



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

360

CRA-S-1520-SB-2011 (O&M)

Date of decision: 13.02.2026

Dwarka Parshad Jain and another ...Appellants

VERSUS

Subhash Mittal and another ...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. K.D.S. Hooda, Advocate for the appellants.

Mr. Paras Talwar, Sr. DAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

The present appeal has been filed against the judgment dated 05.05.2011 and order of sentence dated 06.05.2011 passed by Additional Sessions Judge, Palwal whereby the appellants have been convicted and sentenced under Section 465 and 471, IPC, 1860. Appellant no. 1- Dwarka Prasad was sentenced to pay a fine of Rs. 5000/- only and in default of payment of fine to undergo simple imprisonment for a period of three months. Appellant no. 2 – Girraj Prasad was sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs. 5000/- and in default of payment of fine would further undergo simple imprisonment for a period of three months.

2. Briefly stated, the facts of the present case are that FIR No. 264 of 1996 under Sections 406/420/467/34 IPC was registered at Police Station Hodal against the appellants. The police investigated the case and submitted an untrace report before the Court of the Area Magistrate. Thereafter, the complainant filed a private complaint against the appellants in the Court of the Area Magistrate, Palwal. The complainant alleged that Appellant no.1, Dwarka Parshad, was running a building material shop in the name of Jain

Building Material Supplier at Hodal. Appellant no.2-Shri Girraj Parshad, who is the son of appellant No. 1, was also working at the said shop. They were selling Chetak brand cement at their shop and represented to the complainant that they were authorized agents of Chetak brand cement. The complainant further stated that on 27.04.1996, he purchased 60 bags of Chetak brand cement from appellants at the rate of Rs.145/- per bag vide bill/receipt No. 93. At the time of sale, appellants being proprietors of the firm, assured him that the cement was of good quality and of Chetak brand. On their assurance, he purchased the cement and used the same for construction of his house during the months of May and June 1996. In July 1996, cracks allegedly appeared in the walls and roof of his house, causing him a loss of approximately Rs.3 lakhs. The complainant further alleged that he filed a complaint before the Consumer Disputes Redressal Forum, Faridabad. During the proceedings of the said complaint, appellants allegedly prepared a false receipt No. 74 dated 27.04.1996 and dishonestly produced the same before the Forum. They also filed an affidavit stating that the cement had been sold to the complainant vide receipt/bill No. 74 dated 27.04.1996, whereas, according to the complainant, the cement had been purchased vide bill No. 93 dated 27.04.1996. The Consumer Disputes Redressal Forum, in its impugned order dated 01.09.1998, held that bill/receipt No. 74 issued by the accused was forged. The complainant further stated that the police, in collusion with the accused, submitted an untrace report and did not properly investigate his complaint.

3. Vide order dated 07.02.2008, charge against the appellants was framed under Section 465 r/w 34 of IPC, on the allegations that they, in

furtherance of their common intention prepared a forged document i.e. receipt no. 74 dated 27.04. 1996 and submitted the same before District Consumer Disputes Redressal Forum, Faridabad with an intention to cause damage to the complainant. Both the accused pleaded not guilty and claimed trial.

4. On completion of the procedural compliances, parties led their respective evidence. The prosecution examined two witnesses and the evidence was thereafter closed.

5. The entire evidence was put to appellants and statements under Section 313 Cr. P.C. were recorded. The appellants denied the same and also examined 2 witnesses in their defence.

6. On consideration of the evidence and hearing the arguments, the appellants were convicted under Section 465/471, IPC by Additional Sessions Judge, Palwal vide judgment dated 05.05.2011 and order of sentence dated 06.05.2011 was passed and imposed on appellant-Girraj Parshad. Hence, the present appeal.

7. During the pendency of the present appeal before this Court, appellant no. 1- Dwarka Parshad Jain has expired. The appeal qua him thus ordered to stand abated as Legal Representatives have shown no inclination to further pursue the present case.

8. Counsel for the appellants, at the outset, contends that he does not wish to challenge the conviction and restricts his prayer qua modification of the order on quantum of sentence. He submits that the fine imposed by the Additional Sessions Judge already stands deposited and prays that the sentence imposed upon the appellant-Girraj Parshad, as aforestated, be

modified and reduced to the extent of payment of fine only. He points the following mitigating circumstances:

- (i) The occurrence pertains to the year 1996 and the appellant has faced the agony of protracted criminal proceedings for almost three decades which in itself has had a considerable deterrent and punitive impact.
- (ii) That the appellant is a first-time offender with clean antecedents and has not been involved in any other criminal case.
- (iii) The appellant has family responsibilities of children which now includes grand-children.
- (iv) There is nothing on record to suggest that appellant has misused the concession of interim bail granted to him by Additional Sessions Judge
- (v) The dispute was primarily personal in nature arising out of a private transaction between parties and doesn't have any larger public ramifications.
- (vi) Accordingly, it is prayed that the sentence imposed upon the appellants be reduced to the period already undergone.

9. Learned State counsel even though contends that allegations of forgery are serious in nature but doesn't have any major objection to the aforesaid prayer being granted.

10. I have heard learned counsel for the parties and have gone through the impugned judgments.

11. Since the appellant-Girraj Parshad has given up the challenge to

the judgment of conviction on merits, hence, the issues on merits of conviction are not being gone into at this stage. The discussion is thus restricted solely to the issue of sentencing and quantum of punishment.

12. The purpose of sentencing being both deterrent as well as reformatory, hence, while sentencing of an accused factors, such as psychological and sociological circumstances of an accused; the gravity, nature and manner of committing the offence; the consequences, the social reaction of the offence; the antecedents and tendencies of an accused should be taken into consideration.

13. In the present case, there is nothing on record to reflect that the appellant possesses a criminal bent of mind or that their conduct poses any threat to the society. Hence, by the broader principles of criminal jurisprudence, no adverse presumption can be drawn against the revisionist-appellant.

14. This Court, in **CRR-2697-2025** titled '*Lakshay Jain v. State of Punjab & Another*', vide order dated 14.11.2025, has held that sentencing must prioritise a reformatory approach, assessing an offender's background and circumstances rather than adopting a purely punitive stance. Mere involvement in an offence does not, by itself, establish criminality; instead, the totality of circumstances including the manner of the act, antecedents, conduct, and intent must guide sentencing. The law, therefore, distinguishes between errors of judgment and acts driven by deliberate mens rea, recognising that offenders are often capable of reform and should not be presumed beyond rehabilitation. The relevant extract of the aforesaid judgment are as follows:

“32. The imposition of punishment is a refined judicial function that demands a careful harmonization of its underlying purposes namely, retribution, deterrence, and reformation. This balance must reflect not only the reasoning of the Court but also the ethical standards and social context in which justice is administered. As societal values and circumstances evolve, the prominence accorded to each of these aims necessarily varies, requiring the Court to adapt its emphasis in response to the changing demands of justice. The aforesaid principle found early articulation in the writings of Justice Caldwell, who, in his authoritative work “Criminology,” observed that:

“If the infliction of pain is to have its greatest effect upon the behavior of a person, it must follow soon after the act for which it is given. But punishment always takes place weeks or even months after the offense has been committed, since the offender must first be apprehended, tried, and convicted. Such delay tends to disconnect the punishment from the offense in the mind of the offender, and it may well be considered as merely another painful experience in an unjust world.”

33. Moreover, Italian criminologist and jurist Cesare Beccaria, in his seminal treatise “On Crimes and Punishments,” propounded the doctrine of penal parsimony, emphasizing that the justification of any criminal justice system rests upon its capacity to inflict the least possible evil necessary to achieve its ends. The underlying premise is that punishment, being in itself a necessary evil and devoid of inherent virtue, must be confined strictly within the bounds of necessity. The imposition of suffering or restriction upon an offender cannot extend beyond what is indispensable for the preservation of social order.

34. While 'retributive' object of sentencing is seen regressive, in modern day sentencing jurisprudence for its focus on punishing proportionally for the harm done and caters to the negative senses of spite and anger against a wrongful act, the rehabilitative/reformative approach examines the circumstances surrounding the offender on social, economical, physical and psychological level so as to reintegrate the offender in the social mainstream. The law extends the benefit of good and perceives a probability and possibility of reform. It aims at capitalising a perceived social liability. The expectation of law is based on the surrounding circumstances to distinguish between a 'criminal' and an 'offender'.

35. While the pre-requisites of crime do not distinguish two persons, on the legal scale, this aspect is significant for sentencing. A mere involvement of a person in crime may not necessarily mark a person as a 'criminal.' 'Criminality' in mind and action has to be determined from the totality of circumstances including the mode and manner in committing an offence, the conduct pre and post the offence, the criminal antecedents, nature of involvement, influence of peers etc. and not just from an isolatory consideration of commission of an offence. A Court of law would not assume every offender to be beyond reform and differentiate in punishment on considering whether the offences arise due to human error or that stem from actions propelled by mens rea.

36. The case in hand is yet another where interest of justice would warrant a reformative approach in precedence to a punitive or retributive approach. It is not the function of the judges to seek the transformation of human nature itself, but rather to shape the framework within which individuals perceive that adherence to the

law aligns with their own best interests.”

15. Adverting to the facts of the present case and the mitigating circumstances pointed out by counsel for the appellant-Girraj Parshad establish that appellant is a first-time offender with no criminal antecedents and has not indulged in any subsequent crime. He has undisputedly faced agony of criminal trial for almost 30 years. He is a settled member of society and prolonged incarceration will have an adverse impact on the education and well being of his children as well as on his health and well-being.

16. Taking into consideration the facts and the mitigating circumstances as noticed above, I deem it appropriate to partly allow the petition. While maintaining the judgment of conviction, the order of sentence is modified. The sentence awarded to appellant-Girraj Parshad by Additional Sessions Judge, Palwal is modified and reduced to payment of fine only.

17. Pending application(s), if any, shall stand disposed of.

13.02.2026

Sumit Gusain

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

(VINOD S. BHARDWAJ)
JUDGE