508 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Reserved on: 10.03.2023
Pronouncement on: 02.06.2023

(i) CRA-S-904-SB-2005

Lovepreet Singh …Appellant

vs.

State of Punjab …Respondent

(ii) CRA-S-972-SB-2005

Gurdev Singh …Appellant

vs.

State of Punjab …Respondent

(iii) CRA-S-974-SB-2005

Sandeep Singh@Sonu ...Appellant

vs.

State of Punjab ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Charanjit Singh Bakshi, Advocate
for the appellant in CRA-S-904-SB-2005.

Mr. Salil Dev Singh Bali, Advocate
for the appellant in CRA-S-972-SB-2005.

Mr. L.S. Sidhu, Advocate
for the appellant in CRA-S-974-SB-2005.

Mr. Vipin Pal Yadav, Additional Advocate General, Punjab.

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N.S.Shekhawat J.

1. This judgment shall dispose off three criminal appeals i.e CRA-S-904-SB-2005 titled as **"Lovepreet Singh Vs. State of Punjab",** CRA-S-

972-SB-2005 titled as **"Gurdev Singh Vs. State of Punjab and** CRA-S-974-SB-2005 titled as **"Sandeep Singh Vs. State of Punjab** as the same arise out of the common impugned judgment of conviction and order of sentence dated 26.04.2005, passed by the Court of Additional Sessions Judge, Fast Track Court, Ferozepur, whereby the appellants in these appeals were convicted and sentenced as under:-

<u>Appellant Gurdev Singh in CRA-S-972-SB-2005</u>

Under Section 489-A	Rigorous imprisonment for six years and to pay a fine of Rs.5000,/-. In default of payment of fine, he shall further undergo rigorous imprisonment for six months.
Under Section 489-D	Rigorous imprisonment for six years and to pay a fine of Rs.5000,/-. In default of payment of fine, he shall further undergo rigorous imprisonment for six months.

<u>Appellant Sandeep Singh in CRA-S-974-SB-2005</u>

Under Section 489-B IPC	Rigorous imprisonment for six years and to pay a fine of Rs.5000,/-. In default of payment of fine, he shall further undergo rigorous imprisonment for six months.
Under Section 489-C IPC	Rigorous imprisonment for three years and to pay a fine of Rs.2000,/-. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.

<u>Appellant Lovepreet Singh in CRA-S-904-SB-2005</u>

Under Section 489-B IPC	Rigorous imprisonment for six years and to pay a fine of Rs.5000,/-. In default of payment of fine, he shall further undergo rigorous imprisonment

	for six months.
Under Section 489-C IPC	Rigorous imprisonment for three years and to pay a fine of Rs.2000,/-. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.

2. As per the case of the prosecution, SI Ajmer Singh along with other police officials were present at Old Talwandi Chowk, Main Bazar, Zira on 18.10.2004, where he received a secret information that Gurdev Singh, Sandip Singh and Lovepreet Singh, accused (the appellants in all these three appeals) were habitual of counterfeiting/forging Indian Currency Notes and were selling the same to the general public at half rate. On that day, they were having the material to counterfeit the Indian currency notes and were also in possession of the huge quantity of Indian currency notes of the denomination of Rs.100/- in packets. He was further informed that they were sitting in the area of Government College, Zira and were further planning to forge more Indian Currency notes. The secret informer told them that in case raid is conducted, they could be apprehended at the spot. On finding the information to be reliable, the ruqa was sent to the police station and the FIR in question was registered under Sections 489-A, B, C, D IPC against the appellants/accused.

3. After registration of the FIR, the police party raided at the ground of Government College, Zira, where all the three accused were apprehended from the spot. From the personal search of Gurdev Singh, appellant/accused, one computer printer-cum-fax-cum-copier, 2 1/2 reams of JK paper, one lead, 33 one sided printed Indian currency notes of the denomination of Rs.100/-,

one computer guide book, sticker paper and two CDS were recovered. Ajmer Singh ASI took into possession of the aforesaid incriminating material and the recovery memo was duly attested by SI Harjinder Singh, ASI Bikram Singh and by one independent witness namely, Balwant Singh. From the personal search of accused Sandip Singh, 102 fake Indian currency notes of denomination of Rs.100/- having serial Nos. 7DC397126, 3CC241861 and 6KV484494 were recovered from the left pocket of his pant. The said currency notes did not have any water mark or security thread and were taken into possession by the police party by preparing a separate memo in this regard. From the personal search of accused Lovepreet Singh, 97 fake Indian currency notes of the denomination of Rs.100/- having two serial Nos. 35D583398 and 2MP521446 were recovered from the front pocket of his pant and same were also taken into possession by the police party. The initial investigation was conducted and after completion of the investigation, the challan under Sections 489A, 489B, 489C, 489D was ordered to be registered against them.

4. After considering the material on record, charge under Sections 489A, 489B was ordered to be framed against all the accused. The Charge under Section 489C was framed only against accused Lovpreet Singh and Sandip Singh, whereas charge under Section 489-D was ordered to be framed against Gurdev Singh. All the accused pleaded innocence and claimed trial.

5. In order to prove the offence against the appellants, the prosecution examined PW-1 Surinderjit Singh Bahar, Treasurer, Reserve Bank of India, Chandigarh. He stated that vide the letter Ex. P1 from the office of Senior Superintendent of Police, Ferozepur, he was asked to check the genuineness of currency notes of denomination of Rs.100/-, seized in the present case. The suspected forged currency notes number 199 plus 33 of the denomination of Rs.100/- were also received in their office in a sealed cover through ASI Jaswant Singh. He had seen the currency notes in the Court and these were produced by the police before him. These were the same currency notes, which were tested by him. 199 currency notes were Ex. MO 2 to MO 200, whereas the currency notes numbering 33 were having only one side printing on the paper and the same were MO 201 to 233. After testing the aforesaid currency notes it was observed by him that the paper was thick and glazy, number panel was small, hidden water mark was missing and the security thread was defective. Further, integlio printing was missing. After attesting the aforesaid currency notes, the same were again handed over to ASI Jaswant Singh. All the aforesaid currency notes were fake and he rendered his report dated 18.11.2004, which was exhibited as Ex.P-2 and the same was sent to the SSP. The prosecution further examined PW-2 ASI Jaswant Singh, who stated that on 17.11.2004, MHC Surjit Singh handed over to him a letter Ex.P-1 issued by the office of SSP and the said letter was addressed to Manager, RBI, Chandigarh for testing the genuineness of the recovered currency notes in the present case. He had handed over the currency notes to Surinderjit Singh, Treasurer, RBI, Chandigarh. As long as the material remained with him and the same was not tampered with. The Treasurer of the RBI tested the currency notes and after testing the same, he handed over the aforesaid currency notes alongwith his report Ex.P-2. The prosecution further examined PW-3 MHC Surjit Singh, who tendered his affidavit Ex.P3. The prosecution further examined PW-4 ASI Harjinder Singh, who was part of the raiding team and supported the case of the prosecution as mentioned in the FIR. He identified all the three accused/appellants in the Court on that day and also supported the case of the prosecution relating to recoveries of the fake currency notes from the present appellants. PW-5 SI Ajmer Singh was the main witness of the prosecution and had conducted the initial investigation also. He also identified the accused in the Court. He also supported the case of the prosecution with regard to the recovery of one bag from Gurdev Singh, which contained one computer, fax printer, copier and 2 ½ reams of JK paper, five bundles of other kinds of paper, one help book, 33 fake Indian currency notes having printing only on one side of the paper, one wire and the same were taken into possession vide the recovery memo Ex.P4. The said recovery memo Ex.P4 which was attested by ASI Harjinder Singh, ASI Bikram Singh and private witness namely, Balwant Singh. The search of Sandeep Singh accused was also conducted and from the left pocket of his pant, 102 Indian currency notes of the denomination of Rs.100/- having three serial numbers only were recovered from his left pocket. These notes were not having water marks and security thread and the same were taken into possession vide the recovery memo Ex.P-6 in the presence of the witnesses. The search of Lovepreet Singh accused was also conducted and from the front pocket of his pant, 97 Indian currency notes of the denomination of Rs.100/- ,having only two serial numbers on all the notes were also taken into possession vide the recovery memo Ex.P-6 in the presence of the witnesses. He had also recorded the statements of various witnesses and prepared the site plan as well. After conducting the investigation completely, the challan under Section 173 Cr.PC was presented against the accused in the Court.

6. After the closure of the prosecution evidence, the statement of Gurdev Singh was recorded under Section 313 Cr.PC. He stated that he was a 35 years old person and had studied upto 5th class in Punjabi medium and was a resident of Moga and manufactured iron almirahs, milk containers, iron boxes and pettis etc. On 18.10.2004, he had come to Ferozepur to collect the payment from Mr. Davinder Bajaj MC for his milk containers and the police of Zira illegally picked him without any reason. Nothing was recovered from him and a false case was planted on him. Similarly, accused Sandeep Singh stated in his statement under Section 313 Cr.PC that on 16.10.2004, he was present in the shop of Rakesh Kumar at Ferozepur, from where he was illegally picked by the police in the presence of Bobby Halwai and Goldy owner of Public Call Office. Nothing was recovered from him and a false case was foisted upon him. The statement of Lovepreet Singh was also recorded under Section 313 Cr.PC and he also stated that he was a 3rd year student of BEMS (Bachelor of Electo Homeopathic) at Dhodar College, Moga. He was also president of Warse Punjab Bhangra Musical Group. He, Vipin Kumar and others were living at Sardar Nagar Moga and also used to teach *Bhangra* to the interested persons. Gurdev Singh had borrowed a sum of Rs.10,000/- from him. At about 02:00 PM on 18.10.2004, he came to him in the presence of Vipin Kumar and Amandip Singh, who used to learn *bhangra* from him and asked him to come at about 05:00 PM at Government College, Zira to take the money back from Gurdev Singh. At about 03:45 PM on 18.10.2004, he along with Amandip

Singh went to Zira on scooter and found that no one was present in the college on that day. Amandip Singh dropped him there and went to Zira for his personal work. Then Gurdev Singh came there along with one more person and handed over the money to him. In the meantime, the police came and arrested him. He narrated the entire story to the police, but the police did not listen him and planted a false case on him.

7. In his defence, the accused examined DW-1 Davinder Bajaj, owner of the milk diary and he appeared as DW-1. As per him, on 18.10.2004, at about 10:00 AM, accused Gurdev Singh was present with him. However, in the meantime, the police came and told him to accompany to the police station, so that the investigation may be conducted in some case. Nothing was recovered from him by SI Ajmer Singh. The accused further examined DW-2 Rakesh Kumar, who stated that Sandeep Kumar, accused present in the Court was with him and the police had taken away Sandeep Kumar from his shop at about 1/2 pm on 16.10.2004. Further, the accused examined DW-3 Harjit Singh alias Goldy, who tried to prove the plea of alibi of Sandeep Kumar. As per him, the accused Sandeep Kumar was working with him and police took him away for interrogation. The accused examined DW-4 Sukhdev Singh China, DSP, Zira, who recorded the statements of various witnesses and declared Lovepreet Singh as innocent. During his enquiry, it came out that the currency notes recovered from the possession of Lovepreet Singh accused were given to him by Gurdev Singh, accused after calling him from his place and Gurdev Singh accused owed that amount to him. However, it was established during the investigation that Lovepreet Singh was not involved in any acts of

counterfeiting or possessing counterfeit currency notes. Amandip Singh was examined as DW-5 and he also tried to prove the innocence of Lovepreet Singh, accused.

8. I have heard the learned counsel for the parties and with their able assistance, I have gone through the trial Court record carefully.

9. Learned counsel for the appellant vehemently argued that in the present case, the appellants had been falsely implicated. From the statements of various prosecution witnesses, it was apparent that all the accused were present at different places and have been falsely implicated in the present case by showing their presence together. Learned counsel further contended that in the present case, the alleged recoveries of fake currency notes and certain material used for counterfeiting/forging the currency notes have been shown, but the entire recovery and further procedure are illegal. Even the fake currency notes recovered from the accused was never sealed and the chances of tampering were there. Apart from that, the prosecution only examined PW-1 Surinderjit Singh Bahar, Treasurer, Reserve Bank of India, Chandigarh but that also does not help the case of the prosecution. Admittedly, PW-1 Surinderjit Singh Bahar, Threasurer, Reserve Bank of India was not the final authority and in absence of an expert evidence in this regard, the present appellants are liable are be acquitted by this Court.

10. Learned counsel appearing on behalf of Sandeep Singh and Lovepreet Singh appellants/accused submitted that they had been falsely involved in the present case. There is no evidence to show that the counterfeit currency was ever used by all the accused and they have been wrongly

convicted under Section 489-B of the IPC. Apart from that, the mere possession of currency notes from the present appellants was not sufficient to hold them guilty and something more was required. On the other hand, learned State counsel submitted that the prosecution had proved the case beyond the shadow of reasonable doubt. In the present case, the recoveries were effected from the present appellants and the police had no reason to falsely involve the appellants in a criminal case. Further, it is apparent that no evidence to the contrary was led by the accused in the present case and they have been correctly held guilty by the learned Trial Court.

11. Before proceeding any further, it would be appropriate to reproduce the provisions of Section 489-A,B,C and D of IPC, 1860:-

489-A. Counterfeiting currency notes or bank notes:-

> *Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency note or bank note, shall be punished with [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.*

489-B. 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 punish with [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.*

489-C. 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.

489-D. 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 [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.

12. First of all I shall take up the criminal appeal No. ***CRA-S-972-SB-2005*** titled as "***Gurdev Singh Vs. State of Punjab***".

13. I have considered the submissions made by the learned counsel for the appellant in the abovementioned case. On 18.10.2004, SI Ajmer Singh, PW-5 had received a secret information that at Old Talwandi Chowk, Main Bazar, Zira, where he was present along with ASI Bikram Singh, SI Harjinder Singh and other police officials for the purposes of patrolling in the official vehicle. He sent the ruqa Ex. P-11 and the send the same to police station through Constable Nasib Singh for registration of the FIR and FIR Ex.P-12 was registered. Thereafter, he along with the police party raided at the disclosed place and apprehended Gurdev Singh at the spot. Gurdev Singh was carrying a bag in his right hand and the same was searched. From the search of

the said bag one computer, fax printer, copier and 2 ½ reams of JK paper, five bundles of other kind of paper, one help book, 33 fake Indian currency notes having printing only on one side of the paper, one wire were recovered from the aforesaid bag of Gurdev Singh and the same were taken into possession vide the recovery memo Ex. P4. The said recovery memo Ex. P4 was duly attested by ASI Harjinder Singh, ASI Bikram Singh and private witness namely, Balwant Singh. The testimony of PW-5 has been duly corroborated by the statement of PW-4 ASI Harjinder Singh. Both the said witnesses had been searchingly cross-examined by the learned defence counsel and their testimonies could not be shaken in any manner. This Court has also perused the testimonies of aforesaid two witnesses of the prosecution and found their evidence to be creditworthy. The said witnesses, even though are official witnesses, had no reason to falsely involve the present appellant in a criminal case nor any such motive was suggested to him by the accused.

14. Apart from that, the prosecution also examined PW-1 Surinderjit Singh Bahar, Treasurer, Reserve Bank of India, Chandigarh who exhibited his report Ex.P2 and the following conclusions were recorded ;-

1. The paper is thick and glazy.

2. Number panel is small.

3.Hidden watermark is missing.

4. Security thread is defective

5. Intaglio printing is missing.

6.Thirty three notes are having only one side (obverse side) printing.

15. I find no substance in the arguments raised by learned counsel for

the appellant that the opinion rendered by PW-1 Surinderjit Singh Bahar, Treasurer, Reserve Bank of India, Chandigarh was not the conclusive opinion. Apart from that, the final authority vested with the Government Printing Press, Nasik and the Bank Note Press, Diwas with regard to the authenticity and genuineness of the Indian currency notes. No doubt, that the Government Printing Press Nasik was the final authority, but PW-1 Surinderjit Singh Bahar, was also working as a Treasurer, Reserve Bank of India, Chandigarh for the last several years. Even he submitted a detailed report Ex. P2 and had recorded reasons for holding the currency notes to be fake and can also be termed as expert witness in his fields. Moreover, PW-1 Surinderjit Singh Bahar, Treasurer, Reserve Bank of India, Chandigarh was also an expert in checking the authenticity and genuineness of the Indian currency notes. Thus, his testimony cannot be overlooked. Apart from that, 33 fake currency notes which were printed only on one side and the recovery of other incriminating substances were also made from the present appellant. The police had recovered one computer, fax printer, copier and 2 ½ reams of JK paper, five bundles of other kind of paper, one help book, 33 fake Indian currency notes having printing only on one side of the paper. Thus, it is evident that Gurdev Singh was not only counterfeiting currency notes knowingly, but was also in possession of instruments/materials for forging/counterfeiting currency notes and has been rightly convicted by the learned Trial Court.

16. Learned counsel for the appellant vehemently contended that the recovery of fake Indian currency notes was doubtful as the search was made in an open place and that too in absence of any independent witness. However,

this Court finds no substance in the said arguments. The prosecution had examined PW-5 SI Ajmer Singh, who conducted the raid after joining the independent witness namely, Balwant Singh with the police party. However, Balwant Singh, later on, colluded with the accused side and could not be examined. Thus, the present appellant has been rightly convicted under Sections 489-A and 489-D.

CRA-S-904-SB-2005 titled as "Lovepreet Singh Vs. State of Punjab" and CRA-S-974-SB-2005 titled as "Sandeep Singh Vs. State of Punjab.

17. The appellants namely, Sandeep Singh and Lovepreet Singh in these criminal appeals have been convicted under Sections 489-B and 489-C of IPC. Learned counsel for the appellants vehemently contended that in the present case, there was no evidence to show that the appellants had used the fake currency notes/bank notes as forged or counterfeit currency notes. Even the recovery of counterfeit currency notes from the present appellants were doubtful and had been wrongly convicted by the learned Trial Court. At this stage, it requires mention that the other similar submissions have been made by learned counsel for the appellant in this case have been dealt with by this Court, while delivering the judgment in Criminal Appeal No.*CRA-S-972-SB-2005* titled as "***Gurdev Singh Vs. State of Punjab*".** However, this Court of the considered opinion that the appellants have been wrongly convicted under Section 489-B IPC. 489-B IPC provides for the punishment for using the genuine, the forged or counterfeit the currency notes/bank notes. In the present case, both the appellants were found in possession of the forged/counterfeit currency notes at the time of the raid. But the prosecution completely failed to prove the ingredients of the offence under Section 489-B of IPC. No evidence was led by the prosecution to show that the appellants had sold or bought or received the counterfeit currency notes from any other person. Rather they were simply found in possession of the forged/counterfeit currency notes. Thus, the appellants have been wrongly convicted under Section 489-B of IPC and are ordered to be acquitted of the said charge. However, the prosecution had led sufficient evidence to show that the appellants were in possession of the counterfeit currency notes and the same were found to be so by PW-1, Surinderjit Singh Bahar, Treasurer, Reserve Bank of India, Chandigarh.

18. However, this Court is conscious of the fact that the recoveries were made from the appellants in the year 2004. The sentences imposed on the present appellants were ordered to be suspended in the year 2005. During the course of hearing, learned counsel for the State has filed the custody certificates of all the accused and it is apparent from the custody certificates of Gurdev Singh and Lovepreet Singh, both of them are first offenders and no other criminal case was registered against them for the last about 18 years. However, two criminal cases were registered against Sandeep Singh @Sonu that is one prior to the registration of the present case and one after the registration of the present case.

19. Thus, the appellants are facing the agony of the prosecution for the last 19 years. Keeping in view the gravity of the offence and other mitigating circumstances, the appellants are sentenced as under:-

<u>Appellant Gurdev Singh in CRA-S-972-SB-2005</u>

Under Section 489-A IPC	Rigorous imprisonment for a period of three years and to pay a fine of

	Rs.5000,/-. In default of payment of fine, he shall further undergo rigorous imprisonment for six months.
Under Section 489-D IPC	Rigorous imprisonment for a period of three years and to pay a fine of Rs.5000,/-. In default of payment of fine, he shall further undergo rigorous imprisonment for six months.

Appellant Sandeep Singh@ Sonu in CRA-S-974-SB-2005

Under Section 489-C IPC	Rigorous imprisonment for two years and to pay a fine of Rs.2000,/-. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.

Appellant Lovepreet Singh in CRA-S-904-SB-2005

Under Section 489-C IPC	Rigorous imprisonment for two years and to pay a fine of Rs.2000,/-. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.

20. In view of the above discussion, the appeal is partly allowed and the sentenced imposed on Gurdev Singh, appellant in criminal appeal No. *CRA-S-972-SB-2005* is ordered to be reduced as indicated above.

21. Apart from that, criminal appeals No. *CRA-S-904-SB-2005* and *CRA-S-974-SB-2005* are also partly allowed and the appellants Lovepreet Singh and Sandeep Singh in both the appeals are acquitted of the charge under Section 489-B IPC and the sentences imposed on the said two appellants under Section 489-C IPC are ordered to be reduced as mentioned above.

22. With these modifications, all the three appeals are disposed off.

23. All pending applications, if any, are also disposed off,

accordingly.

24. Case property, if any, be dealt with, and destroyed after the expiry of period of limitation for filing the appeal, in accordance with law. The Trial Court record be sent back.

(N.S.SHEKHAWAT)
JUDGE

02.06.2023
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No