



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 870 OF 2010

JAGJIT SINGH

...APPELLANT

VERSUS

CENTRAL BUREAU OF INVESTIGATION

...RESPONDENT

J U D G M E N T

J.B. PARDIWALA, J.:

1. This appeal is at the instance of a convict accused and is directed against the final judgement and order passed by the High Court of Punjab and Haryana at Chandigarh dated 30.01.2009 in Criminal Appeal No. 215 – SB of 1997 (“**Impugned Order**”) by which the High Court dismissed the appeal and thereby affirmed the judgement and order of conviction and sentence dated 12.02.1997 passed by the Special Judge, CBI, Patiala in Case No. 2 of 13.06.1992, holding the appellant herein guilty of the offences punishable under Section(s) 120B, 420, 467 and 468 of the Indian Penal Code, 1860 (for short, “**IPC**”).

A. CASE OF THE PROSECUTION

2. The appellant herein (Original Accused No. 2) at the relevant point of time was serving as a Sales' Manager of one 'M/s Oriental Motors, Bathinda, Punjab' ("**Company**"). He is alleged to have conspired with the other co-accused to cheat the Punjab and Sindh Bank at Sangha, Punjab ("**Bank**"), by securing vehicle loans on the basis of sham vehicle sales to the tune of Rs. 8,30,000/-, and then diverting and apportioning the said sum amongst themselves. The loan facilities that were sanctioned by the bank were not utilised by the company for the purposes for which they were sanctioned, and instead the funds were diverted for personal benefits.

3. It appears from the material on record that in the year 1987-88 the company referred to above through the appellant and a partner of the said company (Original Accused No. 3) executed the loan documents on behalf of ten loanees under the pretext of purchasing ten pick-up vehicles from the said company. The Manager of the bank referred above (Original Accused No. 1), sanctioned these loans without scrutinizing the documents, and disbursed the loan amount by ten demand drafts.

4. The said ten demand drafts were credited in the current account of the company and the said amount was subsequently withdrawn by all the accused persons including the appellant. It is relevant to mention that these ten loanees in

whose name the loans were sanctioned in the first place were illiterate persons to whom these vehicles were never supplied by the company.

5. The case against the appellant is that he was instrumental in securing the said loans by misusing his position and signing off the loan documents. He had prepared the documents and issued bogus invoices showing sale of vehicles to the loanees by the Company, when in fact no vehicle was ever delivered. The appellant then filled up the demand drafts / pay-in slips which were disbursed by the Bank in the name of the loanees and credited the sum into the company's bank account, which were later withdrawn and misappropriated, and thus, the appellant is said to have caused wrongful gain by swindling the bank to the tune of Rs. 8,30,000/- by a conspiracy hatched with a fraudulent intention.

6. In the aforesaid context, the Central Bureau of Investigation (CBI) registered a case vide R.C. No. 1/90 against the three accused persons including the appellant herein for the offence under Section(s) 120B, 420, 467 and 468 of IPC r.w. Section 5(1)(d) and 5(2) of the Prevention of Corruption Act, 1988 (for short, the "**Act, 1988**")

7. Upon conclusion of the investigation by the CBI, chargesheet was filed in the court of the Special Judge, CBI, Patiala, on 13.06.1992, against all accused persons. Thereafter the aforesaid charges were framed. None of the accused persons pleaded guilty & claimed to be tried.

B. TRIAL COURT'S JUDGEMENT OF CONVICTION

8. Upon appreciation of the oral as well as documentary evidence on record, the Special Judge, CBI, Patiala came to the conclusion that all of the accused persons including the appellant herein were guilty. The Trial Court observed as under: -

“56. Point No. 3 Whether accused Jagjit Singh Dhillon fraudulently and dishonestly prepared false documents for the purpose of cheating.

Accused Jagjit Singh Dhillon introduced six loanees to the bank. These loanees are Padam Singh, Pawan Kumar, Subhash Chand, Harl Chand, Resham Singh and Shiv Dayal son of Vassu Ram. PW 21 Harnek Singh identified the signatures of accused Jagjit Singh Dhillon on the account opening forms of the loanees. Not only accused Jagjit Singh Dhillon introduced these loanees. He also deposited the margin money in the account of all the 10 loanees. The credit vouchers are Ex. PW' 16/ 17 to Ex. PW 16/26. These are filled in the handwriting of accused Jagjit Singh Dhillon. PW 16 Kartar Singh proved the handwriting and signatures of accused Jagjit Singh Dhillon on all these forms. Accused Jagjit Singh Dhillon filled up the pay-in-slips vide which money was, credited in the account of M/s. Oriental Motors. These pay-in-slips are Ex. PW.16/13, Ex. PW 16/14, Ex. PW 13/6, Ex. PW 14/3, Ex. PW 4/5, Ex. PW14/8, Ex. PW 16/16, Ex. PW 14/4, Ex. PW 14/7. Accused Jagjit Singh Dhillon issued sale letters/invoices on behalf of M/s Oriental Motors. The sale letters are Ex. PW 31 /3, Ex. PW 31 /9, Ex. PW 31 /15, Ex. PW 31 /16, Ex. PW 31132, Ex. PW 31 /23, Ex. PW 31/29, Ex. PW 31/30, Ex. PW 31/36, Ex. PW 31/37. From the statements of PW 48 S.K. Saxena, Dy. Govt. Examiner of questioned documents, it is proved that the disputed signatures l 01 to 08 on documents Ex. PW 31 /29, Ex. PW 31 /30, Ex. PW 31/36, Ex. PW 31/37, Ex. PW 31/15, Ex. PW 31/15, Ex. PW 31/22 and Ex. PW 31 /23 are of accused Jagjit Singh Dhillon. Evidence has been discussed in detail under point No. 1. Accused Jagjit Singh Dhillon thus forged the documents with dishonest intention to cheat the bank. These documents were valuable security.

(Emphasis supplied)

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xxx

xxx

60. Conclusion

In view of the. above discussed evidence, charge against the accused is proved beyond reasonable doubt. [...]"

9. Accordingly, the appellant herein was convicted for the offence under Section(s) 120B, 420, 467 and 468 resply of the IPC and sentenced to a rigorous imprisonment (R.I.) of total 6-years 2-months with a fine of Rs. 7,000/- , being as under: -

S.N.	OFFENCE	SENTENCE
1.	S.120B	R.I. for 2-months w/ fine of Rs. 2,000/-.
2.	S.420	R.I. for 2-years w/ fine of Rs. 3,000/-.
3.	S.467	R.I. for 2-years w/ fine of Rs. 1,000/-.
4.	S.468	R.I. for 2-years w/ fine of Rs. 1,000/-.

10. The Trial Court in its judgement and order further clarified that all of the aforementioned substantive sentence of imprisonment shall run concurrently.

C. IMPUGNED ORDER

11. Being aggrieved by the judgement of conviction and order on sentence dated 12.02.1997 passed by the Special Judge, CBI, Patiala, all of the accused persons including the appellant went in appeal before the High Court of Punjab and Haryana at Chandigarh. The High Court upon re-appreciation of the entire evidence on record dismissed the appeals and thereby affirmed the judgement of conviction and order on sentence as passed by the Trial Court.

12. The High Court whilst dismissing the appeal attributed an active role to the appellant in the entire conspiracy by observing that he was instrumental in getting the vehicle loans of the ten loanees. It observed that it was the appellant who in fact introduced the loanees to the Bank, issued the bogus invoices of vehicles to them, deposited the margin money on their behalf and prepared the pay-in slips vide which the loan amount was credited in the account of the company. The relevant observations read as under: -

“Appellant Jagjit Singh worked as Sales Manager of M/s. Oriental Motors. He was instrumental in getting ten transport vehicle loans of the loanees, afore - mentioned. He deposited margin money on their behalf. He introduced the loanees to the Bank. He issued bogus invoices/sales letters showing sale of vehicles to the loanees, when in fact no vehicle was delivered to them. The amounts were credited to the account of M/s. Oriental Motors vide pay- in slips prepared by appellant Jagjit Singh. The five loanees examined by the prosecution stated that they did not deposit the margin money in their accounts in the Bank. The pay-in slips were filled up in the handwriting of appellant Jagjit Singh vide which money was credited to the account of M/s. Oriental motors, Bathinda. Appellant Jagjit Singh had thus active role to play in the criminal conspiracy under which the loan amounts were credited to the account of M/s Oriental Motors, Bathinda.”

(Emphasis supplied)

13. In such circumstances referred to above, the appellant is here before this Court with the present appeal.

D. MITIGATING CIRCUMSTANCES OF THE APPELLANT

14. In the course of the hearing of this appeal, it was brought to the notice of this Court that the appellant hails from a very poor family, and has no other source of income to sustain his livelihood. Both he and his family are dependent on the pension of his wife. It was further divulged to us that both he and his wife ail from various morbidities. The appellant has also filed an affidavit on oath before this Court to the same effect. The affidavit shall be taken on record.

15. In his affidavit, the appellant convict has stated that he has two children and when the criminal proceeding was initiated in 1990, he was the sole breadwinner in the family. In 1992, during investigation and the ongoing trial, he was removed from service for his misconduct, and owing to the pendency of the criminal case, he was unable to find another job.

16. He has stated that due to the same, his wife had started working as a teacher at a government school however, she came to be superannuated on 28.02.2007. He has further stated that he has exhausted all of his savings, a considerable sum of which was spent in covering the costs of litigation of the ongoing trial. That he along with his family are completely dependent on his wife's pension for taking care of their basic needs, and that aside from her pension neither of them have any other source of income.

17. He has further enumerated that, both he and his wife suffer from various medical comorbidities. The appellant convict herein has stated that he suffers from a severe case of Hernia, for which he has underwent a total of four surgeries on different occasions in 1995, 2003, 2008 and in 2022. Whereas his wife is suffering from chronic hyperlipidaemia for the past 30-years and undergoing treatment for the same.

18. The appellant has further stated that his wife is also suffering from osteoporosis in both knees for which she had undergone knee replacement surgery. She also ails from complication of a frozen shoulder and cataract due to which she requires constant medical attention. He has stated that due to stigma caused by the criminal trial, his two kids since their marriage have been living separately, and as such there is no one to take care of his wife.

19. Thus, the appellant whilst laying challenge to the judgement and order of conviction and sentence as affirmed by the High Court by way of the present appeal has prayed for mercy so far as sentence is concerned.

E. CONCLUSION

20. Having heard Mr. Patwalia the learned senior counsel appearing for the appellant & also the learned counsel appearing for the state and having gone through the materials on record, we are convinced with the line of reasoning

adopted by the Trial Court as well as by the High Court in holding the appellant guilty of the alleged crime. No interference is warranted so far as conviction is concerned.

21. However, keeping in mind the mitigating circumstances of the appellant convict herein as narrated above, we reduce the sentence of the appellant to the period already undergone. His bail bond stands discharged.

22. The appeal stands disposed of in the aforesaid terms. Pending application(s) if any, also stand disposed of.

..... J.
(J.B. Pardiwala)

..... J.
(Manoj Misra)

New Delhi
7th March, 2024