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**(2012) 02 P&H CK 0165**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Criminal Rev. No. 549 of 2012**

Chatar Pal and another

APPELLANT

Vs

State of Haryana and others

RESPONDENT

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**Date of Decision :** 23-02-2012

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 401  
Penal Code, 1860 (IPC) — Section 34, 420, 467, 468

**Citation :** (2012) 2 RCR(Criminal) 424

**Hon'ble Judges :** Rakesh Kumar Garg, J

**Advocate :** Mr. Aman Pal, Advocate., Advocates for appearing Parties

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## Judgement

Rakesh Kumar Garg, J. (Oral)

1. F.I.R. No. 473 dated 9.5.2002 under sections 420/467/468/473 IPC was registered against the petitioners at Police Station City Ballabgarh District Faridabad, on the basis of a complaint forwarded by the S.D.M. Ballabgarh to the then District Magistrate, Faridabad, stating that one Balbir Singh son of Durga Parshad resident of village Kaurali had moved a complaint alleging that the accused petitioners had got registered a mortgage deed No. 3481 dated 11.10.1999 fraudulently on the basis of some forged documents. An inquiry was conducted by the then S.D.M. Ballabgarh and it was revealed in the aforesaid inquiry that jamabandi for the year 199798 was forged by the petitioners showing their title over the land comprised in Rect No. 18 KillaNos. 3,4,7 and 8 in the agricultural land situated within the revenue estate of village Kaurali and on the basis there of one of them had executed a mortgage deed for obtaining a loan of Rs.50,000/ from the Land Mortgage Bank, Ballabgarh and the other witnesses had witnessed the said mortgage. However, at the asking of the manager of the concerned bank to get the mutation sanctioned on the basis of of the mortgage deed in favour of the bank before disbursing of the loan amount when the aforesaid forged jamabandi and mortgage deed were presented by the petitioners before the Halga Patwari on 30.7.2001. It was revealed that the aforesaid jamabandi was a forged document and the signature of the concerned

Patwari was forged on the same. The numbers of the land as shown in the aforesaid jamabandi for the year 199798 (Rect No. 18, Killa Nos. 3,4,7 and 8) had never been in existence, nor the same were owned by the proposed loaness i.e. Petitioners and as such it was concluded by the then SDM Ballabgarh in the aforesaid inquiry that the petitioners who are the real brothers had got prepared and registered doctored documents i.e. Jamabandi for the year 199798 and mortgage deed No. 3481 dated 11.10.1999 in favour of the Land Mortgage Bank to borrow a sum of Rs. 50,000/ against the land which was never in existence in record in their names. Since the aforesaid forgery was revealed to the aforesaid authorities, the loan of Rs. 50,000/ was not disbursed to the loanees by the concerned bank. Thus, on the basis of the aforesaid recommendations of the then SDM Ballabgarh, the District Magistrate Faridabad directed to get a case registered against the petitioners.

2. After investigation, statements of the witnesses under section 161 Cr.P.C. Were recorded, accused were arrested. During investigation the specimen signatures of Bhudev Singh the then Halga Patwari were obtained and same were got compared through FSL, Madhuban with the disputed/questioned signature of Shri Bhudev Singh Patwari as appended on the jamabandi for the year 199798 on the basis of which the accused had got registered a mortgage deed for obtaining a loan of Rs. 50,000/. After investigation complaint was presented to the Court. On the perusal of the file a prima facie case for the commission of offence punishable under sections 420/467/468 I PC was made out against the petitioners and they were accordingly charge sheeted by Judicial Magistrate 1st Class, Faridabad vide order dated 8.7.2005 to which they pleaded not guilty and claimed trial. Statements of the accused were recorded under section 313 Cr.P.C whereby they pleaded their innocence and false implication. In their defence the petitioners tendered a copy of the judgment dated 20.11.2009 passed by the Court of Mrs.Rachna Gupta, JMJC, Faridabad in case FIR No. 18/99 under section 423 IPC, Police Station City Ballabgarh titled as State v. Balbir Singh Ex.DX to show their rivalry with Balbir Singh. Thereafter the petitioners closed their defence evidence. After considering the evidence on record, the trial Court came to the conclusion that the petitioners had forged the jamabandi for the year 199798 Ex.PZ by showing themselves as owners of the agricultural land comprised in RectNo. 18, Killa No. s.3,4 7 and 8 situated with the revenue estate of village Kaurali whereas the aforesaid killa numbers had never been in existence in the village concerned and got registered a mortgagsg geed No. 3481 dated 11.10.1999 Ex.PW4/A, showing that they had mortgaged the aforesaid land in favour of the Land Mortgage Bank to get a loan of Rs. 50,000/. The aforesaid documents were delivered by the petitioners to the bank authorities at the time of applying loan in question and as such the accused persons were fully aware that the aforesaid documents were false and held both the petitioners guilty for the offences punishable under sections 420/511 and 467/468 read with section 34 IPC and sentenced as under

".... rigorous imprisonment for a period of one year and to pay a fine of Rs.

5000/ each for commission of offence punishable under Section 420/511/34 of Indian Penal Code. In default of payment of fine, the convicts would further undergo simple imprisonment for three months. For commission of offence punishable under section 467/34 of Indian Penal Code, the convicts are sentenced to undergo rigorous imprisonment for three years and to pay fine of Rs. 10, 000/ each. In default of payment of fine the convicts would further undergo simple imprisonment for six months. For commission of offence punishable under Section 468/34 of Indian Penal Code, the convicts are sentenced to undergo rigorous imprisonment for two years and to pay fine of Rs. 5000/each. In default of payment of fine, the convicts would further undergo simple imprisonment for three months. All the substantive sentences shall run concurrently. Fine paid".

3. The appeal filed by the petitioners against the aforesaid judgment of the trial Court was also dismissed by the Additional Sessions Judge, Faridnbad vide judgment dated 14.2.2012 while upholding the judgment of the trial Court, the Additional Sessions Judge, Faridabad further observed that the sentences awarded to the petitioners was already on the lower side. The instant petition has been filed by the petitioners challenging the impugned judgments.

4. Counsel for the petitioners has vehemently argued that the Courts below have convicted the petitioners presuming that they are the beneficiaries without looking into the fact that no loan amount was disbursed to them and further that there is no evidence to establish that the documents in question were forged by them. In fact, the Patwari was having an assistant who had supplied the jamabandi in question to the petitioners. The statement of said assistant was never recorded by the Court and there is a possibility of appending the signatures of Patwari by said illegal assistant who was well aware of the signatures of the then Patwari. Thus, both the Courts below have wrongly presumed that the petitioners forged the documents in question. Not only this, no recovery has been made from the petitioners of any kind of revenue record etc. which was allegedly used by the petitioners for the alleged forgery. Thus, the impugned judgments are liable to be set aside and petitioners are entitled to acquittal.

5. I have heard the learned counsel for the petitioners and perused the impugned judgments.

6. The argument raised by the learned counsel for the petitioners are without any merit. Certain facts of the case are not in dispute. Admittedly, petitioners applied for loan and they submitted jamabandi in question before the bank wherein they were described as owners of the land comprised in Rect No. 18, Killa Nos. 3,4, 7 and 8 of which they are not the owners. There is no such khasra numbers of the land. Further the execution of the mortgage deed No. 1384 dated 11.10.1999 on the basis of the jamabandi in question in favour of the Land Mortgage Bank is not in dispute. The then Halga Patwari has categorically stated that he has neither issued the jamabandi nor signed the jamabandi in question.

No explanation is forthcoming on behalf of the petitioners with regard to the issuance of the said jamabandi to them. FSL report Ex.PX also shows that PW2 Bhudev 1 Singh Patwari has not appended signatures on jamabandi Ex.PZ. Petitioners have made no efforts to controvert the FSL report to get the same compared/examined by leading their evidence in defence which goes to show that they were fully aware of their act. Moreover, jamabandi in question was placed on record by the petitioners themselves and they were to prove as to from whom they procured the said jamabandi. Thus, the argument of the petitioners that prosecution has failed to prove that petitioners had not forged jamabandi is devoid of merit. Though counsel for the petitioners has raised another argument that Bhudev Singh Patwari was having another assistant who might have put signatures of Bhudev Singh Patwari and the said jamabandi is again of no help to them as no evidence has been led by them in this respect whereas Bhudev Singh Patwari has categorically stated in his cross examination that jamabandi Ex.PZ was produced by petitioner Chatarpal to obtain loan of Rs. 50,000/ by executing mortgage deed No. 3481 dated 11.10.1999 Ex.PW4/A. Jamabandi Ex.PZ was found to be forged as land mentioned there in was not in the name of the petitioners and according to the FSL report the signatures of Bhudev Singh Patwari were forged one. Therefore, the concurrent finding recorded by the Courts below cannot be set aside in the instant revision petition. In fact, learned counsel for the petitioners have not pointed out any evidence on record establishing the innocence of the petitioners and in the absence of such evidence and the facts established on record as discussed above, there is no error material/irregularity which warrants interference of this Court under section 401 Cr.P.C.

7. Thus, I find no merit in this revision petition and the same is dismissed.