported the prosecution story on material aspects.

PW-7 Inspector Surat Singh stated that on receipt of ruqa, he had registered formal FIR in this case, copy of which being Ex.P21.

PW-8 HC Mewa Singh; PW-9 SI Ishar Singh proved the disclosure statement Ex.P39 made by accused Surender Singh @ Ladi as well as seizure memo Ex.P340.

PW-10 Ved Parkash, Manager (retired), a resident of VPO Kanpur, New Delhi stated that on 21.03.2002, he was posted at RBI, New Delhi as treasurer and on that day, ASI Charan Singh brought five parcels of currency notes for checking; he had opened those parcels and checked the currency notes contained therein; such currency notes included one of denomination of Rs.500, one of Rs.100, one of Rs.20, 303 notes of Rs.50 denomination; according to him, after examining such currency notes, he found that those were not genuine; he proved the notes examined by him which were found to be fake as Ex.P33 to P82 and Ex.P83 to P338; he stated that he had deposed that final opinion in this regard be taken from

Currency Notes Press, Nasik or Bank Note Press, Devas; this witness proved his report as Ex.P347.

The Public Prosecutor tendered in evidence reports from FSL as Ex.P348 and P349. Report Ex.P348 mentions that one sealed cloth parcel bearing seals of 'CS' which contained 56 notes of different denominations and said to have been recovered from Dari Ram son of Ram Lal denoted as parcel 'A'; another parcel 'B' in the form of sealed cloth parcel bearing seals of 'CS' containing 56 notes of different denominations stated to have been recovered from Mukhi; parcel 'C' sealed cloth parcel containing 16 notes of different denominations stated to have been recovered from Gurcharan Singh; parcel 'D', a cloth parcel contained 90 notes of denomination of Rs.50 stated to have been recovered from Inderjeet Singh; the details of such recovered notes are mentioned in the report and as per the opinion given, the questioned notes mark Q1 bearing No.6AW751278 and mark Q2 bearing No.1AAA710762 were found to be genuine currency notes of denomination of Rs.500/- (Mahatma Gandhi series each), whereas, questioned note mark Q3 bearing No.IBQ263662 alleged to have been recovered from Gurcharan Singh was not opined to be genuine currency note of denomination of Rs.500 (Mahatma Gandhi series), rather it was opined to be a counterfeit note; it was further opined that the questioned notes Mark D1 and D2 to D10 (Mahatma Gandhi series) were genuine currency notes of denomination of Rs.100 each whereas questioned notes Mark D11 bearing No.8SME629232 (alleged to have been recovered from

Gurcharan Singh) was not a genuine currency note, rather a counterfeit one.

As per opinion given, the questioned notes Mark E1 to E303 were not genuine currency notes of denomination of Rs.50/- each. Similarly, questioned note Mark F1 was opined to be a counterfeit note and in terms of report Ex.P349, the sealed parcel No.1 received there sealed with seal of 'IS' contained four currency notes of denomination of Rs.50 each said to have been recovered from Surender Singh @ Ladi. Those notes were found to be genuine currency notes and rather counterfeit ones. The reasons for arriving at such opinion are given in these reports.

4. After closure of the prosecution evidence, statements of the accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing in prosecution evidence against the accused were put to them but they denied the allegations contending that they were innocent and had been falsely involved in this case.

Accused Mukhi denied any recovery having been effected from him. Similar plea had been taken by Dari Ram, Inderjeet Singh, Gurcharan Singh, Surender Singh @ Ladi, Ashok Kumar @ Shoki.

The accused did not lead any evidence in defence.

5. After hearing arguments, learned trial Court, vide impugned judgment dated 30.10.2007, convicted accused Mukhi, Dari Ram, Gurcharan Singh, Inderjeet Singh, Ashok Kumar @ Shoki and Surender Singh @ Ladi for offences under Sections 489-A and 489-C of IPC

whereas accused Gurcharan Singh, Ashok Kumar @ Shoki, Inderjeet Singh, Mukhi and Dari Ram were convicted for an offence under Section 489-B IPC, whereas, Surender Singh @ Ladi and Ashok Kumar @ Shoki were convicted for offences under Section 489-D IPC and in terms of the order passed on 31.10.2007, they were sentenced as follows:-

Appellant/accused Dari Ram, Gurcharan Singh, Inderjeet Singh and Mukhi were sentenced to undergo rigorous imprisonment (RI) for a period of 07 years each and to pay a fine of Rs.5000/- each for offences U/s 489-A and 489-B IPC; in default of payment of fine, to undergo further simple imprisonment for three months; they were further sentenced to undergo rigorous imprisonment (RI) for a period of 05 years each and to pay a fine of Rs.5000/- each for offence U/s 489-C IPC; in default of payment of fine, to undergo further simple imprisonment for three months. All the sentences were ordered to run concurrently.

6. Feeling aggrieved by the said judgment of their conviction and sentence, accused/appellant Dari Ram had filed appeal No.CRA-S-2490-SB-2007, whereas, accused/appellants Gurcharan Singh, Inderjeet Singh and Mukhi had filed appeal No. CRA-S-32-SB-2008. The appeals were Admitted for regular hearing and recovery of fine was ordered to remain stayed. On applications having been filed, their remaining sentence was suspended during pendency of the appeals.

Now the appeals have come up for final hearing.

7. It may be mentioned here that in appeal bearing No.CRA-S-32-SB-2008 in terms of report received, appellant Inderjeet Singh had

expired, therefore, appeal qua him is ordered to be abated, whereas, concession of suspension of sentence given to Gurcharan Singh and Mukhi was withdrawn, observing that they were trying to prolong the proceedings. As per report received, Gurcharan Singh and Mukhi have since been arrested. Since there was no representation on behalf of the appellants, an Amicus Curiae has been appointed to assist the Court on behalf of the appellants.

8. I have heard learned counsel representing the appellants as well State counsel besides going through the record.

9. In the present case, the appellants/accused had been challaned for offences under Sections 489-A, 489-B, 489-C and 489-D IPC. For ready reference, these provisions are reproduced as under:-

489A. Counterfeiting currency-notes or bank-notes.—Whoever counter-feits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with 2[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

489B. Using as genuine, forged or counterfeit currency-notes or bank-notes.—Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with 2[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

489C. Possession of forged or counterfeit currency-notes or bank-notes.—Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to

use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

489D. Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.—Whoever makes, or performs, any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with 2[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

10. First taking up offence under Section 489-A IPC i.e. counterfeiting currency notes or bank notes, accused Mukhi, Dari Ram, Gurcharan Singh, Inderjeet Singh and Ashok Kumar @ Shoki have been convicted for that offence. However, after hearing arguments advanced by Sh. S.S. Sandhu, Advocate on behalf of appellants as well as learned State counsel and going through the record, I find that essential ingredients of this offence are not found to be there. It is neither the case of prosecution nor it has brought any evidence on file that any of the accused was found indulging in counterfeiting the Indian currency notes. The main thrust of the case is that they were found in possession of the counterfeit currency notes, therefore, conviction of appellants/accused for offence under Section 489-A is not sustainable and is liable to be set aside. It is ordered accordingly.

11. Now coming to other offence for which the accused Gurcharan Singh, Ashok Kumar @ Shoki, Inderjeet Singh, Mukhi and

Dari Ram have been convicted i.e. offence under Section 489-C IPC. The prosecution has led enough cogent and convincing evidence to prove recovery of counterfeit currency notes from their possession. PW-6 ASI Charan Singh categorically deposed in that regard, stating that on 13.01.2002, while he was member of the police party headed by him, when on receipt of information, they had laid a naka, Mukhi and Dari Ram riding a vicki moped were intercepted and their search resulted in recovery of counterfeit currency notes. The second witness of recovery PW-5 HC Rajbir Singh also corroborated his version. From depositions of these very witnesses, the recovery of fake currency notes from Gurcharan Singh, worth Rs.1270/- stands established.

Similarly recovery of counterfeit currency notes from possession of Inderjeet Singh, Ashok Kumar stand established. Though, these witnesses of recovery were subject to lengthy cross-examination on behalf of the accused but they remained unshattered and could not be shaken on any material point. No previous enmity between these official witnesses and the accused has been alleged or proved, prompted by which they might have involved the accused in this case wrongly or deposed against them to secure their conviction. The account given by them appears to be natural and convincing, inspiring confidence. From reports received from FSL, Madhuban, it comes out that the recovered notes were found to be fake/counterfeit. Therefore, conviction of appellants/accused under Section 489-C is upheld.

12. Next coming to conviction of accused for offence under

Section 489-B IPC. Again I find that the trial Court fell in error in convicting the accused for the said offence. It is certainly not the case of the prosecution that the accused were trying to pass off the counterfeit currency notes as a genuine one and that they were caught in the process. Similarly, there is no enough cogent or convincing evidence available on record to show that any of the accused was involved in sale and purchase of counterfeit currency notes, though, according to prosecution, the accused during the course of investigation, had stated that they had purchased currency notes from Inderjeet Singh and Ashok Kumar but in the absence of any corroborative evidence, such statements of co-accused can certainly be not made basis for conviction of the accused. Evidence is certainly lacking that the accused indulged in trafficking of counterfeit currency notes. Every accused is to answer for possession of the fake/counterfeit currency notes and cannot be made liable for the offences with regard to printing/dealing with counterfeit currency notes by other accused. Therefore, conviction of appellants/accused for offences under Sections 489-B can certainly be not sustained.

13. Keeping in view the above discussion, the appeal bearing No.CRA-S-2490-SB-2007 filed by appellant Dari Ram and appeal No. CRA-S-32-SB-2008 filed by appellants Gurcharan Singh and Mukhi, are accepted partly. The conviction and sentence of appellants Dari, Gurcharan Singh and Mukhi for offence under Section 489-A IPC is set aside, whereas, their conviction for offence under Section 489-C IPC is upheld.

14. Although, learned counsel for the appellants has prayed that a lenient view in the matter be taken, keeping in view the fact that the accused/appellants are old aged persons now; the recovery had taken place about more 20 years back; the accused have not indulged in any crime in the meanwhile. However, having overall view of the facts and circumstances of the case and considering that accused having been found in possession of counterfeit Indian currency notes, affecting the economy of the country, do not deserve any leniency.

15. The appeals stand partly allowed.

16. Accused/appellant Dari Ram who was granted the concession of suspension of sentence during the pendency of the appeal in terms of the order passed by this Court is ordered to surrender before Chief Judicial Magistrate, Fatehabad within a week from today, failing which learned CJM, would issue warrants of arrest to secure his presence and send him to jail. Whereas, appellant No.1 Gurcharan Singh and appellant No.3 Mukhi are already in custody after concession of bail was withdrawn. All the appellants be made to undergo the remaining sentence under Section 489-C IPC. Necessary intimation be sent to the Court concerned in this regard.

09.09.2022

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(H.S. MADAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No