

CRR-2012-2023

::1::

(254-3)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 21.03.2024

(1) CRR-2012-2023 (O & M)

Sunder Singh Petitioner

V/s

State of Haryana ...Respondent

(2) CRR-2014-2023 (O & M)

Sukhi Ram Petitioner

V/s

State of Haryana ...Respondent

(3) CRR-2139-2023 (O & M)

Hari Singh Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rohit Rana, Advocate,
with Mr. Kunal Dawar, Advocate, (in CRR-2012),
Mr. Ravinder Hooda, Advocate (in CRR-2014)
and Mr. Neeraj Goel, Advocate (in CRR-2139),
for the petitioner(s).

Mr. Rajiv Goel, DAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

This order shall dispose of three criminal revision petitions i.e.

CRR Nos.2012, 2014 and 2139 of 2023 as they arise out of the same FIR.

CRR-2012-2023

::2::

(254-3)

2. The above-mentioned revision petitions have been preferred against the judgment dated 18.08.2023 passed by the Additional Sessions Judge, Palwal whereby the judgment of conviction and order of sentence dated 16.01.2018 passed by the Sub Divisional Judicial Magistrate, Hodal has been upheld and the sentenced awarded to the petitioners under Section 420 IPC was modified to Section 417 IPC.

3. For the sake of convenience, the facts are being taken from the petition (CRR-2012-2023).

4. The prosecution case in brief is that on 30.5.2011 a complaint was received by ASI Mundkati Chowki under section 156(3) Cr.P.C filed by the complainant Satpal against six accused persons under Sections 420, 467, 468, 471, 120-B IPC submitting that he (complainant) was a permanent resident of village Banchari, Tehsil Hodal, District Palwal. His father were four brothers namely Chandu Ram, Badan Singh, Chotu Ram and Bhagwan Singh. Out of them Chotu Ram had died intestate and Bhagwan Singh had two daughters. Badan Singh worked in the Military around 50-60 years ago and was unmarried and nor did he have any child. Since then his Uncle (Chacha) Badan Singh went missing and had not come back till date. His father Chandu Ram had expired who had five sons. He and his brothers were the real legal heirs of his uncle Badan Singh and since Badan Singh was missing they were taking care of his share and doing cultivation on the same. On 10.5.2011, he came to know from some persons that the land of his uncle

Badan Singh had been mortgaged by the accused persons, namely, Rohtash,

CRR-2012-2023**::3::****(254-3)**

Hari Singh Numberdar (petitioner in CRR-2139-2023), Sukhi Ram (petitioner in CRR-2014-2023) and Sunder (petitioner in CRR-2012-2023), Field Officer and Manager Gurgaon Gramin Bank, Branch Hodal in connivance with each other by preparing forged documents with the intention to cause wrongful loss to them and by getting another person to appear in place of his Uncle Badan Singh whose name was Sunder son of Atra took a loan of Rs.5,50,000/- from Gurgaon Gramin Bank, Hodal which was illegal and void. On coming to know about this, he (complainant) had moved an application dated 14.5.2011 to Manager Gurgaon Gramin Bank, Hodal Branch and one application was moved on 16.5.2011 to S.D.M., Hodal. From 16.5.2011 to 18.5.2011, he kept on visiting Police Station Hodal, but no action was taken by the police. Hence, the present complaint had been filed.

5. The aforementioned complaint led to the registration of the FIR No. 163 dated 30.05.2011 under Sections 420, 467, 468, 471 read with Section 120-B IPC and Section 201 IPC, Police Station Hodal. The report under Section 173 C.P.C. was submitted against Hari Singh, Sukhi Ram, Om Parkash Kalra and Vijay Pal. On conclusion of the Trial, vide judgment dated 16.01.2018 passed by the Sub Divisional Judicial Magistrate, Hodal, while Om Parkash Kalra and Vijay Pal, both of whom were Bank employees, were acquitted, the remaining accused (petitioners) came to be convicted and sentenced as under:-

Name of convict	Section	Sentence	Fine imposed	In default of payment
Hari Singh	420 IPC	RI for 03 years	2,000/-	RI 09 months
	467 IPC	RI for 03 years	3,000/-	RI 09 months
	468 IPC	RI for 03 years	2,000/-	RI 09 months
	471 IPC	RI for 01 year	1,000/-	RI 03 months
Sunder Singh	420 IPC	RI for 03 years	2,000/-	RI 09 months
	467 IPC	RI for 03 years	3,000/-	RI 09 months
	468 IPC	RI for 03 years	2,000/-	RI 09 months
	471 IPC	RI for 01 year	1,000/-	RI 03 months
	201 IPC	RI 02 years	2,000/-	RI 06 months
Sukhi Ram	420 IPC	RI for 03 years	2,000/-	RI 09 months
	467 IPC	RI for 03 years	3,000/-	RI 09 months
	468 IPC	RI for 03 years	2,000/-	RI 09 months
	471 IPC	RI for 01 year	1,000/-	RI 03 months

6. The petitioners-accused preferred separate appeal before the Court of Additional Sessions Judge, Palwal. Vide judgment dated 18.08.2023, the said Court while upholding the judgment of conviction and order of sentence dated 16.01.2018 modified the same to the extent that instead of Section 420 IPC, the appellants were convicted under Section 417 IPC and were sentenced to undergo imprisonment for a period of one year and to pay a fine of Rs.2,000/- each. The modified sentence is reproduced as under:-

Name of convict	Section	Sentence	Fine imposed	In default of payment
Hari Singh	417 IPC	RI for 01 years	2,000/-	RI 03 months
	467 IPC	RI for 03 years	3,000/-	RI 09 months
	468 IPC	RI for 03 years	2,000/-	RI 09 months
	471 IPC	RI for 01 year	1,000/-	RI 03 months
Sunder Singh	417 IPC	RI for 01 years	2,000/-	RI 03 months
	467 IPC	RI for 03 years	3,000/-	RI 09 months

Name of convict	Section	Sentence	Fine imposed	In default of payment
	468 IPC	RI for 03 years	2,000/-	RI 09 months
	471 IPC	RI for 01 year	1,000/-	RI 03 months
	201 IPC	RI 02 years	2,000/-	RI 06 months
Sukhi Ram	417 IPC	RI for 01 years	2,000/-	RI 03 months
	467 IPC	RI for 03 years	3,000/-	RI 09 months
	468 IPC	RI for 03 years	2,000/-	RI 09 months
	471 IPC	RI for 01 year	1,000/-	RI 03 months

7. The aforementioned judgments are under challenge in the present petitions.

8. As per the custody certificates dated 14.03.2024, the petitioners-Sunder Singh, Hari Singh and Sukhi Ram have undergone actual custody of 08 months 20 days, 10 months 19 days and 08 months, 05 days respectively.

9. The learned counsel for the petitioners contend that the Courts below had failed to take into consideration the fact that all the witnesses of the prosecution were interested witnesses and were thus, untrustworthy. There were material discrepancies and contradictions in their statements. The defence version had erroneously not been accepted. The prosecution story was highly improbable and appears to be a concocted one. No specimen signatures or hand-writing expert for comparison were taken by any expert and no wrongful loss was caused to the complainant and therefore, the offence in question were not made out. They lastly contend that if this Court was to come to the conclusion that the guilt of the

petitioners was established beyond doubt, their sentence ought to be reduced to the period already undergone by them given the fact that admittedly, no loan had been disbursed by the Bank and therefore, the complainant had not suffered any loss.

10. The learned counsel for the State, on the other hand, contends that no fault could be found with the well-reasoned judgments of the Trial Court and the Lower Appellate Court. All the grounds raised in the present petitions had been considered and dealt with in their proper perspective and therefore, the present petitions were liable to be dismissed. He, however, concedes that as the loan was not disbursed, no actual loss had been caused to any one.

11. I have heard the learned counsel for the parties.

12. A perusal of the record would reveal that the prosecution has proved the loan documents Ex.P-1 to P-10 alongwith mortgage deed Ex.PW-7/A and on the same, photographs of Sunder and attesting witnesses Hari Singh Namberdar and Sukhi Ram were present. No suggestion had been given by the defence counsel that the photographs affixed on these documents were not of the accused persons. Even otherwise, the photographs on the document Ex.PW-7/A are computerized photographs which would have been taken when the accused persons were themselves present in the office of the Sub Registrar. It is not disputed that the property in question belongs to one Badan Singh son of Karan Singh. No revenue record had been produced by the accused in their defence to prove that the

property in question belongs to them. Hence, it is proved beyond doubt that the three accused-petitioners, namely, Sunder Singh, Hari Singh and Sukhi Ram have committed the offence of forgery and the said documents were prepared with an intention to to induce the Bank officials for delivering the loan amount to them.

13. In view of the above discussion, I find no reason to interfere with the well-reasoned judgments of the Trial Court and the Lower Appellate Court. Therefore, the present revision petitions stands dismissed.

14. As regards the quantum of sentence is concerned, it may be relevant to mention here that the FIR was registered in the year 2011. Therefore, the petitioners have suffered a protracted Trial for more than 12 years. Further, no actual financial loss has been caused to anyone. Therefore, while upholding the conviction of the petitioners, I deem it appropriate to modify the sentence and reduce it to the period already undergone by them.

March 21, 2024
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No