

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.3227 of 2014
Date of Decision : 17.11.2022

Jatinderpal Singh
.....Petitioner
versus
State of Punjab
.....Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Bhrigu Dutt Sharma, Advocate
for the petitioner.

Mr. Sarabjit S. Cheema, Dy. Advocate General, Punjab
for the respondent/State.

PANKAJ JAIN, J.

Petitioner is aggrieved of the judgment dated 20th of August, 2014 passed by the Additional Sessions Judge, Tarn Taran whereby judgment of conviction passed by Trial Court in FIR No.119 dated 5th of June, 2007, registered at Police Station Patti, holding the petitioner guilty of offences punishable under Sections 467, 468, 471 IPC has been upheld and affirmed.

2. Trial Court sentenced the petitioner to undergo following imprisonment :

Sr. No.	Under Section	Sentence to undergo	Fine	In default of payment of fine
1	467 IPC	Rigorous Imprisonment for 3 years	Rs.2000/-	One month

Sr. No.	Under Section	Sentence to undergo	Fine	In default of payment of fine
2	468 IPC	Rigorous Imprisonment for 2 years	Rs.2000/-	One month
3	471 IPC	Rigorous Imprisonment for 2 years	Rs.2000/-	One month

3. All the sentences were ordered to be run concurrently.
4. Ball was set into motion on the complaint filed by Mehal Singh son of Kesar Singh, Harbans Singh son of Piara Singh and Karaj Singh son of Bachittar Singh to S.S.P. Tan Taran alleging that :-

“.....Circle Patwari Bhupinder Singh in connivance with Field Officer of Centurion Bank of Punjab namely Jatinderpal Singh mortgaged the 20 acres of land of their village in favour of the bank for a Cash Credit Limit of Rs.15,00,000/- in the name of accused Jatinderpal Singh and defrauded them. Accused Jatinderpal Singh alongwith Patwari, Bank officials, officials of the revenue department were involved in the conspiracy for mortgage of specific numbers of land belonging to them registered at serial no.265 dated 30.4.2007 by Naib Tehsildar Phuman Singh..”

5. In investigation, it was found that petitioner Jatinderpal Singh prepared forged *Jamabandi*. Bhupinder Singh, Lambardar and Dilbagh Singh attested the mortgaged deed. Trial Court after analyzing the evidence on record found that the prosecution has failed to prove the case against Bhupinder Singh, Lambardar and Dilbagh Singh beyond reasonable doubt and acquitted them of charges framed against them. However, the petitioner was held guilty of offences punishable under Sections 467, 468, 471 IPC

and was sentenced *ibid*.

6. Petitioner preferred appeal. The same was dismissed without merit. Ld. Counsel for the petitioner while assailing the judgments passed by the Courts below held that there is no scientific evidence to prove forgery. Rather IO filed an application for obtaining specimen handwriting of the accused for comparison but the same was not sent to Forensic Lab and, thus, the prosecution has withheld the best piece of evidence for which adverse inference ought to have been drawn. The petitioner has been convicted on the basis of an opinion rendered by private handwriting expert. It is matter of common knowledge that the private handwriting experts do favour the parties engaging them and, thus, an expert witness who is interested should not have been believed by the Courts below.

7. Mr. Sharma further submits that mere production of a forged document will not lead to inference of forgery by the accused, he can at the best be held guilty of offence punishable under Section 471 IPC but not under Sections 467 and 468 IPC. He submits that as per settled proposition of law, forgery cannot be presumed but has to be proved by leading cogent piece of evidence.

8. Ld. State Counsel on the other hand has supported the findings recorded by the Courts below. He submits that it has been proved on record that the *Jamabandi* which was produced by the accused for raising loan of Rs.15.00 lacs was a forged document. The accused deliberately used a forged document and was bound to benefit from the same and, thus, no

fault can be found with the findings recorded by the Courts below holding the accused guilty of forgery and of utilizing forged document which are offences punishable under Sections 467, 468, 471 IPC.

9. Trial Court while analyzing the evidence observed as under :-

13. From the above evidence led by prosecution, it comes out that the prosecution of the accused was initiated on the complaint Ex.PA made by complainants but they did not support their complaint. However, it is not helpful to accused because the factum of forgery is still there because it was the Centurion Bank of Punjab which was cheated upon with the help of forged revenue record, not the complainants. Ravneet Singh, PW3 has made it clear that accused Jatinderpal Singh was posted as Field Officer in the Bank who on the basis of forged Jamabandi Ex.P4 raised Cash Credit Limit against the land which is not his ownership. It means accused Jatinderpal Singh produced the Jamabandi to the Bank for raising loan of Rs. 15 lac. He also mortgaged the aforesaid land vide registered mortgage deed Ex.P1 duly attested by accused Bhupinder Singh and Dilbagh Singh.

14. The matter does not end because accused Jatinderpal Singh also produced a certificate of mortgage Ex.P3, search receipt Ex.P5, non encumbrance certificate Ex.P6, Girdawari Ex.P7, Fard Haqiat Ex.P8, affidavit Ex.P9 and no due certificate Ex.P10. It is true that receipt Ex.P5, documents Ex.P6 and Ex.P10 were not prepared by him but they were prepared on the basis of other record mentioned above those have no entry in the revenue record. Harpreet Singh, Patwari while appearing as PW4 has proved on record that the property mentioned in the Jamabandi Ex.P4 was not the ownership of accused Jatinderpal Singh. He made it clear that the said document was a forged document. Therefore, accused Jatinderpal Singh is guilty of forgery of Jamabandi Ex.P4, Girdawari Ex.P7 and Fard Haqiat

Ex.P8. Jamabandi is a valuable security.

15. There is no evidence on the record that the said documents were forged by someone else. Since accused Jatinderpal Singh produced the same, it can be safely concluded that the said record was forged by him for the purpose of cheating the bank. He submitted the said documents to the bank. It means he fraudulently or dishonestly used the forged documents as genuine which he knew or had reason to believe the same to be forged document. As far as involvement of accused Bhupinder Singh, Numberdar and Dilbag Singh is concerned, they have attested the mortgage deed Ex.P1. The perusal of the mortgage deed is very much important here. They have signed under the column meant for ' SIGNED AND DELIVERED by the above named person in the present of.

16. Accused Jatinderpal is the above named person who signed and delivered the mortgage deed in presence of accused Bhupinder Singh and Dilbagh Singh which shows that accused Bhupinder Singh and Dilbagh Singh have only witnessed and identified accused Jatinderpal Singh, not the property under mortgage. Therefore they cannot be held guilty for the offence attributed to them and only accused Jatinderpal Singh is guilty for the offence punishable under Section 467, 468 and 471 of Indian Penal Code and Section 420 of Indian Penal Code does not stand because Section 468 of the Code covers the cheating for the purpose of forgery. Since no involvement of any other person is proved on record, the offence under Section 120-B of Indian Penal Code goes.

17. It is not helpful to accused Jatinderpal Singh if no case was registered against Tehsildar and Patwari and the loan is always granted on the basis of no due certificate and legal opinion because the legal opinion and no due certificate are prepared on the basis of revenue record that has been forged by him. Even forgery on the part of accused Jatinderpal Singh has been proved on record. Therefore, he cannot take benefit of not

sending the documents for hand writing comparison because he is the person who submitted the document to the bank. The cases registered against Patwari Bhupinder Singh are the other cases and they have no connection with the present case.”

10. In appeal the Appellate Court affirmed the findings recorded by the Trial Court holding the petitioner guilty of offence punishable under Sections 467, 468 and 471 IPC. Appellate Court found that the factum of forgery is proved on file from the statement of PW-3 Ravneet Singh and it has also been proved on record that it is petitioner Jatinderpal Singh who produced the forged *Jamabandi* before the bank for raising loan.

11. Ld. Counsel for the petitioner submits that there is no evidence on record to prove that it is the petitioner who committed forgery. Trial Court has held the petitioner guilty of offence punishable under Sections 467 and 468 IPC by recording that there is no evidence on record that the documents were forged by someone else and, therefore, it is the petitioner who having produced the forged document is guilty of forgery. However, Counsel does not dispute the fact that even in these circumstances, the petitioner cannot escape from conviction for offence punishable under Section 471 IPC. At last, Counsel for the petitioner has relied upon the law laid down by the Apex Court in **Tarsem Lal vs. State of Haryana, (1987) 2 SCC 648, Mohammad alias Biliya vs. State of Rajasthan, (2000)10 SCC 486, Mohinder Pal Jolly vs. State of Punjab, (1979)3 SCC 30, Munilal Mochi vs. State of Bihar and another (2012)12 SCC 546 and**

Tarak Nath Singh and anr. vs. State of West Bengal, 1998 SCC (Cri) 587, to contend that the matter relates to the year 2007, more than 15 years have passed since then. There is no allegation *qua* the petitioner having ever misused concession of bail. There is no other case pending against the petitioner and, thus, lenient view be taken and the imprisonment granted be reduced to the period already undergone.

12. Per contra, Ld. State Counsel submits that no fault can be found with the findings recorded by the Courts below. It is the petitioner who had utilized the forged documents and, thus, he cannot escape the findings of conviction for offence punishable under Sections 467, 468, 471 IPC. However, on pointed query, Mr. Cheema does not dispute that the Trial Court convicted the petitioner for offence punishable under Sections 467 and 468 IPC by holding that there is no evidence on record which can prove that any other person forged the documents and, therefore, since the petitioner used the forged documents, he is held to be guilty of offence punishable under Sections 467 and 468 IPC.

13. I have heard counsel for the parties and have carefully gone through the records of the case.

14. There is no evidence on record to show that it is the petitioner who forged the documents in question. At the same time, the petitioner cannot escape the fact that it is he who produced the forged documents. Ingredients of Sections 467, 468 and 471 IPC have been well explained by Apex Court in the case of **L. Chaudraiah vs. State of A.P. & another**,

2003(12) SCC 670 and Chatt Ram vs. State of Haryana, (1980) 1 SCC 460.

15. In view of the aforesaid settled proposition of law in the considered opinion of this Court, finding of conviction against the petitioner for offence punishable under Sections 467, 468 cannot be sustained and, thus, the same is set aside. The petitioner is acquitted of the charges for the offence punishable under Sections 467, 468 IPC. However, he is held guilty of offence punishable under Section 471 IPC. Keeping in view the fact that the petitioner has already undergone more than 1 year 4 months and 15 days of actual custody out of 2 years' sentence imposed for offence punishable under Section 471 IPC, and has suffered prolonged trial of more than 15 years, as also considering the fact that the petitioner is not stated to be involved in any other case or having misused the concession of bail, sentence awarded to the petitioner is reduced to the period already undergone by him in terms of law laid down by Apex Court in **Tarsem Lal's** case (supra), **Mohammad alias Biliya's** case (supra), **Mohinder Pal Jolly's** case (supra), **Munilal Mochi's** case (supra) and **Tarak Nath Singh's** case (supra).

12. Ordered accordingly.

November 17, 2022
Dpr

(PANKAJ JAIN)
JUDGE

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