

IN THE COURT OF NITIN RAJ,
ADDITIONAL SESSIONS JUDGE, NARNAUL UID NO.HR-0287

Criminal Appeal No. : 102 of 2018
CIS. No. : 102 of 2018
CNR No. : HRNR01-001965-2018
Date of Institution : 04.04.2018
Date of Decision : 15.07.2026

Rajbir Singh son of Sh. Sheo Chand, resident of village Khatodra, Tehsil and District Mahendergarh.

..... Appellant-accused

Versus

State of Haryana.

.....Respondent

**Criminal appeal against the judgment of conviction
dated 05.03.2018 and order of sentence dated 07.03.2018**

Present: Appellant on bail with Sh. Charanveer Singh Dhillon, Advocate
Sh. Dilawer Singh, APP for the State.

JUDGMENT:

This appeal is directed against the judgment of conviction dated 05.03.2018 and order of sentence dated 07.03.2018 passed by the court of Sh. Ramavatar Pareek, the then learned SDJM, Kanina, in criminal case no. RT-77-2014, whereby the appellant/ accused was held guilty and convicted and

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sentenced to undergo simple imprisonment for a period of two years and to pay fine of Rs.1000/- under section 408 IPC, to undergo simple imprisonment for a period of one year under section 419 IPC, to undergo simple imprisonment for a period of two years and to pay fine of Rs.1000/- under section 420 IPC, to simple rigorous imprisonment for a period of two years and to pay fine of Rs.1000/- under section 467 IPC and to undergo simple imprisonment for a period of two years and to pay fine of Rs.1000/- under section 468 IPC. Hereinafter parties are referred as per their original nomenclature.

2. Brief facts of the case are that an application from the office of Block Education Officer, Kanina was received in Police Station written by Ramanand Yadav, BEO, Kanina against Rajbir, clerk, office of BEO. It is averred that an old Account No. 4619 of BEO Kanina was opened in Punjab National Bank, (PNB) Kanina. That on 17.09.2013, Manager PNB Kanina was telephonically contacted regarding balance in the account, he apprised that only a sum of Rs. 842.93/- was remaining in said account and that a person named as Rajbir Singh was withdrawing the amount. That said Rajbir Singh had already transferred from their officer on 26.04.2012 afternoon to Government Senior Secondary School, Bewal. That Rajbir had withdrawn Rs. 50,000/- on 24.04.2012, Rs. 35,700/-, Rs. 20,550/- on 21.05.2013 and Rs. 21,500/- on 04.07.2013 fraudulently. It is further averred that an FIR No. 111 dated 18.05.2012 has already been lodged against Rajbir Singh in P.S. Kanina for misappropriation. Upon

said application, finding commission of offence under Section 406, 409, 419, 420, 467 & 468 IPC, formal FIR was registered. Investigation was set into motion. Statements of witnesses were recorded. Original cheques were taken into police custody. Accused was arrested. On the completion of investigation challan under Section 406, 409, 419, 420, 467 & 468 IPC was presented before this Court.

3. Copy of challan supplied to the accused free of cost as envisaged under section 207 Cr.P.C, on 20.03.2014.

4. On finding, a prima-facie case punishable under Sections 406, 409, 419, 420, 467 & 468 of IPC, charge against the accused was framed, vide order dated 17.04.2014, to which he pleaded not guilty and claimed trial.

5. In order to establish its case, the prosecution got examined complainant Ramanand, Deputy D.E.O. Rewari as PW1, Ramniwas Tanwar as PW2, EASI Vidyanand as PW3, Chander Shekhar Rohilla, Manager PNB, Narnaul as PW4, Divyang Rastogi, Chief Manager, PNB Kanina as PW5, EHC Attar Singh as PW6, ASI Laxmi Narain as PW7, ASI Mahavir Singh as PW8, ASI Satish Kumar as PW9, ASI Kapoor Singh as PW10, Narender Kumar Sr. Scientific Officer, FSL, Madhuban as PW11 and SI Kailash Chand as PW12. Besides oral evidence, prosecution has placed upon following relevant documents:-

Ex-PW1/A Application of the complainant given to
police.

Ex-PW1/B	Challan No. 259 dated 30.12.2011.
Ex-PW1/C to E	Office notes regarding absence of officials and reliving thereof
Ex-PW1/F & G	Attested copy of service book of accused Rajbir.
Ex-PW1/H	Copy of Authority letter given to accused by BEO.
Ex-PW1/I	Recovery memo of record of BEO Office, Kanina.
Ex-PW2/A	Recovery memo of original cheques bearing No. 247452, 247456, 247457 & 247466.
Ex-PW3/A	Recovery memo of Cheque bearing No. PUNB-0073500-TTF dated 24.04.2012.
Ex-PW5/A	Application for giving record of Account No. 735000100046198.
Ex-PW5/B	Application regarding record of Account No. 735000100046198.
Ex-PW5/C	Account ledger inquiry of Account No. 735000100046198 from 21.04.2012.
Ex-PW9/A	FIR.
Ex-PW9/B	Endorsement of FIR.
Ex-PW10/A	Police proceeding on the application of

the complainant.

Ex-PW10/B	Original Cheque No. 247452.
Ex-PW10/C	Application regarding giving withdrawal record of A/c No. 4619 PNB Kanina.
Ex-PW10/D	Original Cheque No. 247456.
Ex-PW10/E	Original Cheque No. 247457.
Ex-PW10/F	Original Cheque No. 247466.
Ex-PW10/G	Application regarding giving information of withdrawal amount from A/c No. 4619 PNB Kanina.
Ex-PW10/H	Application regarding giving record and information.
Ex-PW10/J	Recovery memo of details of withdrawal and deposit of A/c No. 735000100046198.
Ex-PW11/A	Report (opinion) FSL (H) No. 2014/D- 1264 dated 24.07.2014.
Ex-PW12/A-E	Specimen signature of complainant Ramanand Yadav.
Ex-PW12/F-J	Specimen signature of accused Rajbir.
Ex-PW12/K	Recovery memo of handwriting (L.P.C) of accused Rajbir.
Ex-PW12/L	Recovery memo of advance para No.

A-1/14.

Thereafter, Ld. APP for the state closed prosecution evidence vide separate statement dated 16.01.2018.

6. Statement of accused under Section 313 Cr.P.C was recorded in which the accused desired to give evidence. Accused did not lead any evidence in defence.

7. After hearing the arguments advanced by learned APP for the State and learned defence counsel, learned trial court had convicted the accused under sections 408,419,420,467 and 468 IPC and sentenced him accordingly.

8. Feeling aggrieved with the impugned judgment and order, the present appeal has been preferred by the accused/appellant. Notice of the same was given to the respondent. Ld. APP appeared on behalf of State/respondent. Trial court record duly summoned.

9. It has been argued by learned counsel for the accused that the judgment of conviction dated 05.03.2018 and the order of sentence dated 07.03.2018 passed by the learned trial Court are contrary to the facts and evidence available on the record. It is further argued that the learned trial Court failed to appreciate that the FIR was lodged after an inordinate delay and without explanation , thereby casting a serious doubt on the prosecution version. It has further been argued that the specimen signatures of the accused were obtained and sent for forensic examination after a considerable lapse of time, which renders the opinion of the

handwriting expert unreliable and creates doubt regarding the authenticity and genuineness of the specimen signatures. Learned counsel has also argued that no incriminating article or amount was recovered from the possession of the accused during the course of investigation. It is further contended that the amount allegedly misappropriated was deposited by the accused only under pressure and that such deposit cannot be treated as an admission of guilt. On these grounds, it is prayed that the impugned judgment of conviction and order on sentence be set aside and the accused be acquitted of all the charges.

10. Per contra, learned Addl. Public Prosecutor for the State has vehemently argued that the learned trial Court has correctly appreciated the oral as well as documentary evidence and has rightly returned a finding of guilt against the accused. It is argued that the prosecution has succeeded in proving its case beyond reasonable doubt through cogent and reliable evidence. It has been further argued that the conduct of the accused in depositing the defrauded amount itself constitutes an incriminating circumstance which corroborates the prosecution case. It is therefore, prayed that the appeal, being devoid of merits be dismissed.

11. I have heard ld. Counsel for accused and ld. APP for the State and have gone through the case file very carefully.

12. It is the case of the prosecution that the accused forged the signatures of the BEO Ramanand, on four cheques and by using the said forged cheques, dishonestly withdrew an amount from Account No.

073500100046198 in PNB, Kanina, maintained in the name of the Block Education Officer, Kanina.

13. It is not in dispute that a total sum of Rs 1,27,815/- was withdrawn from the aforesaid bank account as deposed by PW4 and PW5. The prosecution case primarily rests upon the opinion of the Forensic Science Expert contained in Report Ex. PW11/A regarding the signatures appearing on the four cheques bearing Nos. 247456, 247457, 247466 and 247452 of Punjab National Bank, exhibited as Ex. PW10/D, Ex. PW10/E, Ex. PW10/F and Ex. PW10/B, respectively.

14. As per the testimony of PW12, the specimen signatures of the accused were first obtained on 04.01.2014 before the learned Court. Thereafter, on 16.01.2014, the specimen signatures of the complainant Ramanand were allegedly obtained before the Naib Tehsildar, Kanina. Subsequently on 17.02.2014, the Investigating Officer again obtained the specimen signatures of the accused from the office of the Block Education Officer, Kanina. All the aforesaid specimen signatures with the questioned documents were ultimately forwarded to the FSL, Madhuban on 25.02.2014 for forensic examination, i.e. after period of more than one month from obtaining the said specimen.

The aforesaid unexplained delay in forwarding the specimen signatures and questioned documents to the FSL casts a serious doubt on the sanctity of the chain of custody and raises a legitimate apprehension

as to whether the specimen signatures remained intact and free from tampering during the intervening period.

Though PW7 deposed that the case property remained intact while it remain in his custody and PW8 stated that he had received the sealed envelope from the Malkhana and delivered the same to PW7 without tampering however their testimonies are not sufficient to dispel the aforesaid doubt, as the prosecution failed to examine the Naib Tehsildar, Kanina, before whom the specimen signatures of the complainant were allegedly obtained on the documents Ex. PW12/F to Ex. PW12/J. The Investigating Officer merely tendered the said documents in evidence. In the absence of the testimony of the Naib Tehsildar, the defence was deprived of the valuable opportunity to cross-examine the witness regarding the manner in which the specimen signatures were obtained. The omission assumes gravity as the complainant himself is conspicuously silent in his deposition regarding having appeared before the Naib Tehsildar and furnishing his specimen signatures.

15. The aforesaid observations assume greater significance in the backdrop of the testimony of the complainant that the accused had relinquished charge of the post of Clerk on 26.04.2012 and that one Yogesh Kumar had thereafter assumed charge of the said post. Consequently, the authority of the accused to deal with or operate the

concerned account stood terminated from the said date. In such circumstances, the admission made by PW1 that no verification of the transactions pertaining to the said account was undertaken from 26.04.2012 till 17.09.2013 is indeed astonishing . Moreover prosecution has failed to examine the concerned clerk Yogesh Kumar so as to establish that he had no authority to transact in the said account despite having assumed charge in place of accused.

16. It is further pertinent to note that no recovery whatsoever has been effected from the accused. The prosecution has merely alleged that the accused withdrew the amount on four occasions. However, a perusal of the reverse side of Cheques Ex. PW10/D, Ex. PW10/E and Ex. PW10/F reveals a specific endorsement directing that the cheque amount be credited to Account No. 20144969732 maintained with the State Bank of India. Despite that prosecution neither collected nor produced the statement of account pertaining to the said bank account nor did it establish that the said account belonged to or was operated by the accused.

17. Further, the mere fact that the accused subsequently deposited the amount with the department cannot by itself be treated as proof of his guilt beyond reasonable doubt. Such a deposit may have been made for other reasons as well , including to avoid departmental action or coercive proceedings . In the absence of cogent and independent

evidence establishing the guilt of the accused, the said circumstance cannot be relied upon as the sole basis for sustaining the conviction.

18. In view of the above discussion, there being no evidence to establish case of the prosecution. The findings recorded by the learned trial court holding the accused guilty is not sustainable. As such, the appeal filed by the accused is allowed. The judgment of conviction and order of sentence passed by the learned trial court are set aside and as a consequence, the accused stands acquitted of the charges framed against him. His bail bonds and surety bonds stand discharged.

Announced in open court:

Dated: 15.07.2025

Meena Stenographer Gr-I

Nitin Raj

Addl. Sessions Judge

Narnaul, UID No. HR-0287

Nitin Raj

ASJ Narnaul 15.07.2026

Present: Appellant on bail with Sh. Charanveer Singh Dhillon,
Advocate
Sh. Dilawer Singh, APP for the State.

Remaining arguments heard. Judgment pronounced.

Vide my separate judgment of even date, the present appeal is allowed. Accused is acquitted of the charges framed against him. The trial court record be sent back along with the copy of this judgment, for compliance. Appeal file be consigned to the record room after due compliance.

Announced in open court:

Dated:15.07.2026

Nitin Raj
Addl. Sessions Judge
Narnaul, UID No. HR-0287

Meena Stenographer Gr-I