
(1991) 07 P&H CK 0060

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 536-DDA of 1984

State of Punjab

APPELLANT

Vs

Joginder Singh and ors.

RESPONDENT

Date of Decision : 15-07-1991

Acts Referred:

Citation : (1991) 3 RCR(Criminal) 276

Hon'ble Judges : S.D.Bajaj, J and Harmohinder Kaur Sandhu, J

Advocate : R.P. Bali, S.K. Sharma, Advocates for appearing Parties

Judgement

S.D. Bajaj. J.

1. In his complaint filed before the Criminal Court of competent jurisdiction at Ludhiana against the four accused, complainant Gian Chand stated.

"The result of the conspiracy of the accused is that the accused forged a rent note on 12/1975. It has been alleged in the rent note that the complainant has let out the shop No. BVI60, Ghas Mandi, Ludhiana to Joginder Singh accused at a monthly rent of Rs. 125/ for a period of one year. This rent note was got registered by all the accused in actual connivance for Prem Chand who identified Krishan Gopal accused as Gian Chand before the Sub Registrar, Ludhiana at the time of registration of the Rent Note. Krishan Gopal accused acted as Gian Chand and played an active role in getting the rent note executed. Krishan Gopal signed Gian Chand on the rent note as well as in the register of Bhupinder Singh petition writer. Ashok Bhalla and Surinder Kumar signed as witnesses knowing that the rent note is forged document and they are helping Krishan Gopal in forging the document while becoming the witnesses for the rent note which was signed by Krishan Gopal personating himself as Gian Chand. Joginder Singh accused signed the rent note as a tenant knowing that the document is forged one and it is signed by Krishan Gopal as a landlord and not by the complainant. The accused with common intention of all and in furtherance of common intention prepared a false document (Rent Note) with the intention to cause damage to the complainant knowing that this false document which they have prepared shall

cause the complainant to part with his property. Krishan Gopal acted as Gian Chand. The other accused abetted Krishan Gopal to act as Gian Chand. All the accused then got the rent note executed before the SubRegistrar, Ludhiana and there also the other accused abetted Krishan Gopal accused to sign as Gian Chand Krishan Gopal signed the rent note purported to be written by Gian Chand before SubRegistrar, Ludhiana. All these accused committed the forgery intending the rent note forged shall be forged for the purpose of cheating, so that Gian Chand accused may not take possession of the property in dispute from Krishan Gopal that Joginder Singh accused brought an injunction suit against the complainant and managed to have ex parte proceedings. The accused Joginder Singh used the rent note fraudulently and dishonestly as a genuine document. Joginder Singh knew that the rent note is a forged document. Ashok Bhalla and Prem Chand appeared as witnesses in support of the document. All these persons also knew that they are supporting a forged document as a genuine one and also all the accused has committed the offence of cheating, making of the false document and using the forged document as genuine one. The document has been forged by all the accused with their common intention and abetment of each other, so that Krishan Gopal retains the possession of the property for which the eviction order against Krishan Gopal has been issued. It is, therefore, prayed that the accused be punished accordingly."

2. On receipt of the complaint in Police Station Civil Lines, Ludhiana, S.I./S.H.O. Vidya Sagar states :

"At the Police Station :

The above writing has been received with Dak at the Police Station whereupon the Magistrate passed an order to register a case. So, after preparing the first information report, a copy of the F.I.R. together with the remaining papers and the original writing is being sent through Shri Ram C. No. 401 to Shri Mohan Lal S.I., D.I.D. for making investigation.

Sd/

Vidya Sagar

S.I./S.H.O.

P.S. Civil Lines."

3. On being charged with the commission of offences under Sections 464, 465, 468, 471 and 109 of the Indian Penal Code all the four accused pleaded not guilty thereto and claimed to be tried. Vide its impugned judgment dated July 18, 1983 learned trial court observed that accused Krishan Gopal had since died and, therefore, the offence against him had abated. The charges of conspiracy and forgery were, however, held as not proved against the remaining three accused, who were given the benefit of doubt and acquitted. Feeling aggrieved therefrom the State of Punjab has filed Criminal Appeal No. 536DBA of 1984 in this Court. Hence the appeal.

4. We have heard Shri S.K. Sharma, D.A.G. Punjab, for the appellant State, Shri R.P. Bali, Advocate for the respondents, and have carefully perused the relevant material on record.

5. Sukhdev Kumar P.W 7 only asserts that Krishan Gopal, now deceased, had signed as Gian Chand on the rent note in his presence on November 29, 1975 while sitting in the Khoka of petition writer Bhupinder Singh within the precincts of District Courts, Ludhiana. Similarly Bhupinder Singh P.W, 8 also did not identify any of the three accused persons in court in the course of his statement as persons who may have signed the rent note, allegedly forged. Simply by filing civil suit or obtaining stay order on its basis. Joginder Singh accused does not render himself liable for the alleged forgery of the rent note or for conspiracy with the remaining accused for forging it. The real culprit in judgmentdebtor Krishan Gopal is since dead and there is not an iota of evidence brought on the file to connect the remaining three accused with the alleged forgery of the rent note or of any conspiracy interse between themselves to forge it. Learned trial court rightly gave the benefit of doubt to the three living accused. Its finding in this regard is affirmed.

6. Another important aspect of the matter is that the learned trial court could not order registration of the case against the accused in terms of the complaint under Section 156(3) of the Criminal Procedure Code. The necessary direction being illegal, action taken by the Police in pursuance of it is also rendered illegal and as such the prosecution of the three living accused on its basis falls through on this account.

7. In result the appeal fails and it accordingly dismissed.