



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. Reserved on : 29.11.2024
CRA-S-380-SB-2002 (O&M)
Pronounced on : 17.12.2024

PritpalPetitioner

Versus

State of PunjabRespondent

2. CRA-S-381-SB-2002 (O&M)
Pronounced on : 17.12.2024

Darshan SinghPetitioner

Versus

State of PunjabRespondent

3. CRA-S-399-SB-2002 (O&M)
Pronounced on : 17.12.2024

Ravinder NathPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by : Mr. Mahinder Singh Joshi, Advocate with
Mr. Fateh Sahota, Advocate and
Mr. S.S. Rangi, Advocate
for the appellant in CRA-S-380-SB-2002.

Mr. A.P.S. Deol, Sr. Advocate with
Mr. Vishal R. Lamba, Advocate and
Mr. Himmat Singh Deol, Advocate
for the appellant in CRA-S-381-SB-2002.

Mr. V.K. Sandhir, Advocate
for the appellant in CRA-S-399-SB-2002.

Mr. Amit Rana, Sr. DAG, Punjab.



MANJARI NEHRU KAUL, J.

1. This order shall dispose of above-mentioned three criminal appeals as they all arise out of the same FIR and impugned judgment of conviction and order of sentence and identical question of facts and law are involved in all of them.

1(a). The appellants are challenging the judgment of conviction and order of sentence both dated 26.02.2002 passed by learned Special Judge, Mansa, in case arising out of FIR No.20 dated 25.05.1996 under Sections 467, 468, 471, 420, 409 of the IPC and Section 13(1)(c) read with Section 13(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'PC Act'), registered at Police Station Vigilance Bureau Ferozepur, whereby they have been convicted and sentenced as under:-

Name of the Convict	Offence(s) under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
Pritpal	13(1)(c) of the PC Act	RI for 02 years	Rs.1,000/-	RI for 03 months
Darshan Singh	411 of the IPC	RI for 01 year	-	-
Ravinder Nath	13(1)(c) of the PC Act	RI for 02 years	Rs.1,000/-	RI for 03 months
	467 of the IPC	RI for 01 year	Rs.500/-	RI for 01 month
	471 of the IPC	RI for 01 year	Rs.500/-	RI for 01 month

1(b). All the sentences were ordered to run concurrently.

2. **Submissions on behalf of appellant-Pritpal**

2(a). Learned counsel for the appellant challenging his



conviction under Section 13(1)(c) of the PC Act, asserting that the learned Trial Court, vide impugned judgment, erroneously convicted the appellant without appreciating that the prosecution failed to prove establish the essential elements of entrustment and misappropriation beyond a reasonable doubt.

2(b). Learned counsel argues that the case of the prosecution primarily hinges on the alleged entrustment of 532 trees to the appellant. However, the prosecution failed to produce any credible evidence to demonstrate that the appellant was ever entrusted with the said trees. Learned counsel further submits that it is evident from the records that when the appellant assumed charge of the Nangal Beat on 07.12.1992, as per Ex.DZ, 465 trees were already recorded as missing. This fact, coupled with the absence of any formal handing-over of charge between the appellant and his predecessor PW-8 Gurdial Singh, negates the claim of the prosecution of entrustment.

2(c). It is emphasized by the learned counsel that the lack of a formal charge list or inventory of trees creates a significant gap in the chain of custody. Without a proper transfer of responsibility, it is impossible to attribute any allege shortages or misappropriation of property to the appellant. Learned counsel contends that, under such circumstances, holding the appellant accountable for shortages in the stock of trees, which were neither officially entrusted to him nor under his exclusive control, is unjust and unwarranted.

2(d). Learned counsel has further challenged the reliance placed by the prosecution on Ex.P1, and inspection dated 27.02.1993. He has



contended that this report was prepared approximately one and a half months after the appellant had relinquished charge of the Nangal Beat. Learned counsel submits that the report fails to specifically identify the trees allegedly missing or link them directly to the tenure of the appellant. Furthermore, he asserts that the appellant was neither informed about this inspection nor provided with an opportunity to verify or contest its findings. This lack of transparency and the delayed preparation of the report severely undermine its evidentiary value.

2(e). It is also contended that during the tenure of the appellant, he was never notified about any deficiencies in the stock of trees. The prosecution failed to lead any evidence indicating that the appellant was made aware of these discrepancies during the relevant period. Learned counsel asserts that this further weakens the allegation of misappropriation against the appellant.

2(f). Learned counsel has further drawn the attention of this Court to the significant procedural lapses in the investigation, which cast serious doubt on the credibility of the case of the prosecution. While drawing the attention of this Court to the cross examination of PW-18, DSP Harbans Singh (Investigating Officer), it has been submitted that he did not conduct an on-sight inspection of the Nangal Beat to verify the alleged shortages. This glaring omission, as per the learned counsel, on the part of the investigating agency demonstrates a lack of independent corroboration of the allegations.

2(g). Moreover, learned counsel submits that the investigation relied heavily on secondary evidence, as the original inspection notes



were destroyed. The destruction of these primary documents raises grave concerns about the authenticity and reliability of the case of the prosecution. It has been argued that without the original records, it is impossible to determine whether the findings recorded in Ex.P1 are accurate or manipulated. Learned counsel further highlights that crucial records, such as the numeration register and prior stock lists, were not examined during the investigation. These documents could have provided clarity regarding the status of the trees before and during the tenure of the appellant. The failure to consider these vital records creates a serious dent in the case of the prosecution.

2(h). Learned counsel also argues that the prosecution failed to prove any direct act of misappropriation by the appellant. The mere reporting of shortages does not automatically lead to the conclusion that the appellant was responsible for misappropriating the trees. It has been asserted that it is equally plausible that the shortages resulted from pre-existing deficiency or theft by third parties, or natural causes such as decay or environmental factors.

2(i). Finally, the learned counsel submits that despite the failure of the prosecution to prove its case beyond a reasonable doubt, the learned Trial Court relied heavily on speculative evidence and secondary records to convict the appellant. This conviction, based on conjectures rather than concrete evidence, as per the learned counsel is untenable.

2(j). It has been urged that in the light of the failure of the prosecution to prove entrustment, procedural lapses in the



investigation, and reliance on secondary evidence, and the absence of proof of misappropriation, the impugned judgment deserves to be set aside and the appellant acquitted of the charges framed against him.

3. **Submissions on behalf of appellant-Darshan Singh**

3(a). Learned senior counsel for the appellant, while challenging the judgment and order of sentence passed by the learned Trial Court, has strenuously argued that the learned Trial Court committed a grave error in failing to appreciate the factual and legal aspects surrounding the recovery of trees in the present case. It is contended that the trees allegedly recovered do not qualify as stolen property. Rather, they had been entrusted to the appellant on *supardari*.

3(b). Learned senior counsel submits that even the prosecution has admitted that in certain villages, including the village of the appellant, it is a customary practice for trees to be released on *supardari* by the forest authorities. In this context, learned senior counsel has drawn the attention of this Court to the testimony of PW-17 Harbant Singh, who deposed during the trial that in various villages, trees are routinely released on *supardari* by the respective forest guards. However, the learned Trial Court failed to properly evaluate this significant piece of evidence while erroneously convicting the appellant.

3(c). Further, the learned senior counsel has also drawn the attention of the Court to the evidence of DW-7 Harbans Singh, Sarpanch of his village. It has been submitted that DW-7 Harbans Singh, testified that in the year 1993, co-accused Pritpal Singh had



entrusted 25 to 30 trees to Nahar Singh through *supardaginama* (Ex.DL and Ex.DM). Furthermore, it stood proved in the testimony of DW-6 Nahar Singh that these *supardaginamas* were duly executed, which made it evident that the 27 trees were handed over to the appellant by the Forest Department itself. It has been further argued that notably, the said *supardaginama* also bears the signature of the Divisional Forest Officer, Forest Division, Mansa, leading authenticity to the claim of the appellant.

3(d). Learned senior counsel still further submits that the trees in question were recovered from an open space, accessible to the general public, and not from the exclusive possession of the appellant. He argues that there is no material on record to suggest that the appellant had any connection to the recovered trees. At the relevant time, the appellant was an employee of the Irrigation Department, serving as Gauge Reader at I.V. Jawaharke, Mansa Division. Learned senior counsel contends that the appellant had no association or nexus with the co-accused, thereby negating any collusion or involvement in the alleged offence.

3(e). Moreover, it has been submitted that although the trees were recovered from the courtyard of an outhouse of the appellant, such recovery could not be equated with exclusive possession by the appellant. Learned senior counsel emphasizes that the prosecution has failed to prove that the appellant was in conscious possession of the trees or that he had knowledge of the trees being stolen property, as required under Section 411 of the IPC.



3(f). Learned senior counsel highlights that Section 411 of the IPC necessitates two key ingredients for a conviction: (i) the accused must be found in possession of stolen property; and (ii) the accused must have knowledge or reason to believe that the property was stolen.

3(g). Learned senior counsel has asserted that in the instant case, neither of these conditions has been satisfied. The appellant had no knowledge that the trees were stolen, nor were the trees in his possession. Learned senior counsel submits that the findings of the learned Trial Court are unsustainable in law and, therefore, deserve to be set aside. Learned senior counsel has relied upon the judgment of ***Hon'ble the Supreme Court in Trimbak Vs. M.P. : 1954 AIR Supreme Court 39***, wherein it was held that the essential ingredients of Section 411 of the IPC must be conclusively established before a conviction can be sustained.

3(h). In the light of the above submissions, learned senior counsel has prayed for the impugned judgment and order on sentence to be set aside and the appellant be acquitted of all the charges framed against him.

4. **Submissions on behalf of appellant-Ravinder Nath**

4(a). Learned counsel for the appellant submits that the appellant, who was posted as the Forest Range Officer in Nangal Beat, has been wrongly convicted by the learned Trial Court in the absence of credible and cogent evidence to substantiate the charges against him. It is contended by the learned counsel that the prosecution had failed to prove the offences under Section 13(1)(c) of the PC Act and Section



467, 471 of the IPC.

4(b). Learned counsel for the appellant argues that the appellant was neither entrusted with the custody of the trees in question nor was he responsible for their safe keeping. Entrustment or custodianship is a mandatory pre-condition for invoking Section 13(1)(c) of the PC Act. However, the role of the appellant was limited to supervisory functions, such as providing reports on missing trees, without direct authority or custodial responsibilities over any specific Beat or trees. The absence of entrustment renders the charge under the PC Act unsustainable. This fundamental flaw alone is sufficient to acquit the appellant of the charges.

4(c). Learned counsel further argues that the allegation concerning the preparation of an ante-dated reported about tree No.128 is entirely baseless. During cross examination, PW-17 Harbant Singh, admitted that the report in question was prepared by Amarjit Singh on 20.04.1994 and received by him (Harbant Singh) on the same date. The delay in submitting the report was solely due to PW-17 Harbant Singh retaining it. Despite this, PW-17 Harbant Singh was neither implicated as an accused nor questioned, raising serious concerns about the selective prosecution of the appellant. It has been asserted that this selective approach undermines the credibility of the allegations against the appellant.

4(d). Learned counsel still further contends that the learned Trial Court erred in relying on the testimonies of PW-9 Sardara Singh and PW-17 Harbant Singh, both of whom have questionable credibility. It is



an admitted fact that both witnesses are themselves facing criminal cases under the PC Act. Their involvement in such cases casts significant doubt on their reliability as witnesses and their testimonies should not have been relied upon by the learned Trial Court.

4(e). Furthermore, learned counsel argues that regarding the charge of misappropriating 532 trees, the case of the prosecution is riddled with contradictions. PW-9 Sardara Singh admitted in his testimony that there is no specific report regarding 532 trees missing. Instead, he referred to a report concerning 696 trees but failed to clarify their status. Furthermore, learned counsel contends that the prosecution made no attempt to co-relate the 532 trees with the 465 trees identified as deficient in the report by Pritpal Singh (Ex.D2). The count of 532 trees also failed to exclude damaged trees from Ex.D2, auctioned trees, or those handed over on *supardari*. Learned counsel asserts that this lack of co-relation and clarity renders the claim of the prosecution speculative and unreliable.

4(f). Learned counsel still further submits that PW-17 Harbant Singh admitted during his examination-in-chief that 112 trees from the list of 696 trees mentioned in Ex.P1 had already been auctioned and 52 trees were found deficient under the supervision of Desraj, a Forest Guard. These admissions further diminish the evidentiary value of Ex.P1. Additionally, the list of 696 trees in Ex.P1 was never shared with the appellant for verification. It has been argued that the appellant could have cross-verified the claims and conducted field inspections had the list been provided. The failure to share this list as per the



learned counsel points to *mala fide* intent and raises doubts about the authenticity of the case of the prosecution.

4(g). Learned counsel, while drawing the attention of this Court to the cross examination of PW-17 Harbant Singh, submits that this witness admitted during his cross examination that the rough checking report prepared by Gurdial Singh was destroyed at the time of creating the final report. This destruction of critical evidence casts doubt on the reliability of Ex.P1 and makes it impossible to conclusively establish whether the trees listed in Ex.P1 were indeed misappropriated.

4(h). While making submissions qua the charges of forgery under Sections 467 and 471 of the IPC, learned counsel asserts that those charges concerning tree No.128 are equally baseless. It is undisputed that the report was prepared by Amarjit Singh on 20.04.1994, as corroborated by Harbant Singh, PW-17. The appellant had no involvement in its preparation or submission creating a serious dent in the case of the prosecution.

4(i). Furthermore, learned counsel contends that the conduct of the appellant has throughout been aboveboard, with no evidence of personal gain or misuse of authority. The appellant had merely reported 72 missing trees, which were unrelated to the 465 trees identified as Ex.P2. The prosecution as per the learned counsel failed to provide any evidence suggesting wrongful gain or malicious intent on the part of the appellant.

4(j). Learned counsel further argues that the prosecution failed to attach a specific list of the 532 trees allegedly misappropriated, along



with the challan. PW-17 Harbant Singh admitted that the destruction of the rough checking report deprived the prosecution of critical evidence. This procedural lapse, as per the learned counsel further weakens the case of the prosecution and makes it impossible to prove whether the trees in question were under the control of the appellant or had been misappropriated.

4(k). Learned counsel submits that the learned Trial Court failed to appreciate and take into account the multiple inconsistencies, procedural lapses, and lack of credible evidence in the case of the prosecution. The destruction of crucial evidence, failure to share key reports, and reliance on untrustworthy witnesses collectively weakens the case against the appellant. A prayer has, therefore, been made that the appellant be acquitted and the impugned judgment and order be set aside.

5. **Submissions by the State**

5(a). *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has argued that the prosecution had succeeded to prove its case beyond reasonable doubt and the learned Trial Court's judgment of conviction warrants no interference. It has been submitted that appellants Ravinder Nath and Pritpal Singh while being posted as Range Officer and Forest Guard respectively, in connivance with other accused, misappropriated tree No.128 by felling it in February, 1993 and later prepared an ante-dated about tree No.128, damage report (No.57632) on 20.04.1994 to conceal the said misappropriation. It has been argued that the delay in



submitting this report by appellant Ravinder Nath, which was required to be filed within 24 hours, indicated a deliberate attempt to manipulate records and evade accountability.

5(b). Learned State counsel has argued that the learned Trial Court has rightly appreciated that during a surprise inspection on 29.12.1993, PW-9 Sardara Singh, Divisional Forest Officer, identified discrepancies in Nangal Beat, a subsequent committee report dated 08.05.1994, prepared by PW-17 Harbant Singh, PW-11 Jagjinder Singh, PW-18 Gurdial Singh, and DW-4 Manjit Singh, further revealed the illegal removal of tree No.128, corroborating the prosecution's case. Learned State counsel has further argued that from the deposition of PW-15 Joginder Singh and PW-11 Jagjinder Singh it was clearly established that the said tree was cut within 20 days prior to 28.04.1994 using a saw. The damage report Ex.PS/2 was only received on 03.05.1994, and its backdating, coupled with missing details such as the date on Ravinder Nath's endorsement, indicated connivance between the appellants. Further, it has been contended that the appellants misappropriated a total of 532 trees from Nangal Beat, as established during the checking conducted on 28.04.1994. Despite being entrusted with the management of the forest beats, the appellants failed to account for these missing trees, and therefore, the learned Trial Court rightly convicted the appellants. Learned State counsel has also submitted that trees mentioned in Ex.DZ, reported by appellant Pritpal Singh, were excluded from the count of misappropriated trees and only freshly cut trees were considered during PW-9 Sardara Singh's



investigation, which further reinforced the credibility of these findings.

5(c). Learned State counsel has thus argued that the deliberate delay in submitting the damage report, falsification of records, and failure to account for the missing trees establishes the appellants' complicity under Section 13(1)(c) of the PC Act and the Trial Court's findings which were based on credible evidence require no interference. Qua appellant Darshan Singh, learned State counsel has submitted that the contentions raised by the learned senior counsel for appellant Darshan Singh of having received the trees on supardari are unsustainable as the aforesaid practice of giving trees on supardari were with respect to a sarpanch, however, Nahar Singh (brother of appellant Darshan Singh) was neither a Sarpanch nor a Lamberdar and, therefore, there was no occasion for the department to give trees to Nahar Singh on supardari.

5(d). It has been further submitted that even the authenticity of the copy of supardginama produced by appellant Darshan Singh was highly doubtful as admittedly none of the officials of the Forest Department had signed the copy of the said supardginama Ex.DL and Ex.DM and even otherwise the original supardginama was never produced in the Court or before the authorities. Learned State counsel has thus argued that in these circumstances, the prosecution had succeeded in proving its case beyond reasonable doubt and based on the evidence adduced, the learned Trial Court had rightly convicted all the appellants.

6. I have heard learned counsel for the parties and perused the



relevant material on record.

Findings of the Court

7. Adverting first to the appeals filed by **appellants Pritpal Singh and Ravinder Nath**, it primarily pertains to two sets of allegations: (i) forgery of the report associated with misappropriation of tree No.128; and (ii) misappropriation of 532 trees allegedly found missing during a surprise inspection.

8. This Court has meticulously analyzed the evidence, testimony and arguments presented by both sides, and proceeds to adjudicate as follows:-

Allegations regarding forgery of report related to tree No.128

9. As per the allegations of the prosecution, the appellants misappropriated tree No.128 by felling it in February, 1993 and subsequently issued a back dated report (No.57632) on 20.04.1994, to cover up the misappropriation. The learned Trial Court acquitted appellant Pritpal Singh of this charge but convicted appellant Ravinder Nath under Sections 467 and 471 of the IPC for forging and using a forged document.

10. PW-15 Joginder Singh, a Block Forest Officer, conducted a site inspection with the Vigilance Department on 28.04.1994, and testified that the tree had been felled only 10 to 15 days prior to the inspection. This directly contradicts the claim of the prosecution that the tree was felled in February, 1993, rendering the core allegation baseless.

11. Further, the damaged report concerning tree No.128 was



prepared by accused Amarjit Singh on 20.04.1994 and endorsement by PW-17 Harbant Singh. Appellant Ravinder Nath merely entered the report into the damaged report register on 03.05.1994. No evidence was presented to show that appellant Ravinder Nath forged or altered the report.

12. Before delving further into the facts, it is pertinent to discuss the essential ingredients of the offences for which the appellants were charged with. Section 463 of the IPC defines forgery, while Section 464 of the IPC defines a false document. Section 467 of the IPC defines forgery of valuable security, will etc. while Section 471 of the IPC deals with using of forged document or electronic record as a genuine one. Sections 463, 464, 467 and 471 of the IPC are reproduced hereinunder:-

“463. Forgery.—Whoever makes any false document or false electronic record or part of a document or electronic record, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

464. Making a false document.—A person is said to make a false document or false electronic record—

First.—Who dishonestly or fraudulently—

(a) makes, signs, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

(c) affixes any electronic signature on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the electronic signature,

with the intention of causing it to be believed that such document or part of document, electronic record or electronic signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or



Secondly.—Who without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with electronic signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his electronic signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.

Explanation 1.—A man's signature of his own name may amount to forgery.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Explanation 3.—For the purposes of this section, the expression "affixing electronic signature" shall have the meaning assigned to it in clause (d) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).

467. Forgery of valuable security, will, etc.—Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, 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.

471. Using as genuine a forged document or electronic record.—Whoever fraudulently or dishonestly uses as genuine any document or electronic record which he knows or has reason to believe to be a forged document or electronic record, shall be punished in the same manner as if he had forged such document or electronic record."

13. A perusal of the above reproduced provisions make it abundantly clear that the offence of forgery requires the creation of a false document or alteration of a document with an intent to deceive. Therefore, in order to bring home a charge of forgery, the prosecution must prove beyond reasonable doubt that the accused had either



executed/created the documents by claiming to be someone else; or had altered or tampered with the document; or had obtained it by playing deception on a person not in control of his senses by reason of intoxication or unsoundness of mind. In the present case, the prosecution failed to demonstrate that appellant Ravinder Nath either created or tampered with the damaged report Ex.PS/2, Ex.PS/3. A perusal of the record reveals that no evidence was led to suggest that appellant Ravinder Nath had ever prepared the report in question. As per Ex.PS/2 accused Amarjit Singh had prepared the report on 20.04.1994. It was neither alleged nor proved that Amarjit Singh was not authorized to prepare the report or had impersonated someone else while preparing it. Rather, the only role attributed to appellant Ravinder Nath was that he received the said report (Ex.PS/2) on 03.05.1994 and made an entry in the damaged report register.

14. The thrust of the prosecution's case rests on the argument that the report was back dated to conceal the delay in reporting the felling of the tree. However, it lacks substance in the absence of any material in support thereof. The report bore the endorsement of PW-17 Harbant Singh, who in his testimony acknowledged having received it on 20.04.1994. The reliance by the learned Trial Court on the alleged delay, without credible evidence of forgery or falsification, is therefore, highly misplaced. Furthermore, once the learned Trial Court found no evidence of misappropriation of tree No.128, the alleged motive for back dating the report collapses.

15. Since the prosecution could not substantiate that tree



No.128 was misappropriated nor could it establish the necessary ingredients of Sections 467 and 471 of the IPC against the accused, the conviction for forging a document to cover up such misappropriation cannot be sustained.

16. In the light of the above, conviction of appellant Ravinder Nath under Sections 467 and 471 of the IPC is unsustainable.

17. The second allegation against the appellants **pertains to the misappropriation, under Section 13(1)(c) of the PC Act, of 532 trees valued at Rs.1,38,710.43 during their tenure.** The prosecution relied on a surprise inspection conducted on 29.12.1993 by PW-9 Sardara Singh, Divisional Forest Officer, and a subsequent checking report Ex.P-1 prepared by a committee constituted on his orders on 08.05.1994, comprising of Harbant Singh PW-17, Jagjinder Singh PW-11, Gurdial Singh PW-18 and Manjit Singh DW-4. While analyzing the evidence on record, it comes across that a charge report dated 07.12.1992 (Ex.DZ) submitted by appellant Pritpal Singh highlighted a shortage of 449 trees in the Nangal Beat, on his assuming charge of the Beat. PW-9 Sardara Singh admitted during his cross examination that this report was not considered during the inspection as he had not received it in his office, which indeed raises doubts about the claim of the prosecution attributing the alleged misappropriation to the appellants.

18. Though the learned State counsel has submitted that the trees qua which the report Ex.DZ had been given by appellant Pritpal Singh were excluded from the total count of allegedly misappropriated



trees i.e. 532, as only freshly cut trees had been considered by PW-9 Sardara Singh, however, he has not been able to dispute that no physical verification had been conducted by PW-9 Sardara Singh and the report submitted by the checking committee pertained to trees cut between the period within 06-12 months of checking.

19. Furthermore, PW-9 Sardara Singh admitted to the possibility of existence of allegedly missing trees at the spot. This lack of due diligence undoubtedly undermines the reliability of the report.

20. During trial, key prosecution witnesses, including PW-11 Jagjinder Singh, who was a member of the said committee, turned hostile further weakening the case of the prosecution. Furthermore, another member of the committee, Manjit Singh was examined as a defence witness (DW-4). The testimonies of other key witnesses, Harbant Singh PW-17, Gurdial Singh PW-18 and Sardara Singh PW-9, failed to prove any direct involvement of the appellants in the alleged misappropriation. PW-9 Sardara Singh (Divisional Forest Officer) testified that shortage was based on a checking report (Ex.P1) prepared by a committee of Forest Officials. However, key witness, PW-17 Harbant Singh, admitted during cross examination that the rough report prepared during actual physical verification had been destroyed, and some of the trees reported as missing might still have been in existence.

21. This unexplained destruction of the rough report raises serious questions about the authenticity of the final report. The absence of these documents creates a significant gap in the chain of evidence and casts doubt on the authenticity of the final checking report.



22. DW-1 Sanjay Bansal (Divisional Forest Officer), testified that during an inspection conducted in the year 1995, many of the trees reported as missing were found intact. This further diminishes the credibility of the prosecution case.

23. Resultantly, the prosecution failed miserably to present any evidence linking the appellants to the alleged disappearance of the trees or proving that the missing trees were used by them for personal gains. The reliance on an unverified checking report, coupled with the destruction of rough checking reports, raises serious questions about the credibility of the case of the prosecution. Pertinently, the prosecution also ignored the charge report submitted by appellant Pritpal Singh, which documented pre-existing shortages.

24. Given the inconsistencies, contradictions and lack of any cogent and concrete evidence, the charge of misappropriation of 532 trees against the appellants are unsustainable.

25. Coming next to the appeal filed by **appellant Darshan Singh (CRA-S-381-SB-2002)**, appellant Darshan Singh was convicted under Section 411 of the IPC for allegedly receiving stolen properties (trees). As per the learned senior counsel appearing for appellant Darshan Singh, the trees in question were given on supardari to appellant Darshan Singh's brother Nahar Singh vide supardaginama Ex.DL, Ex.DM. During trial, while stepping into the witness box PW-17 Harbant Singh admitted during his cross-examination that it was common practice to hand over trees on supardari to villagers. DW-6 Nahar Singh (brother of appellant Darshan Singh) and DW-7 Harbans



Singh, Sarpanch of the village, corroborated that the trees were given on supardari by appellant Pritpal Singh to Nahar Singh. The supardaginas Ex.DL, Ex.DM were discarded by the learned Trial Court as being an afterthought, despite no evidence in this regard having been led by the prosecution. Although learned State counsel has argued that there was no occasion for the department to give trees to Nahar Singh on supardari since he was not a Sarpanch or a Lamberdar, however, he has not been able to dispute that no evidence was led by the prosecution that only Lambardar or Sarpanches were authorized to receive trees on supardari. The learned Trial Court, therefore, erred in discarding the supardagina as an afterthought, citing the absence of any signatures by other Forest Officers, since no evidence was led by the prosecution to prove that it was a fabricated document or even that multiple signatures of the other Forest Officers were mandatory for its validity. Furthermore, no evidence, much less cogent, was presented by the prosecution to show that appellant Darshan Singh had knowledge that the trees in question were stolen.

26. Therefore, in the absence of any cogent evidence to show, much less prove, that appellant Darshan Singh had knowledge or had reason to believe that the trees were stolen, the essential ingredients of Section 411 of the IPC are not made out.

27. In the light of the foregoing, the findings of the learned Trial Court are unsustainable and are liable to be set aside. Accordingly, all the appeals are allowed. The impugned judgments of conviction and orders of sentence are hereby set aside. The appellants



CRA-S-380-SB-2002 (O&M) and connected matters

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are acquitted of the charges framed against them.

28. Pending applications, if any, stand disposed of.

17.12.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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