

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

CRR No.1135 of 2009

Date of decision: 10th February, 2023

Darshan Singh & others

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Daldeep Singh and Mr. Vishal Rattan Lamba,
Advocates for the petitioners.

Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J.

The instant revision petition has been preferred against the judgment and order dated 06.04.2009 passed by learned Additional Sessions Judge (Fast Track Court), Bathinda vide which conviction of the accused/petitioners under Section 467 IPC was set aside, whereas their conviction and sentence under Sections 420, 342, 201, 477, 34 IPC as awarded by the trial Court vide judgment dated 01.02.2007, was upheld.

At the outset, learned counsel for the petitioners has placed on record a photo copy of the death certificate of petitioner No.1 Darshan Singh, who expired on 25.01.2016 during the pendency of the instant revision petition. He submits that in the circumstances, he

would not press the instant revision petition qua deceased Darshan Singh.

Learned State counsel on instructions has also verified the factum of death of petitioner No.1 Darshan Singh.

The case set up by the prosecution may be noticed as thus:

Complainant Bhola Singh moved an application dated 23.05.2001 before DSP, Talwandi Sabo alleging therein that on the asking of accused Darshan Singh (since expired) the complainant took the pronote in the sum of ₹ 80,000/- to his residence, for being paid the said amount. However, instead of making such payment, the accused Darshan Singh took the pronote from him and tore it. After doing so, the accused Darshan Singh prepared a forged pronote and instead of handing him the original pronote which had been torn, the forged one was handed over to the complainant. The complainant thus, alleged that a fraud had been played upon him. It was further alleged that the pronote had been torn by accused Darshan Singh in the presence of the complainant's cousin PW-2 Major Singh. A detailed investigation was thereafter carried out by the DSP concerned, wherein he concluded that accused Darshan Singh had executed a pronote in favour of maternal grandfather of the complainant. The maternal grandfather of the complainant had been residing with him for 15 years and after his death, the complainant's father had been lending and receiving money. It also came to the fore during investigation that on 10.04.1998, accused Darshan Singh had borrowed a sum of ₹ 80,000/- from the

complainant's maternal father Sham Singh in the presence of PW-2 Major Singh, for which a pronote was executed by accused Darshan Singh, which in turn had been scribed by Mulakh Raj. Accused Darshan Singh had agreed to return the said amount along with interest at the rate of 2% per month. Subsequently, Sham Singh died and accused Darshan Singh sought the pronote from the complainant on the pretext of making payment, however, it was torn and in its place a forged pronote was handed over to the complainant. A panchayat was convened, however, accused Darshan Singh refused to make the payment.

The trial Court convicted all the accused under Sections 420, 342, 201, 467, 477, 34 IPC. On appeal, the learned lower appellate Court on the basis of evidence led and material on record, acquitted the accused under Section 467 IPC, however, maintained their conviction under Sections 420, 342, 201, 477, 34 IPC.

Learned counsel for the petitioners has vehemently argued that on the one hand the appellate Court below rightly disbelieved the story propounded by the complainant with respect to the forgery of the pronote, as there was no cogent or convincing evidence led in support thereof; however, in the same breath convicted the accused under Sections 420, 342, 201, 477, 34 IPC. Learned counsel has fervently argued that a perusal of the allegations levelled in the FIR in question clearly revealed that all the allegations were levelled against petitioner No.1 Darshan Singh and there was not even an iota of whisper against

petitioners No.2 to 4, from which it could be inferred that they were neither present at the time of the occurrence in question nor had any role to play in the destruction of the pronote. Learned counsel has submitted that petitioners No.2 and 3 (being sons of petitioner No.1) and petitioner No.4 had been falsely implicated on account of their relationship with petitioner Darshan Singh. It was further urged that even assuming for the sake of arguments, though not conceded, petitioners No.2 to 4 were present when the complainant was called to the house by Darshan Singh, once the allegations qua the alleged forgery of the original pronote had been rejected by the lower appellate Court, the evidence with respect to causing destruction of the pronote so as to invite conviction under Sections 420, 342, 201, 477, 34 IPC also created a big question mark. It was reiterated that even the alleged pronote had been destroyed by petitioner Darshan Singh and there was no allegation qua the remaining petitioners having played any role at that relevant time when the pronote was destroyed. Hence, in the circumstances, the provisions of sections 201 and 477 IPC were not even attracted towards the petitioners. Learned counsel has still further, argued with vehemence that conviction under Section 420 IPC qua the accused petitioners was not sustainable as there was lack of any corroborative evidence to support the allegations of cheating. Learned counsel has submitted that in fact, the question of detaining the complainant in his house by accused Darshan Singh was totally concocted and fabricated in view of the strained relations between the

parties and that was precisely the reason why the accused petitioners, who were close relatives of Darshan Singh, had been named as accused.

Learned State counsel, while opposing the submissions made by the counsel opposite, has not been able to controvert that it was accused Darshan Singh who was the main accused in the case in hand. However, he submits that it was accused Darshan Singh who had called the complainant to his house on the pretext of repaying the amount. Once at home, the pronote was destroyed by Darshan Singh and thereafter all the accused illegally detained the complainant inside their house. He submits that in the circumstances, there can be no manner of doubt that all the accused in connivance with each other had committed the crime in question. Learned State counsel, however, at the same time was also not able to controvert that the money had to be repaid by Darshan Singh and even the pronote had been destroyed by Darshan Singh. Learned State counsel fairly conceded that no allegation had been levelled against the accused petitioners No.2 to 4 of having participated in the destruction of the pronote.

I have heard learned counsel for the parties and perused the relevant material on record.

Admittedly, it was petitioner No.1 Darshan Singh, who had called the complainant to his house along with the pronote and thereafter, not only destroyed the pronote but also wrongfully confined the complainant in a room inside his house. No specific allegations

have been levelled against petitioners No.2 to 4 of either having destroyed the pronote along with Darshan Singh or even having actively participated in the crime in question by illegally confining the complainant and PW-2 inside the room.

This Court concurs with the submissions made by learned counsel for the petitioners that the complainant had apparently tried to implicate the entire family of petitioner Darshan Singh by alleging that he along with petitioners No.2 to 4 had wrongfully detained him and Major Singh inside a room. They thus deserve to be given the benefit of doubt.

In the facts and circumstances as enumerated hereinabove, the instant revision petition is partly allowed and the impugned judgment of conviction qua petitioners No.2 to 4 is hereby set aside.

(MANJARI NEHRU KAUL)
JUDGE

February 10, 2023
rps

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