

***Before Darshan Singh, J.***  
**IQBAL SINGH AND ANOTHER —Appellants**

*versus*

**STATE OF PUNJAB — Respondent**

**CRA. No.- S-1672-SB of 2003**

December 21, 2015

***A. Criminal Law—Indian Penal Code—Ss. 28, 489-A, 489-C&489-D—Counterfeiting of currency notes—An Accused found in possession of counterfeit currency notes and incriminating material used for printing the same—Accused involved in other cases and a habitual offender—Such an Accused does not deserve to be shown leniency.***

*Held*, that Appellant Baldev Singh has been held guilty and convicted for the offences punishable under Sections 489-A, 489-C and 489-D IPC. He has been sentenced to rigorous imprisonment for a period of seven years each for the offences punishable under Section 489-A and 489-D IPC and has been sentenced to undergo rigorous imprisonment for a period of six years for the offence punishable under Section 489-C IPC. Thus, appellant Baldev Singh has indulged in counterfeiting the currency notes and was also found in possession of the instruments for counterfeiting the currency notes in addition to the possession of the large number of fake currency notes. As per the status report filed by the respondent-State, after the present case he was again involved in case FIR No. 145 dated 10.04.2003, under Sections 489-B, 489-C, 489-D and 420 IPC. He was convicted in that case. In addition to that he was also convicted in three other cases under the Excise Act. So, he is an habitual offender. He also indulged in the similar type of offences even during the pendency of the present case in the trial Court. Thus, he does not deserve any leniency in the matter of sentence.

(Para 49)

***B. Criminal Law—Indian Evidence Act 1872—S. 3—Appreciation of evidence—Accused convicted on basis of testimony of official witnesses/police officers—Can be relied upon by the Court in case such testimony appears to be reliable—Non-examination of independent witnesses not fatal to prosecution case—Omission or lapse on the part of investigating officer cannot be used in favour of the Accused***

*Held*, that the police witnesses cannot be viewed with distrust every time. If the testimonies of the police officers appears to be reliable, then the Court can act upon the same. Learned counsel for the appellants have not been able to point out any material contradiction in the statements of PW-2 Inspector Bhupinder Singh, the Investigating Officer of the case, PW-3 HC Palwinder Singh, the witness of recovery and PW-4 ASI Jaswant Singh, the witness of recovery of the currency notes from the possession of appellant Munna Lal to render the apprehension of the appellants and the recoveries doubtful. Thus, the non-examination of Sukhdev Singh and Devinder Singh as well as the non-association of the inhabitants of the locality is no ground to render the testimonies of the official witnesses unworthy of credence.

(Para 31)

*Further held*, that no doubt, the Investigating Officer has not collected any oral or documentary evidence to establish the ownership of the said premises and in which capacity appellant Baldev Singh and his co-accused Gursimran Singh was in occupation thereof. No rent note/lease deed has been collected by the Investigating Officer. This is lapse on the part of the Investigating Officer. If, he would have collected this evidence, it would had further strengthened the case of the prosecution. But, this lapse on the part of the Investigating Officer is no ground to grant any concession to the appellants. The Hon'ble Supreme Court in case **V.K. Mishra and Anr. Vs. State of Uttrakhand and another 2015(3) R.C.R (Criminal) 899** has laid down that any omission on the part of the Investigating Officer cannot go against the prosecution. The interest of justice demands that such act and omission on the Investigating Officer should not be taken in favour of the accused, otherwise it will amount to place the premium upon such omissions.

(Para 33)

H.S.Thiara, Advocate  
for the *appellants* (in CRA-S-1672-SB of 2003).

R.K.Handa, Advocate  
for the *appellant* (in CRA-S-2003-SB of 2003).

Amandeep Singh, Advocate  
for the appellant (in CRA-S-754-SB of 2004).

Manjit Singh Naryal, A.A.G., Punjab.

**DARSHAN SINGH, J**

(1) This judgment shall dispose of all the three appeals against conviction, mentioned above which have arisen out of the same judgment dated 25.08.2003, vide which the appellant Baldev Singh has been held guilty and convicted for the offences punishable under Sections 489-A, 489-C and 489-D of Indian Penal Code (for short 'IPC') and appellants Iqbal Singh, Sukhwinder Singh and Munna Lal have been held guilty and convicted for the offences punishable under Section 489-C IPC and have been sentenced as under:-

Name of the convict	Under Section	R.I	Fine	In default of payment of fine to further rigorous imprisonment
Iqbal Singh	489-C IPC	6 Years	-----	-----

Name of the convict	Under Section	R.I	Fine	In default of payment of fine to further rigorous imprisonment
Sukhwinder Singh	489-C IPC	6 Years	-----	-----

Name of the convict	Under Section	R.I	Fine	In default of payment of fine to further rigorous imprisonment
Munna Lal	489-C IPC	6 Years	-----	-----

(2) The sequence of the events leading to this prosecution are that on 23.09.2001, PW-2 SI Bhupinder Singh along with other police employees received a secret information, while holding Nakabandi in front of Atwal Petrol in the area of Urban Estate, Phase-II main road Patiala, that appellants Iqbal Singh, Sukhwinder Singh @ Sukha and Baldev Singh were dealing in fake currency notes. They give the fake currency notes of Rs. 20,000/- of denomination of Rs. 100/- each in lieu of Rs.10,000/- of genuine currency notes. It was also informed by the informant that they purchase articles for Rs.10/- by giving 100/- rupee fake currency note and get back the balance amount in genuine currency. It was also disclosed that they all the three had gone towards

Rajpura on motorcycle and scooter with fake currency notes. If, the raid is conducted, they can be apprehended with huge quantity of fake currency notes. At this, SI Bhupinder Singh sent ruqa Ex.P-2 to the Police Station. On the basis of which, the formal FIR Ex.P2/1 was registered.

(3) SI Bhupinder Singh along with police officials searched for the accused, but they could not be apprehended on that day. On 24.09.2001, SI Bhupinder Singh was present near Sadhu Bela behind Punjabi University, Patiala, Ex-Sarpanch Sukhdev Singh, Mirzapur met the police party and started talking and in the meanwhile appellants Sukhdev Singh (Sukhwinder Singh) along with appellant Iqbal Singh came on scooter bearing registration No. PJV-6721. On seeing the police party, they tried to return, but were apprehended. On the personal search of appellant Iqbal Singh, 42 currency notes of denomination of Rs.100/-each were recovered from the right side pocket of his shirt. 30 fake currency notes of the denomination of Rs.100/- each were recovered from the right side pocket of the shirt of appellant Sukhdev Singh (Sukhwinder Singh). On search of their scooter 208 fake currency notes of denomination of Rs.100/- each were recovered from the dicky of the scooter. These currency notes were taken into possession vide memo Ex.P3, Ex.P-4 and Ex.P-5 respectively along with scooter.

(4) On interrogation, they disclosed that their companions Simranjit Singh @ Vicky and appellant Baldev Singh can be apprehended from Mansahia Kothi near Railway Crossing No.21. On receiving this information, the police party raided said Mansahia Kothi and apprehended Simranjit Singh and appellant Baldev Singh, who were sitting in front of the computer in that kothi. The printer was working and on one side of the paper the photograph of Mahatma Gandhi was printed whereas, the other side was yet to be printed. 580 notes of denomination of Rs.100/- each were lying on the bed which were of different series. The said currency notes and 50 white papers taken into possession vide memo Ex.P-8. The coloured printer, CPU, Key-Board, Monitor, C.V.T, Board (Phatta), Blade/Cutter, 6 Leads and Mouse were taken into possession vide memo Ex.P-9. Simranjit Singh and appellant Baldev Singh disclosed that one Munna Lal, Rajesh Kumar and Tarkal had also taken notes worth Rs. 90,000/- from them. On 02.10.2001, SI Bhupinder Singh apprehended Munna Lal and Rajesh Kumar. 48 currency notes of denomination of Rs.100/- each wrapped in a glazed paper were recovered from the pocket of the shirt

of Munna Lal which were taken into possession vide memo Ex.P-12. On the personal search of Rajesh Kumar (Since deceased), the fake currency notes of Rs.16,000/- of the denomination of Rs.100/- were recovered from the rightside pocket of his shirt wrapped in a glazed paper, which were taken into possession vide memo Ex.P-13. Accused Tarkal could not be arrested and was ultimately declared as proclaimed offender. On completion of the investigation, the report under Section 173 of Code of Criminal Procedure (for short Cr.P.C) was presented in the Court.

(5) On commitment of the case to the Court of Sessions for trial, the accused-appellants were charge sheeted for the offence punishable under Sections 489-A, 489-B, 489-C and 489-D IPC, to which they pleaded not guilty and claimed the trial.

(6) In order to prove its case, the prosecution examined as many as four witnesses.

(7) When examined under Section 313 Cr.P.C, accused-appellant Iqbal Singh pleaded that he was the Ex-Sarpanch of Village Daulatpur. The Police has been demanded 'begar' from him usually. But, he did not oblige the police. Sukhwinder Singh resident of Rasulpur Jourran was his friend. They use to carry on the business of sale and purchase of buffaloes. Police also used to demanded 'begar' from Sukhwinder Singh. He also did not oblige them. Due to this reason, the false case has been planted upon them. Appellant Sukhwinder Singh also raised the same defence plea. Appellant Baldev Singh pleaded that on 23.09.2001 one Constable had come to their house in village Alipur. He was not present in the house. On the next day, he was produced in the Police Station. The persons accompanying him were sent back and told that there was a dispute regarding buffaloes and inquiry was to be made and after making inquiry he will be set at liberty. But, he was not released and falsely involved in this case by the police officials in order to get promotion and certificates from the department. Appellant Munna Lal pleaded that nothing was recovered from him. He had a dispute with his wife's brother. He was called in the Police Station in that connection. On 30.09.2001, he along with Inderjit Dhiman, President Shiv Saina, Patiala and 15-20 other respectable had gone to the Police Station. Police told them that he will be let off after some time. But, later on he was falsely implicated in this case.

(8) In the defence evidence, accused-appellants examined Jarnail Singh, Sarpanch of village Alipur Ariyan as DW-1, who supported the

defence plea raised by appellant Baldev Singh. Sukhdev Singh, who was cited as a witness by the prosecution appeared as DW-2 and denied that any recovery was effected in his presence. He also supported the defence plea raised by appellant Iqbal Singh. DW-3 Resham Singh deposed that he has produced appellant Sukhwinder Singh in the Police Post Urban Estate, where 2-4 more persons were sitting. HC Narinder Singh, Police Station Civil Lines, Patiala appeared as DW-4 and deposed about the jurisdiction of Police Station Civil Lines, Patiala. DW-5 Inderjit Dhiman supported the defence plea raised by appellant Munna Lal. Accused-appellant also examined DW-6 Subhash Chander, Assistant Manager, Reserve Bank of India, New Delhi, who deposed about the difference between the fake and the genuine currency notes. Thereafter, the defence evidence was closed.

(9) On appreciating the evidence/material on record and the pleas raised by the parties, the accused-appellants were convicted and sentenced as mentioned in the upper part of the judgment.

(10) Aggrieved with the aforesaid judgment of conviction and order of sentence, the present appeals have been preferred.

(11) I have heard Mr.H.S.Thiara, Advocate, learned counsel for the appellants (in CRA-S-1672-SB of 2003), Mr. R.K.Handa, Advocate, learned counsel for the appellant (in CRA-S-2003-SB of 2003), Mr. Amandeep Singh, Advocate, learned counsel for the appellant (in CRA-S-754-SB of 2004) and Mr.Manjit Singh Naryal, learned Additional Advocate General, for the State of Punjab and have meticulously examined the record of the case.

(12) Initiating the arguments, Mr. R.K.Handa, Advocate learned counsel for the appellants contended that it is not proved that the notes allegedly recovered from the appellants were the fake currency notes. He contended that PW-1 T.R.Nangal, Assistant General Manager has admitted that these were only the photostat copies of the currency notes. He contended that photocopy of the currency notes does not come within the purview of the fake currency notes. There should be some resemblance to the genuine notes, so that it could be used as a fake currency notes. Thus, he contended that the ingredients of the offence are not made out. He further contended that the said notes were not kept in any sealed parcel. So, there was every possibility of tampering with the case property.

(13) He further contended that appellant Baldev Singh alleged to have been apprehended only on the basis of information given by the

co-accused, which is not a legal evidence. There is no other independent evidence to show the involvement of the appellant Baldev Singh in the present case. The secret information was only against appellants Iqbal Singh and Sukhwinder Singh.

(14) He further contended that the Mansahia Kothi is admittedly situated in a thickly populated area. But, no independent witness of locality has been associated, which renders the prosecution story doubtful and statements of the official witnesses should not be relied upon.

(15) He further contended that there is absolutely no evidence to connect appellant Baldev Singh with the said Mansahia Kothi from where the recovery is alleged to have been effected. He contended that the Investigating Officer has not collected any evidence to show as to who was the owner of the said Kothi. The Investigating Officer has deposed in his cross-examination that he has contacted the landlord, but surprisingly he has not been cited as a witness. There is no rent deed or lease deed to show that appellant Baldev Singh was in possession of the said room from where the recovery has been effected. So, appellant Baldev Singh is not connected at all with the room from where the recovery has been effected. He further contended that no question has been put to appellant Baldev Singh in his statement under Section 313 Cr.P.C that he was in possession of the said room. He contended that even as per the admitted version of the prosecution, no recovery of fake currency notes or any other article has been effected from the personal search of appellant Baldev Singh. The fake currency notes and the implements are stated to be lying in the room, which is not connected with appellant Baldev Singh. Mere his presence in the room will not establish his possession qua those articles and fake currency notes lying there.

(16) He further contended that the investigation is not fair and proceedings have been fabricated. The Investigating Officer has admitted that the board Ex.MO1077 was taken into possession on 24.09.2001, but the date over the said board is mentioned as 23.09.2001.

(17) He further contended that appellants Iqbal Singh and Sukhwinder Singh were allegedly apprehended in the jurisdiction of Police Station Sadar, Patiala. The FIR was also registered at Police Station Sadar, Patiala. As per the statement of DW-4 HC Narinder Singh, Mansahiya Kothi is situated in the area of Police Station Civil Lines, Patiala. PW-2 SI Bhupinder Singh had no jurisdiction to

investigate the case in the jurisdiction of Police Station Civil Lines, Patiala. So, the investigation/prosecution is vitiated.

(18) He further contended that appellant Baldev Singh is an illiterate person. He cannot operate the computer. PW-3 H.C Palwinder Singh has admitted that Baldev Singh was merely sitting there and was not operating the computer. So, no offence is made against appellant Baldev Singh.

(19) He further contended that Sukhdev Singh, who was cited as the witness of the prosecution has not been examined. Rather, he has the prosecution. He further contended that from the defence evidence i.e statement of DW-1 Jarnail Singh, it is established that appellant Baldev Singh was falsely implicated. Thus, he contended that conviction of appellant Baldev Singh has been wrongly recorded. He also pleaded that the sentence awarded to appellant Baldev Singh is also very harsh and excessive.

(20) Mr. H.S.Thiara and Mr. Amandeep Singh, Advocates, learned counsels for appellants Iqbal Singh, Sukhwinder Singh and Munna Lal also adopted the contentions raised by Mr. R.K.Handa, Advocate, learned counsel for appellant Baldev Singh. They further contended that appellant Iqbal Singh, Sukhwinder Singh and Munna Lal have also been falsely implicated, which is evident from the statement of DW-2 Sukhdev Singh, DW-3 Resham Singh and DW-5 Inderjit Dhiman.

(21) They further contended that these appellants have already remained in custody for a considerable long period. They have only been convicted for the offence punishable under Section 489-C IPC. They contended that the sentence awarded to them is very harsh. The period already undergone by them in jail is quite sufficient. Thus, they pleaded for reduction of the sentence of these appellants.

(22) On the other hand, learned State counsel contended that from the statements of PW-2 SI Bhupinder Singh, PW-3 HC Palwinder Singh and PW-4 ASI Jaswant Singh, it is established that the fake currency notes were recovered from the possession of appellants. He contended that even the instruments for printing the fake currency notes have been recovered from the possession of appellant Baldev Singh and his co-accused Gursimran Singh. They were even printing the fake currency notes at the time of apprehension. He further contended that there is no doubt that the notes recovered from the appellants were fake as most of those currency notes were bearing the

same serial number. He contended that the lapses on the part of the Investigating Officer to collect evidence about the ownership of Mansahia Kothi and tenancy of appellant Baldev Singh, is no ground to give any benefit to the appellants. Thus, he pleaded that the conviction of appellants has been rightly recorded by the learned trial Court.

(23) I have duly considered the aforesaid contentions.

(24) I do not find any substance in the plea raised by learned counsel for the appellants that the prosecution has not been able to establish that the notes recovered from the appellants were the counterfeit currency notes. The prosecution has examined T.R.Nangal, Assistant General Manager, Reserve Bank of India, Chandigarh as PW-1. He has categorically deposed that he had checked all 1068 currency notes of denomination of Rs.100/- each, which were found to be fake and he has prepared the report Ex.P-1. The report Ex.P-1 shows the reasons for his conclusion that the paper was glazy, paper was thick, water mark was missing, security thread was also missing. There was absence of Intaglio printing and those were the photo copies of the genuine notes. The accused have examined DW-6 Subhash Chander, Assistant Manager, Reserve Bank of India, New Delhi. He has also deposed that he has seen the currency notes of the case property. The colour of these notes does not tally with the original currency notes. Paper and water mark were different. He further deposed that these notes are not able to be used in the market. Thus, even his statement shows the currency notes in question to be counterfeit.

(25) Section 28 IPC defines the “counterfeit”, which provides that a person is said to “counterfeit” who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised. Explanation 1 to Section 28 provides that it is not essential to counterfeiting that the imitation should be exact. So, even if there is some difference in the colour that will not negate the “counterfeit”. DW-6 Subhash Chander, Assistant Manager, Reserve Bank of India, the witness examined by the appellants has also categorically stated that such notes can be used in the market by deception. The Investigating Officer has also recovered the instruments being used to prepare the counterfeit currency notes from the room where appellant Baldev Singh and his co-accused Gursimran Singh were present. He has taken into possession the coloured printer, C.P.U loaded with all the necessary accessories, Key-Board, Monitor, Mouse, C.V.T, Board, Blade/ Cutter and 6 leads. 50 white papers were also recovered. The

Investigating Officer has also recovered three notes printed on one side containing the photograph of Mahatma Gandhi, whereas the other side was yet to be printed.

(26) PW-1 T.R.Nangal, Assistant General Manager, Reserve Bank of India, Chandigarh has detailed the deficiency detected by him in the currency notes recovered from the appellants to show that those were forged/fake currency notes and were opined to be the photo copies of the genuine notes. Even, from the statement of DW-6 Subhash Chander, Assistant Manager, Reserve Bank of India, New Delhi, the witness examined by the appellants, it comes out that the notes of the case property shown to him were the fake currency notes as those do not tally with the original currency notes. Paper and water marks were different. He has also admitted in the cross-examination that such notes can be used in the market by deception. So, the notes recovered from the appellants are proved to be the counterfeit currency notes.

(27) Learned counsel for the appellants has also pleaded that PW-1 T.R.Nangal cannot be considered to be an expert witness as he was not having any educational qualification in this field. But, this plea raised by learned counsel for the appellant is devoid of merits. PW-1 T.R.Nangal was working as Assistant General Manager, Reserve Bank of India. In the cross-examination, he has stated that he is doing the job of testing the notes from the last 24 years. A person can also become expert by experience. Moreover, in the instant case all the 42 currency notes recovered from the personal search of appellant Iqbal Singh were having the same serial number. Similarly, all the 30 currency notes recovered from the personal search of appellant Sukhwinder Singh @ Sukha were also having the same serial number. 208 currency notes were recovered from the dicky of scooter boarded by appellants Iqbal Singh and Sukhwinder Singh. Out of those currency notes, 36 currency notes were having one serial number, 84 currency notes were also having one serial number, 85 currency notes were also having the same serial number. Similar is the position about the currency notes recovered from the possession of appellant Baldev Singh and Gursimran Singh. Mere this fact that number of currency notes were having one and the same serial number is itself sufficient to establish the said notes to be the counterfeit currency notes. The Hon'ble Karnataka High Court in case *S.K. Basheer Ahmed versus State of Karnataka*<sup>1</sup> has laid down that where the notes found in possession of

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<sup>1</sup> 2014(8) R.C.R(Criminal) 799

the accused were of the same serial number, so it is possible to make out that these notes were counterfeit notes and there was no necessity to have an experts opinion. The case in hand is even on better footing as in the instant case the prosecution has also obtained the experts opinion.

(28) There was no possibility of tampering with the notes as the number of notes recovered from the appellants has been mentioned by the Investigating Officer in the memos Ex.P-3, Ex.P-4, Ex.P-5, Ex.P-8 and EX.P-12. In the report Ex.P-1, T.R.Nangal, Assistant General Manager, Reserve Bank of India, the expert witness has categorically mentioned that the details regarding serial number of the above mentioned forged notes were as per the seizure memos enclosed therewith. So, there was no question of changing or tampering with the notes sent to the expert for seeking his opinion.

(29) No doubt, appellant Baldev Singh has been apprehended on the basis of information given by co-accused/appellants Iqbal Singh and Sukhwinder Singh. But, thereafter, sufficient evidence has come on record against him as he, along with his co-accused Gursimran Singh was found in possession of the fake currency notes and instruments for preparing the fake currency notes.

(30) The Investigating Officer has already associated one Sukhdev Singh in the investigation of the case at the time of apprehension of appellants Iqbal Singh, Sukhwinder Singh @ Sukha and Baldev Singh. So, even if the Investigating Officer has not associated any witness of the locality, where Mansahia Kothi was situated, will not be a ground to reject the testimonies of the prosecution witnesses.

(31) Sukhdev Singh, Ex-Sarpanch associated as an independent witness by the Investigating Officer has not been examined and was given up by the learned Public Prosecutor vide his statement dated 14.07.2003 on the basis of an application moved by the police as having been won over by the accused. Similarly, Devinder Singh, the independent witness associated at the time of apprehension of appellant Munna Lal was also given up as having been won over by the accused on the application moved by the police by the learned Public Prosecutor vide his statement dated 15.07.2003. So, both these witnesses could not be examined by the prosecution as they were won over by the accused. The factum that these witnesses have been won over stands confirmed from the fact that said Sukhdev Singh has even stepped into the witness box as DW-2. In a recent case titled as

***Kulwinder Singh & Anr.*** versus ***State of Punjab***<sup>2</sup> two independent witnesses were associated in the investigation. But, they were not examined by the prosecution as they were won over by the accused and rather they appeared as defence witnesses. The Hon'ble Apex Court held that no adverse inference can be drawn for the non-examination of said witnesses and the case of the prosecution cannot be rejected solely on the ground that independent witnesses have not been examined when, on perusal of the evidence on record, the Court finds that the case put forth by the prosecution is trustworthy. It was further laid down by the Hon'ble Apex Court that when the evidence of the official witnesses are trustworthy and credible, there is no reason not to rest the conviction on the basis of their testimonies. In case ***Kashmiri Lal*** versus ***State of Haryana***<sup>3</sup> also the Hon'ble Apex Court has laid down that there is no rule that the police officer cannot be cited as a witness. The police witnesses cannot be viewed with distrust every time. If the testimonies of the police officers appears to be reliable, then the Court can act upon the same. Learned counsel for the appellants have not been able to point out any material contradiction in the statements of PW-2 Inspector Bhupinder Singh, the Investigating Officer of the case, PW-3 HC Palwinder Singh, the witness of recovery and PW-4 ASI Jaswant Singh, the witness of recovery of the currency notes from the possession of appellant Munna Lal to render the apprehension of the appellants and the recoveries doubtful. Thus, the non-examination of Sukhdev Singh and Devinder Singh as well as the non-association of the inhabitants of the locality is no ground to render the testimonies of the official witnesses unworthy of credence.

(32) PW-2 Inspector Bhupinder Singh has categorically deposed that he had received the secret information against appellants Iqbal Singh, Sukhdev Singh (Sukhwinder Singh) and Baldev Singh on 23.09.2001 for indulging in the counterfeit currency. He further deposed that on 24.09.2001, he apprehended appellant Iqbal Singh and Sukhwinder Singh. From the personal search of appellant Iqbal Singh 42 fake currency notes of denomination of Rs.100/- each were recovered and from the personal search of appellant Sukhwinder Singh 30 counterfeit currency notes of denomination of Rs.100/- each were recovered from the dicky of their scooter. This version of Inspector Bhupinder Singh is fully corroborated by PW-3 HC Palwinder Singh. Inspector Bhupinder Singh has further deposed that accused Iqbal

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<sup>2</sup> 2015(2) R.C.R (Criminal) 918

<sup>3</sup> (2013) 6 SCC 595

Singh and Sukhwinder Singh revealed that their companions Simranjit Singh @ Vicky and Baldev Singh can be apprehended from Mansahia Kothi near Railway Crossing No. 21. Then, the police party raided that place and apprehended Simranjit Singh (Gursimran Singh) and appellant Baldev Singh. He deposed that they were sitting in that Kothi in front of the computer and printer was on and on one side the photograph of Mahatma Gandhi was printed whereas the other side was yet to be printed. He further deposed that 580 notes of denomination of Rs.100/- each were lying printed on the bed which were of different serial number. 50 white papers were also lying there. Thereafter, he has deposed in detail about the serial number of the currency notes. Out of those 580 currency notes, number of currency notes were having the same serial number. This version of Inspector Bhupinder Singh is fully corroborated by PW-3 HC Palwinder Singh. Inspector Bhupinder Singh has further deposed about the apprehension of appellant Munna Lal on 02.10.2001 and recovery of 48 fake currency notes of denomination of Rs.100/- each from his possession. His testimony on this aspect is also corroborated from the statement of Pw-4 ASI Jaswant Singh. Thus, from the aforesaid evidence, it is established that appellants Iqbal Singh, Sukhwinder Singh and Munna Lal were found in possession of the fake currency notes. Appellant Baldev Singh along with his co-accused Gursimran Singh was found in possession of the fake currency notes, the instruments for preparing the fake currency notes, the white paper i.e. the material for preparing the fake currency notes and three papers printed from one side. These witnesses have also deposed that when they reached the room in Mansahia Kothi, the accused were sitting in front of the computer and printer was on. So, they were indulging in the process of printing the fake currency notes.

(33) No doubt, the Investigating Officer has not collected any oral or documentary evidence to establish the ownership of the said premises and in which capacity appellant Baldev Singh and his co-accused Gursimran Singh was in occupation thereof. No rent note/lease deed has been collected by the Investigating Officer. This is lapse on the part of the Investigating Officer. If, he would have collected this evidence, it would had further strengthened the case of the prosecution. But, this lapse on the part of the Investigating Officer is no ground to grant any concession to the appellants. The Hon'ble Supreme Court in case *V.K. Mishra and Anr. versus State of Uttrakhand and another*<sup>4</sup>

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<sup>4</sup> 2015(3) R.C.R (Criminal)899

has laid down that any omission on the part of the Investigating Officer cannot go against the prosecution. The interest of justice demands that such act and omission on the Investigating Officer should not be taken in favour of the accused, otherwise it will amount to place the premium upon such omissions. In the instant case as discussed above from the consistent testimonies of PW-2 Inspector Bhupinder Singh and PW-3 HC Palwinder Singh, it is established that accused-appellant Baldev Singh and his co-accused Gursimran Singh were present in the room of Mansahia Kothi. They were printing the fake currency notes. 580 printed currency notes were lying there. They were having the instruments and material to print more fake currency notes. There is no evidence on record to show that any other person except appellant Baldev Singh and Gursimran Singh were present in that room. In these circumstances, the lapses on the part of the Investigating Officer to collect the evidence with respect to the ownership of the premises and the capacity of the appellants Baldev Singh to possess the said premises is of no legal consequence.

(34) No doubt in the statement of appellant Baldev Singh recorded under Section 313 Cr.P.C, no specific question has been put to him that he was in possession of the said room. But, as discussed above, he was found to be in possession of the said room along with fake currency notes and instruments for preparing the fake currency notes. The Hon'ble Supreme Court in case *Paramjeet Singh @ Pamma* versus *State of Uttarakhand*<sup>5</sup> after considering large number of cases on this issue authoritatively laid down as under:-

“Thus, it is evident from the above that the provisions of Section 313 Cr. P.C make it obligatory for the court to question the accused on the evidence and circumstances against him so as to offer the accused an opportunity to explain the same. But, it would not be enough for the accused to show that he has not been questioned or examined on a particular circumstance, instead he must show that such non-examination has actually and materially prejudiced him and has resulted in the failure of justice. In other words, in the event of an inadvertent omission on the part of the court to question the accused on any incriminating circumstance cannot *ipso facto* vitiate the trial unless it is shown that some material prejudice was caused to the accused by the omission of the court”

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<sup>5</sup> 2010(4) RCR (Criminal) 548

2. Similarly, in case *Gian Chand and others* versus *State of Haryana 2013(3) RCR (Criminal) 916*, the Hon'ble Apex Court has reiterated the same legal position and laid down as under:-

“So far as Section 313 Cr.P.C. is concerned, undoubtedly, the attention of the accused must specifically be brought to inculpable pieces of evidence to give him an opportunity to offer an explanation if he chooses to do so. A three-Judge Bench of this Court in *Wasim Khan* versus *The State of Uttar Pradesh, AIR 1956 SC 400*; and *Bhoor Singh & Anr.* versus *State of Punjab, AIR 1974 SC 1256* held that every error or omission in compliance of the provisions of Section 342 of the old Cr.P.C. does not necessarily vitiate trial. The accused must show that some prejudice has been caused or was likely to have been caused to him.”

(35) In view of the aforesaid consistent rule of law, every error or omission in the statement under Section 313 Cr.P.C. does not necessarily vitiate the conviction/trial. The accused has to further show as to what prejudice has been caused to him due to such non-examination and how it has resulted in failure of justice. These aspects are totally lacking in this case. Thus, the omission in the statement of appellant Baldev Singh under Section 313 Cr.P.C in this regard is also of no legal consequence.

(36) Admittedly, no currency notes has been recovered from the personal search of appellant Baldev Singh. But, it is established that he along with his co-accused Gursimran Singh was present in the room where the process of printing the fake currency notes were going on. 580 printed currency notes of denomination of Rs.100/- each and 3 half printed notes were recovered from there. Appellant Baldev Singh has not explained as to how and under what circumstances, he came to be present in that room as this fact was specially in the knowledge of appellant Baldev Singh and he was required to explain the same otherwise the presumption under Section 106 of the Indian Evidence Act arises against him. Thus, appellant Baldev Singh is legally proved to be in possession of the said fake currency notes lying in the room along with the instruments being used for preparation of the fake currency notes.

(37) Mere this fact that a wrong date was written on the board Ex.MO1077 cannot render the prosecution case doubtful nor this mistake can establish that the investigation was fabricated, as no defect

could be pointed out in remaining 1083 articles exhibited by the prosecution.

(38) From the statement of DW-4 HC Narinder Singh, it comes out that Mansahia Kothi is situated in the area of Police Station Civil Lines, Patiala. The present case was registered at Police Station Sadar Patiala. Inspector Bhupinder Singh was also posted in Police Post Urban Estate, Police Station Sadar Patiala, who was the Investigating Officer of the case. He has apprehended appellant Baldev Singh from the Mansahia Kothi falling in the jurisdiction of Police Station Civil Lines, Patiala on the basis of information supplied by co-accused Iqbal Singh and Sukhwinder Singh in the same transaction. So, it cannot be stated that Inspector Bhupinder Singh has exceeded his jurisdiction to apprehend appellant Baldev Singh and to effect the recoveries from him.

(39) It is not the case of the prosecution that appellant Baldev Singh was himself operating the computer. His co-accused Gursimran Singh was an educated person. Appellant Baldev Singh was present in the room, where the computer was being operated to prepare the fake currency notes. He was sitting along with Gursimran Singh in front of the computer. The computer was being operated by Gursimran Singh his co-accused. Obviously, he can render other help to Gursimran Singh like cutting of the papers etc, to prepare the fake currency notes. Thus, mere this fact that appellant Baldev Singh was illiterate and was not in position to operate the computer cannot absolve him of the criminal liability.

(40) Appellant Iqbal Singh has raised the plea that the police was demanding 'begars' from him. He did not oblige and due to this reason he and his friend Sukhwinder Singh have been falsely implicated. The same defence plea have been raised by appellant Sukhwinder Singh. Appellant Baldev Singh has pleaded that a constable has come to his house on 23.09.2001, but he was not present in the house. Jarnail Singh Sarpanch, Roor Singh Member Panchayat and Lambardar took the responsibility that they will produce him in the Police Station on the next day. On the next day, they took him to the Police Station. They were sent back and told that there was a dispute regarding buffaloes and inquiry was to be made and after that he will be set at liberty. But, later on he was falsely implicated in this case. Appellant Munna Lal has pleaded that he had a dispute with his wife's brother and was called to the Police Station in-connection with that dispute. On 30.09.2001, he along with Inderjit Dhiman, President Shiv Sena, Patiala and 15-20

respectable persons had gone to the Police Station. The police told them that he will be let off after some time. But, later on he was involved in this false case.

(41) Appellant Baldev Singh has examined Jarnail Singh Ex-Sarpanch of village Alipur to prove the defence plea raised by him. But, in the cross-examination he admitted that they did not pass any resolution in the Panchayat regarding the false involvement of the accused nor they had moved any application to the High Court or any Senior Officer with respect to his false implication. In the defence plea raised by appellant Baldev Singh, it has been pleaded that he was called to the Police Station in-connection with the dispute of buffaloes. But, DW-1 Jarnail Singh has stated that the police had told him that there was dispute with regard to currency notes. So, it appears that DW-1 Jarnail Singh has only deposed to oblige appellant Baldev Singh being his co-villager.

(42) DW-2 Sukhdev Singh was cited as a witness by the prosecution. But, he was given up as having been won over and has appeared as DW-2 to support the defence plea raised by appellant Iqbal Singh. In the cross-examination, he has admitted that he is 10<sup>th</sup> class pass. He knew English, Punjabi and Hindi. He admitted his signatures on the memos Ex.P-3 to Ex.P-6, Ex.P-8, Ex.P-9 and EX.P-10. He admitted that one literate and prudent person should not sign the blank paper and he should sign the paper after reading the same. DW-2 Sukhdev Singh was also the Sarpanch of Gram Panchayat village Mirzaapur. He was holding a responsible post in the society being the head of the village Panchayat. It is not believable that a person holding such a post can be compelled by the police to sign the blank papers. Appellant Iqbal Singh was also the Ex-Sarpanch of village Daulatpur. Thus, it appears that he has stepped into the witness box in the defence evidence and discard the prosecution evidence just to project the defence evidence raised by the appellant Iqbal Singh which clearly appears to be an afterthought. DW-3 Resham Singh has been examined by appellant Sukhwinder Singh to prove his defence plea. He has alleged that he has produced Sukhwinder Singh before the police. In the cross-examination, he admitted that no resolution was passed by Gram Panchayat nor he moved any application to the higher officers with respect to the false implication of appellant Sukhwinder Singh. If, he was so concerned with appellant Sukhwinder Singh and had taken the responsibility to produce him before the police, he must have approached the higher authorities about the false implication of the

appellant Sukhwinder Singh. But, he has not taken any such step, which render his testimony unworthy of credence.

(43) DW-5 Inderjit Dhiman has deposed in the cross-examination that he does not know if accused Munna Lal indulged in the business of fake currency notes along with his companions. He also denied the knowledge about the arrest of appellant Munna Lal and recovery of fake currency notes from his possession. He also deposed that he did not move any application to the Senior Superintendent of Police or to the Deputy Superintendent of Police.

(44) All the appellants have taken the similar type of defence plea and produced the defence evidence which apparently appears to be an afterthought. There is no material on record to establish that the Investigating Officer was having any animosity, ill will or motive for the false implication of the appellants. Huge number of fake currency notes along with instruments have been recovered in this case. It is not believable that the Investigating Officer could have planted these articles from his own sources. Moreover, if the object of the Investigating Officer would have only been to falsely implicate the appellants, there was no necessity for him to plant so number of fake currency notes and costly instruments like computer set etc. Thus, there is no escape from the conclusion that the defence plea raised by the appellants is clearly an afterthought and does not inspire any confidence.

(45) From the material available on record, it is established beyond shadow of reasonable doubt that 42 fake currency notes of denomination of Rs.100/- each were recovered from the personal search of appellant Iqbal Singh, 30 fake currency notes of the denomination of Rs.100/- each were recovered from the right side pocket of the shirt of appellant Sukhdev Singh (Sukhwinder Singh). Further 208 fake currency notes of denomination of Rs.100/- each were recovered from the dicky of the scooter upon which appellant Sukhwinder Singh @ Sukha and Iqbal Singh were traveling. Similarly, 48 fake currency notes of denomination of Rs.100/- each wrapped in a glazed paper were recovered from the pocket of shirt of appellant Munna Lal. Further 580 fake currency notes of denomination of Rs.100/- each and computer set i.e. coloured printer, CPU, Key-Board, Monitor, C.V.T, Board (Phatta), Blade/Cutter, 6 Leads and Mouse were recovered from the possession of appellant Baldev Singh along with his co-accused Gursimran Singh. As number of currency notes recovered from the appellants were having the same serial number, the

paper was glazy, paper was thick, water mark was missing, security thread was also missing and there was absence of Intaglio printing. Thus, mere look at the said currency notes would convince that these were the fake currency notes. So, it should be validly presumed that accused had knowledge or reason to believe that the notes in their possession were the counterfeit currency. Appellant Baldev Singh along with his co-accused Gursimran Singh was found in possession of instruments and material for counterfeiting the currency notes and he actually indulged in counterfeiting the currency notes in addition to having been found in possession of 580 fake currency notes of denomination of Rs.100/- each.

(46) So, I do not find any illegality and infirmity in the conviction of the appellants Iqbal Singh, Sukhwinder Singh and Munna Lal for the offence punishable under Section 489-C IPC and similarly the conviction of appellant Baldev Singh for the offences punishable under Sections 489-A, 489-C and 489-D IPC as recorded by the learned trial Court.

(47) Learned counsel for the appellants have also pleaded for reduction in the sentence of the appellants and has relied upon case *Gurmej Singh and another* versus *State of Punjab* <sup>6</sup>.

(48) I have duly considered the contentions raised by learned counsel for the appellants with respect to the reduction of sentence.

(49) Appellant Baldev Singh has been held guilty and convicted for the offences punishable under Sections 489-A, 489-C and 489-D IPC. He has been sentenced to rigorous imprisonment for a period of seven years each for the offences punishable under Sections 489-A and 489-D IPC and has been sentenced to undergo rigorous imprisonment for a period of six years for the offence punishable under Section 489-C IPC. Thus, appellant Baldev Singh has indulged in counterfeiting the currency notes and was also found in possession of the instruments for counterfeiting the currency notes in addition to the possession of the large number of fake currency notes. As per the status report filed by the respondent-State, after the present case he was again involved in case FIR No. 145 dated 10.04.2003, under Sections 489-B, 489-C, 489-D and 420 IPC. He was convicted in that case. In addition to that he was also convicted in three other cases under the Excise Act. So, he is an habitual offender. He has also indulged in the similar type of offences even during the pendency of the present case in the trial

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<sup>6</sup> 2014(2) R.C.R (Criminal) 775

Court. Thus, he does not deserve any leniency in the matter of sentence.

(50) Appellant Munna Lal has been convicted for the offence punishable under Section 489-C IPC and has been sentenced to undergo rigorous imprisonment for a period of six years. He was found to be in possession of 48 fake currency notes of the denomination of Rs.100/-each. There was no allegation against him that he had indulged in counterfeiting the currency notes. He was simply found to be in possession of 48 fake currency notes. Learned counsel for the appellant-Munna Lal has pleaded that he has already undergone two years two months and eight days of sentence including remission and his sentence should be reduced to that already undergone. No doubt, in view of the nature of offence committed by appellant-Munna Lal, the sentence for rigorous imprisonment for a period of six years appears to be disproportionate. But, at the same time, he does not deserve that his sentence should be reduced to that already undergone by him, because as per the status report filed by learned State counsel, he was also convicted in another case of fake currency notes bearing FIR No. 145 dated 10.04.2003, under Sections 489-B, 489-C, 489-D and 420 IPC, Police Station Kotwali, District Patiala. So, appellant-Munna Lal has also indulged in the similar activity during the pendency of the present case in the trial Court. Thus, in the interest of justice, as the sentence awarded to him in the present case appears to be somewhat harsh. The sentence awarded to him deserves to be reduced to rigorous imprisonment for a period of four years.

(51) The case of appellant Iqbal Singh and Sukhwinder Singh is entirely on different footings. They have been convicted for the offence punishable under Section 489-C and have been sentenced to undergo rigorous imprisonment for a period of six years. 42 fake currency notes of denomination of Rs.100/- each were recovered from the personal search of appellant Iqbal Singh, 30 fake currency notes of the denomination of Rs.100/- each were recovered from the right side pocket of the shirt of appellant Sukhdev Singh (Sukhwinder Singh). Further 208 fake currency notes of denomination of Rs.100/- each were recovered from the dicky of the scooter upon which appellant Sukhwinder Singh @ Sukha and Iqbal Singh were traveling. Against these appellants there was no allegation that they had indulged in counterfeiting the currency notes. They have also been convicted simply for having in their possession the fake currency notes. As per the custody certificates brought on record, they were not involved in

any criminal case before and after this occurrence meaning thereby they are the first offenders. So, certainly, they deserved leniency in the matter of sentence. Thus, their sentence deserves to be reduced to rigorous imprisonment for a period of three and half years from the rigorous imprisonment for a period of six years as awarded by the learned trial Court.

(52) Thus, keeping in view my aforesaid discussion, there is no legal infirmity or impropriety in the conviction of the appellants Iqbal Singh, Sukhwinder Singh and Munna Lal recorded by the learned trial Court for the offence punishable under Section 489-C IPC and appellant Baldev Singh for the offence punishable under Sections 489-A, 489-C and 489-D IPC, which is hereby maintained and affirmed. However, the sentence awarded to appellant Munna Lal is reduced to rigorous imprisonment for a period of four years from the rigorous imprisonment of six years as awarded by the learned trial Court. Similarly, the sentence awarded to appellants Iqbal Singh and Sukhwinder Singh is reduced to rigorous imprisonment for a period of three and half years from rigorous imprisonment of six years each as awarded by the learned trial Court.

(53) Thus, with aforesaid modification in the sentence qua appellants Iqbal Singh, Sukhwinder Singh and Munna Lal, the present appeals have no merits and the same are hereby dismissed.

(54) The accused-appellants are on bail. Their bail stand cancelled. They shall surrender within 15 days from the date of this judgment before the learned Chief Judicial Magistrate, Patiala, who shall send them to jail to undergo the remaining part of their sentence. If, they fail to surrender, the learned Chief Judicial Magistrate, Patiala, shall take coercive steps to secure their presence and send them to jail to undergo the remaining part of the sentence.

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*S. Gupta*