

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

CRR-664-2022(O&M)

Date of Decision:-08.04.2022

Nand Singh & Anr.

.....**Petitioners.**

Versus

State of Punjab.

.....**Respondent.**

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Brijeshwar Singh Bhalla, Advocate for the Petitioners.

JASJIT SINGH BEDI, J. (ORAL)

The present revision has been preferred against the judgment dated 10.03.2022 of the Learned Sessions Judge, Moga whereby while partially allowing the appeal of the appellants (petitioners herein), the judgment of conviction and order of sentence dated 15.11.2019 passed by learned Chief Judicial Magistrate, Moga in case FIR No.214 dated 18.11.2013 under Sections 419, 420, 465, 467, 468 and 471 IPC P.S. City Moga has been upheld..

2. The brief case of the prosecution was that the present FIR was lodged on the basis of an application bearing no.3238/EB dated 08.11.2013 moved by Sh. Karamjit Singh Kang, the then learned District & Sessions Judge, Moga to the Senior Superintendent of Police, Moga with the subject "Application dated nil made by Balwinder son of Gurnam Singh resident of village Lande Ke, received on 04.10.2013". The said application was moved on the grounds that one Balwinder Singh son of Gurnam Singh, resident of village Lande Ke moved an application dated 04.10.2013 to the

office of the then learned District & Sessions Judge, Moga informing that Jasvir Singh son of Buta Singh and Nand Singh son of Gulzara Singh, residents of village Lande Ke were in the habit of furnishing sureties by forging documents and they also on 10.01.2013, furnished surety in a cross case bearing FIR No.60 dated 28.06.2012 under Sections 323, 148, 149 IPC, P.S. Mehna, in the Court of Ms. Suman Agnihotri, the then learned Judicial Magistrate Ist Class, Moga, by furnishing fake jamabandi and on receipt of this application a report was called from the Court of Ms. Suman Agnihotri, the then learned Judicial Magistrate Ist Class, Moga who vide her office letter no.540 dated 29.10.2013 submitted in her report that Kewal Singh Patwari of the concerned circle was called by that Court according to whom a copy of jamabandi which was on the file in case State Vs. Sandeep Singh etc., was not issued by him nor it was signed by him. The SSP, Moga directed DSP (City), Moga to enquire and take necessary/legal action and report. Thereafter, the initial investigation was conducted by ASI Baljit Singh. On 22.11.2013, SI Palwinder Singh arrested accused Jasvir Singh. On 11.02.2014, accused Nand Singh was arrested. Further investigation was carried out. After completion of the investigation, challan under Section 173 Cr.PC was presented in Court on 18.04.2014, under Section 419, 420, 465, 467, 468, 471 IPC against the accused.

3. From the perusal of the police report sent by the police under Section 173 Cr.PC(Challan) and the documents referred therein a prima-facie case under Section 419, 420, 465, 467, 468, 471 IPC was made out against the accused and they were charge-sheeted thereunder on 02.09.2014, to which they pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined PW-1 Abhay Sharma (Record Clerk of Judicial Record Room, Moga) who appeared and deposed that he had brought the summoned record of judicial file bearing FIR No.60 dated 28.06.2012 under Sections 323, 148, 149 IPC, PS Mehna. In the record brought by him, surety Nand Singh had furnished surety bonds on the basis of jamabandi lying in his name for the bail of Chinder Kaur and proved on record attested copies of documents as Ex.P-1 to Ex.P-5 i.e. surety bond, particular of surety, affidavit of Nand Singh, Jamabandi, copy of ration card of Nand Singh which are correct as per original record. He further deposed that in the record brought by him,

surety Jasvir Singh had furnished surety bonds on the basis of jamabandi lying in his name for the bail of Gagandeep Singh and proved on record attested copies of documents as Ex.P-6 to Ex.P-10 i.e. surety bonds, particulars of surety, affidavit of Jasvir Singh, jamabandi, copy of ration card of Jasvir Singh which are correct as per original record.

5. PW-3 Kewal Singh (Kanungo, Office of Kanungo, Dharamkot) appeared and deposed that on 25.10.2013, he was posted as Halqa Patwari, Lande Ke. On that day, he was directed to appear in the Court of Smt. Suman Agnihotri, the then learned Judicial Magistrate Ist Class, Moga along with revenue record of village Lande Ke. He was directed to check copy of jamabandi 2008-09 Khewat No.307 Khatoni No.444 and Khewat No.326 Khatoni No.444 lying in the judicial file of the said court. He found that the said certified copy was not issued by him and did not bear his signatures. The signatures on the said jamabandi were forged and fabricated. Further, the said copy was handwritten, whereas at that time, the copies were generated through computer. The said copy of jamabandi was not correct as per the original record and same was forged and fabricated one. He had seen the photocopy of the said jamabandi in the judicial file which is Ex.P-4 and did not bear his signatures and same was not issued by him. He gave a report regarding the above said fact to the Court, which was in the file and same was Ex.PW-3/A. He had seen the specimen signatures Ex.PW-2/C taken by the Executive Magistrate, for comparison. Further he brought the original record i.e. the jamabandi register for the year 2008-2009 of the village Lande Ke bearing Khewat No.307 and as per record Khewat No.307 bears Khatauni No.381, the owner of the land was Nirbhai Singh and others and copy of the same was Ex.PW-3/B. He also brought the jamabandi for the year 2008-2009 of village Lande Ke bearing Khewat No.326, Khewat No.32 bears Khatauni No.400 and owner of land was Ramandeep Kaur and others and copy of same is Ex.PW-3/C.

6. The Complainant PW-5-Balwinder Singh (Numberdar) appeared and deposed that he was Numberdar of village Lande Ke and on 04.10.2013, he had moved an application to the Hon'ble District & Sessions Judge, Moga, that Jasvir Singh son of Buta Singh and Nand Singh son of Gulzara Singh, residents of village Lande Ke were in habit of furnishing surety by forging documents and they also on 10.01.2013, furnished surety

in a cross case bearing FIR No.60 dated 28.06.2012 under Sections 323, 148, 149 of IPC, PS Mehna in the court of Ms. Suman Agnihotri, the then Judicial Magistrate Ist Class, Moga by furnishing a fake jamabandi. He had seen the photocopy of the said application which is Mark-A on which he identified his signature at Point-A and same are Ex.PW-5/A. He further deposed that he had moved the application before learned District & Sessions Judge, Moga against the accused Jasvir Singh and Nand Singh for taking necessary action. Further, he proved on record copy of application as Mark-A and identified his signatures at Point-A on Mark-A which are Ex.PW-5/A.

7. PW-8 Ms. Suman Agnihotri, (Addl. Civil Judge(Senior Division) cum Sub Divisional Judicial Magistrate, Rajpura) appeared and deposed that on 04.10.2013 she was posted as Judicial Magistrate Ist Class Cum Civil Judge (Junior Division), Moga and on that day, application moved by Balwinder Singh Numberdar son of Gurnam Singh was received by her from the office of learned District & Sessions Judge, Moga with the directions to submit report regarding the matter. Thereafter, she requisitioned the original case file of FIR No.60 dated 28.06.2012 titled as State Vs. Kamaljeet Singh and State Vs. Tarsem Singh (cross cases) from Ahlmad of her court as above said cases were pending in her court. Accused Nand Singh had filed surety bond on behalf of Shinder Kaur alias Shinderpal and had stood as surety for the said accused. She had seen the original surety bonds, affidavit and copy of jamabandi etc submitted by accused on behalf of Shinderpal Kaur from the summoned file and copies of same are Ex.P1 to Ex.P5. Accused Jasvir Singh had filed surety bonds on behalf of accused Gagandeep Singh son of Pappu and has stood as surety for the said accused. She had seen the original surety bonds, affidavit and copy of jamabandi etc submitted by the said accused on behalf of Gagandeep Singh from the summoned file and copies of same were Ex.P6 to Ex.P10. Thereafter, she sent notice to the concerned Patwari of village Lande Ke for verifying the correctness and genuineness of the jamabandies Ex.P4 and Ex.P9. She had seen the original notice in the summoned file and copy of same is Ex.PW7/B and same was issued under her signatures. The Patwari submitted his report Ex.PW3/A regarding the above said jamabandies wherein, he reported that both the jamabandies are forged and

have not been issued by him. Thereafter, she prepared her report. She has seen the original report in the summoned record and copy of same is Ex.PX. She submitted her report Ex.PX to the office of Learned District & Sessions Judge, Moga on 29.10.2013 and thereafter, the present case was registered against the accused.

8. In defence, the accused examined Amandeep Singh as DW1 who appeared and deposed that he is permanent resident of village Lande Ke. There was one office of Patwari in his village. The office was situated near his house. There are so many private persons who work under Patwari. They prepared revenue jamabandies for the villagers. The Patwari remained absent from his office. All the revenue work was done by the private persons who were appointed on daily wages by the Patwari. Jamabandies related to the present case brought by him were given by private persons employed by the concerned patwari.

9. Based on the evidence led and the documents exhibited the accused were convicted and sentenced as under:-

Name of Convict	Offence	Sentence	Fine	Sentence in default of payment of fine
Jasvir Singh	419 IPC	Rigorous imprisonment for one year	Rs.500/-	To further undergo rigorous imprisonment for 15 days
	420 IPC	Rigorous imprisonment for one year	Rs.500/-	To further undergo rigorous imprisonment for 15 days
	465 IPC	Rigorous imprisonment for two years	Rs.500/-	To further undergo rigorous imprisonment for 15 days
	467 IPC	Rigorous imprisonment for one year	Rs.500/-	To further undergo rigorous imprisonment for 15 days
	468 IPC	Rigorous imprisonment for two year	Rs.500/-	To further undergo rigorous imprisonment for 15 days
	471 IPC	Rigorous imprisonment for two year	Rs.500/-	To further undergo rigorous imprisonment for 15 days

Nand Singh	419 IPC	Rigorous imprisonment for one year	Rs.500/-	To further undergo rigorous imprisonment for 15 days
	420 IPC	Rigorous imprisonment for one year	Rs.500/-	To further undergo rigorous imprisonment for 15 days
	465 IPC	Rigorous imprisonment for two years	Rs.500/-	To further undergo rigorous imprisonment for 15 days
	467 IPC	Rigorous imprisonment for one year	Rs.500/-	To further undergo rigorous imprisonment for 15 days
	468 IPC	Rigorous imprisonment for two years	Rs.500/-	To further undergo rigorous imprisonment for 15 days
	471 IPC	Rigorous imprisonment for two years	Rs.500/-	To further undergo rigorous imprisonment for 15 days

10. An appeal was preferred before the court of learned Sessions Judge, Moga, who vide judgment dated 10.03.2022 partially accepted the same and sentenced the appellants as under:-

Name of Convicts	Offence	Sentence	Fine	Sentence in default of payment of fine
Jasvir Singh & Nand Singh	419 IPC	Acquitted		
-do-	420 IPC			
-do-	465 IPC	Rigorous imprisonment for two years each	Rs.500/-	To further undergo rigorous imprisonment for 15 days
-do-	467 IPC	Rigorous imprisonment for one year each	Rs.500/-	To further undergo rigorous imprisonment for 15 days
-do-	468 IPC	Rigorous imprisonment for two years each	Rs.500/-	To further undergo rigorous imprisonment for 15 days

-do-	471 IPC	Rigorous imprisonment for two years each	Rs.500/-	To further undergo rigorous imprisonment for 15 days
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11. The Counsel for the petitioners has argued that the evidence of DW-1 Amandeep Singh was not properly appreciated and the document Ex.DW-1/A i.e. the jamabandi was ignored. He further contended that the complainant-respondent had miserably failed to bring home the guilt of the petitioners and the judgment was passed on conjectures and surmises. He lastly argued that the petitioners being first time offenders, they ought to be granted the benefit of probation.

12. I have heard counsel for the petitioners at length.

13. The petitioners had examined DW1 Amandeep Singh and placed on record a document i.e. jamabandi for the year 2013-14 Ex.DW1/A to show that they were owners in possession of land mentioned in jamabandies Ex.P4 and Ex.P9. However, a perusal of the document Ex.DW1/A would reveal that the khewat numbers mentioned in the same were different from the khewat numbers mentioned in jamabandies Ex.P4 and Ex.P9. Further, during cross examination, DW1 Amandeep Singh admitted that his father Nand Singh-petitioner no.1 was not the owner of the land as mentioned in Ex.P4 and a person could not be a surety by submitting documents of the land of some other person or forged documents. A person could stand as surety only if he owned the land in his name.

14. A perusal of the evidence clearly reveals that the petitioners have dishonestly and fraudulently made the claim in court regarding their properties which they knew to be false and hence have committed the offence in question. The petitioners have forged the documents which purports to be a valuable security. They also have fraudulently and dishonestly used as genuine the document i.e. jamabandi Ex.P4 and Ex.P9 which they knew and had reason to believe to be a forged documents.

15. In view of the above said facts and the evidence available on record there is no merit in the revision petition and, the same is hereby dismissed.

16. However, keeping in view the fact that the petitioners are first

time offenders and have suffered a protracted trial for the last 09 years, I modify the sentence as under:-

Name of Convicts	Offence	Sentence	Fine	Sentence in default of payment of fine
Jasvir Singh & Nand Singh	419 IPC	Acquitted		
-do-	420 IPC			
-do-	465 IPC	Rigorous imprisonment for one year each	Rs.500/-	To further undergo rigorous imprisonment for 15 days
-do-	467 IPC	Rigorous imprisonment for one year each	Rs.500/-	To further undergo rigorous imprisonment for 15 days
-do-	468 IPC	Rigorous imprisonment for one year each	Rs.500/-	To further undergo rigorous imprisonment for 15 days
-do-	471 IPC	Rigorous imprisonment for one year each	Rs.500/-	To further undergo rigorous imprisonment for 15 days

(JASJIT SINGH BEDI)
JUDGE

April 08, 2022
Vinay

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