

UID No.PB0276

**IN THE COURT OF MRS. PREETI SUKHIJA, PCS,
ADDL. CHIEF JUDICIAL MAGISTRATE,
MOGA.**

Date of Institution:-26.09.2012
CIS NO. CHI-2794-2013
CNR No.PBMO030002112005
Date of decision:-20.12.2023

State of Punjab

Versus

Shingara Singh Bhandal son of Pargan Singh son of Bishan Singh, resident of village Akalpura, Tehsil Phillaur, District Jalandhar.

FIR No.120 dated 02.05.2005
Under Sections: 420, 465, 467, 468, 471, 120-B of IPC.
P.S City, Moga.

Present: Sh. Gurdeep Singh APP for the State.
Accused Shingara Singh Bhandal on bail with counsel
Sh. Harwinder Singh Advocate.

JUDGMENT

The above named accused has been sent up by the Station House Officer of Police Station City, Moga to face trial for commission of offence punishable under Sections 420, 465, 467, 468, 471, 120-B of IPC.

2. The factual matrix of the present case is that instant FIR has been registered against the accused persons on the basis of one complaint dated 15.04.2005 moved by Pritam Kaur wife of Gurnam Singh, resident of village Tatariye Wala, Tehsil and District Moga, wherein she has stated that she is residing in England. She had given her power of attorney to mother-in-law namely Nihal Kaur to look after her land situated in village Fatehgarh Korotana and village Tatariye Wala, in 1989. Said Nihal Kaur in connivance with other accused, executed two sale deeds dated 11.11.2004 in favour of Shingara Singh which were attested by Sukhdev Singh. The alleged sale consideration relating to the said sale deeds dated 11.11.2004 was never

delivered to the complainant. Consequently, complaint was moved against Nihal Kaur widow of Kartar Singh, Amritpal Singh son of Gurdev Singh, Shingara Singh son of Pargan Singh, Gurdev Singh Numberdar son of Kartar Singh and Sukhdev Singh son of Jangir Singh. On the basis of complaint of Pritam Kaur, inquiry was conducted by DSP Bhulla Singh who opined that said Pritam Kaur had given power of attorney in favour of her mother-in-law Nihal Kaur and Nihal Kaur conspired with her co-accused Amritpal Singh son of Gurdev Singh, Gurdev Singh Numberdar son of Kartar Singh, Sukhdev Singh and transferred 6 kanals of the land in favour of Shingara Singh son of Pargan Singh. Vide inquiry report dated 22.01.2015, the then DSP of Sub Division, Moga, recommended for taking legal action against Nihal Kaur, Gurdev Singh, Armtipal Singh, Sukhdev Singh and Shingara Singh. After getting legal opinion of District Attorney (Legal), present FIR was got registered against the accused persons. Then investigation of this case was started. During investigation, accused were got arrested. After completion of investigation and other formalities of the case, the challan was presented in the Court against the accused.

3. *Perusal of the file reveals that vide judgment dated 15.02.2017 passed by the court of Ms. Pooja Andotra, the then learned Addl. Chief Judicial Magistrate, Moga, case has already been decided against the accused Sukhdev Singh and at that time, present accused Shingara Singh was proclaimed offender in the above said FIR. Further, other accused namely Nihal Kaur and Gurdev Singh died.*

4. On appearance of present accused Shingara Singh in the Court, copies of documents as relied upon by the prosecution were supplied to him free of costs as required under Section 207 Cr.P.C.

5. Finding a prima facie case under Sections 420, 465, 467, 468, 471 read with Section 120 of IPC against the accused, he was charge sheeted accordingly, to which he pleaded not guilty and claimed trial.

6. During the course of prosecution evidence, prosecution examined PW1 Baldev Singh, PW2 Jagroop Singh (Retired Registration Clerk, Office of Sub Registrar, Moga), PW3 Manmohanjeet Singh Rakhra (*wrongly written as PW2*) (Superintendent, Divisional Commissioner Officer, Ferozepur), PW4 Karnail Singh (*wrongly written as PW3*) (Deed Writer, District Administrative Complex, Moga), PW5 Retired DSP Rattan Singh (*wrongly written as PW4*), PW6 Pal Singh (*wrongly written as PW5*) (Retired Naib Tehsildar), PW7 Ram Parkash and PW8 Bhupinder Singh (Halqa Patwari, Village Tatariyewala, District Moga). Thereafter, prosecution evidence was closed by order.

7. On closure of the prosecution evidence, statement of accused Shingara Singh under Section 313 Cr.P.C. was recorded, in which all the incriminating evidence appearing against the accused in the prosecution evidence was put to him to which he pleaded his innocence. Accused alleged that the present case is false and registered by the complainant due to personal grudge. He is bonafide purchaser of land of Pritam Kaur from a valid power of attorney Nihal Kaur by paying the entire sale amount in the account of Nihal Kaur. Moreover, all the civil litigation filed by Pritam Kaur have been won by him and there is no appeal against the civil suits filed by the said Pritam Kaur. Witnesses of the present case have not deposed against him. Initially, the police authorities discharged him from the present FIR. Accused opted to lead defence evidence but did not examine any witness in defence.

8. I have heard the learned APP for the State as well as learned defence counsel and have perused the Judicial file with their able assistance.

The following points arises for determination in this case:

- 1. Whether in the year 2004, in the Office of Sub Registrar, Moga, accused Shingara Singh with his co-accused Nihal Kaur, Gurdev Singh and Sukhdev Singh agreed to do an illegal act by illegal means and purchased land measuring 52 kanals 7 marlas from Nihal Kaur power of attorney of Pritam Kaur?*
- 2. Whether in the year 2004, in the Office of Sub Registrar, Moga, accused Shingara Singh alongwith his above said co-accused in pursuance of their criminal conspiracy and in connivance with each other, cheated Pritam Kaur by dishonestly inducing her to deliver the land measuring 52 kanals 7 marlas which was the property of Pritam Kaur?*
- 3. Whether in the year 2004, in the Office of Sub Registrar, Moga, accused Shingara Singh alongwith his above said co-accused in pursuance of their criminal conspiracy and in connivance with each other, forged certain documents i.e. power of attorney dated 19.10.1989 with intent to cause damage to Pritam Kaur?*
- 4. Whether in the year 2004, in the Office of Sub Registrar, Moga, accused Shingara Singh alongwith his above said co-accused in pursuance of his criminal conspiracy and in connivance with each other, forged certain documents purported to be a valuable security i.e. power of attorney dated 19.10.1989?*
- 5. Whether in the year 2004, in the Office of Sub Registrar, Moga, accused Shingara Singh alongwith his above said co-accused in pursuance of his criminal conspiracy and in connivance with each other, forged certain documents i.e. power of attorney dated 19.10.1989 intending that it shall be used for the purpose of cheating?*
- 6. Whether in the year 2004, in the Office of Sub Registrar, Moga, accused Shingara Singh alongwith his above said co-accused in pursuance of his criminal conspiracy and in connivance with each other, fraudulently used as genuine a certain document i.e. power of attorney dated 19.10.1989 which he knew and had reason to believe at the time when used it to be a forged document?*

9. Learned APP for the State contended that the accused Shingara Singh is liable to be convicted for the offence committed by him. The case of the prosecution has been duly proved from the oral as well as documentary evidence proved on the case file by the prosecution and charge sheet framed against the accused stands amply proved. So, prayed to convict

the accused.

10. On the other hand learned defence counsel contended that prosecution has miserably failed to prove its case against the accused. The complainant has not come into witness box to depose against the accused. The accused is a bonafide purchaser of land of Pritam Kaur through a valid power of attorney Nihal Kaur by paying the entire sale amount in the account of Nihal Kaur. The civil suits filed against the accused Shingara Singh have also been dismissed. No appeal against those civil suits is pending. Accused has been falsely implicated in the present case just to harass him. So, prayed to acquit the accused.

11. After hearing contentions of learned APP for State, learned defence counsel and perusing the file carefully, it is evident that accused Shingara Singh has been charge sheeted for the offences punishable under Sections 420, 465, 467, 468, 471, 120-B of IPC. There are allegations in the present case that in the year 2004, in the Office of Sub Registrar, Moga, accused Shingara Singh with his co-accused Nihal Kaur, Gurdev Singh and Sukhdev Singh agreed to do an illegal act by illegal means and purchased land measuring 52 kanals 7 marlas from Nihal Kaur power of attorney of Pritam Kaur ; accused Shingara Singh alongwith his above said co-accused in pursuance of their criminal conspiracy and in connivance with each other, cheated Pritam Kaur by dishonestly inducing her to deliver the land measuring 52 kanals 7 marlas which was the property of Pritam Kaur ; forged certain documents i.e. power of attorney dated 19.10.1989 with intent to cause damage to Pritam Kaur ; forged certain documents purported to be a valuable security i.e. power of attorney dated 19.10.1989 ; forged certain documents i.e. power of attorney dated 19.10.1989 intending that it shall be

used for the purpose of cheating and fraudulently used as genuine a certain document i.e. power of attorney dated 19.10.1989 which he knew and had reason to believe at the time when used it to be a forged document.

12. In order to prove its case, prosecution examined PW1 Baldev Singh who deposed that Pritam Kaur complainant has been residing in England from the last so many years and at present, she is also residing there. She belongs to village Tatariwala, Tehsil Dharamkot, District Moga and owned agricultural land in the said village. He was the power of attorney holder of Pritam kaur for taking care of her land which was cancelled by her later on. In the year 1989, she executed power of attorney in favour of Nihal Kaur, who was her mother in law for taking care of her land. On 24.05.2004, husband of Pritam Kaur namely Gurnam Singh transferred the land measuring 52 kanals 7 marlas situated in the village Tatariwala in favour of Pritam Kaur. Gurnam Singh had two brothers and Gurdev Singh is the younger brother of Gurnam Singh. Gurdev Singh had two sons namely Amritpal Singh and Sukhdev Singh. Accused Nihal Kaur in connivance with Sukhdev Singh, Amritpal Singh and Gurdev Singh sold the above said land to Shingara Singh on the basis of above said power of attorney, which was given by Pritam Kaur in favour of Nihal Singh, for the amount of ₹14,79,000/- and vasika No. 5381, 5382 dated 11.11.2004 were executed for the same. Sukhdev Singh, resident of village Fatehgarh Korotana, District Moga was the power of attorney of Shingara Singh and he executed the above said sale deeds on behalf of Shingara Singh. Pritam Kaur is illiterate lady and only know how to sign. Accused Nihal Kaur in connivance with Sukhdev Singh, Amritpal Singh, Gurdev Singh and Shingara Singh had cheated Pritam Kaur by selling the above said land by misusing the power of

attorney in favour of Nihal Kaur and did not pay any money for the same to Pritam Kaur. His statement was recorded and he identified the accused present in the Court.

13. PW2 Jagroop Singh (Retired Registration Clerk, Office of Sub Registrar, Moga) has deposed that he has seen the summoned record brought by Gurwinder Singh, H.R.C, Office of Deputy Commissioner, Moga i.e. vasika register No. 6361 dated 10.11.2004 to 11.11.2004 containing vasika Nos. 5381 & 5382 dated 11.11.2004. As per the said record, the said sale deeds were executed by Nihal Kaur wife of late Kartar Singh son of Kahan Singh, resident of village Tatariyewala, Tehsil & District Moga, as power of attorney of Pritam Kaur wife of Gurnam Singh, resident of Tatariyewala, Tehsil & District Moga, in favour of Shingara Singh Bhandal son of Pargan Singh, resident of 269, Defence Colony, Jalandhar. He has seen the true and correct photocopies of the said sale deeds in the judicial file which are Ex. P1 & Ex. P2 respectively, on which he identified the signatures of Sh. Pal Singh, the then Sub-Registrar, Moga. Further, he proved on file copy of the power of attorney given by Nihal Kaur at the time of execution of sale deeds as Ex. P3.

14. PW3 Manmohanjeet Singh Rakhra (Superintendent, Divisional Commissioner Officer, Ferozepur) has deposed that he has brought the entry register embossing documents from period of 01.01.1988 to 30.03.1994. As per record, at Sr. No. 6 dated 09.01.1990, entry regarding general power of attorney which was presented by Nihal Kaur widow of Kartar Singh, resident of village Tatariyewala, Moga. Sh. Rajinder Singh, the then Superintendent, Divisional Commissioner Office, Ferozepur signed on said entry and also signed on power of attorney. He has seen photocopy of power

of attorney on the judicial file and the same is Ex. P1 (already Ex. PW1/B), which bears signature of above said Sh. Rajinder Singh at point A. He identified the signature of Sh. Rajinder Singh on the same. Further, he proved on file copy of relevant entry of above said register as Ex. P2 (already Ex. PW5/B).

15. PW4 Karnail Singh (Deed Writer, District Administrative Complex, Moga) has deposed that on dated 11.11.2004, he was working as Deed Writer, District Administrative Complex, Moga and on the said day, Nihal Kaur widow of Kartar Singh, resident of village Tatariyewala, District Moga came for scribing sale deed on behalf of Pritam Kaur as power of attorney of land measuring 26 kanals 8 marlas and 25 kanals 19 marlas situated in village Tatariyewala, District Moga in favour of Shingara Singh son of Pargan Singh, resident of Jalandhar. He scribed sale deeds and made entry regarding same at Sr. No. 1070 and 1071 dated 11.11.2004 in his register. Further, he proved on file photocopies of relevant entries as Ex.P3 & Ex. P4.

16. PW5 Retired DSP Rattan Singh has deposed that in the year 2005, he was posted as Incharge, E.O Wing, Moga. During the said period, investigation of the present case was marked to him after registration of FIR. During investigation, ID recorded statements of Baldev Singh, Gurcharan Singh under Section 161 Cr. P.C. On dated 20.08.2005, he joined accused Nihal Kaur in the investigation of present case. Remaining investigation of the present case was done by ASI Ram Parkash.

17. PW6 Pal Singh (Retired Naib Tehsildar) has deposed that in the year 2004, he was working as Sub-Registrar, Moga. He has seen the documents already exhibited as Ex. P1 and Ex. P2 in the judicial file, which

bears his signature and he identified the same. Today, I have also seen document already exhibited as Ex.P3 i.e. power of attorney which was later on found to be forged and fabricated. He has executed the sale deed bearing vasika no.5381 and 5382 dated 11.11.2004 as per law and rules of their department.

18. PW7 Ram Parkash has deposed that in the year 2005, he was working as IO at EO Wing, Moga and investigation of present case was partly conducted by him. During his investigation, he recorded statements of Deed Writer Karnail Singh, Registry Clerk Jagroop Singh and Patwari Kulwant Singh and he also obtained relevant record from Patwari Kulwant Singh. Remaining investigation was conducted by another IO.

19. PW8 Bhupinder Singh (Halqa Patwari, Village Tatariyewala, District Moga) has deposed that he has brought the summoned record as he is custodian of summoned record i.e. jamabandi register for the year 1985-86 as well as summoned mutation registers. As per their official record i.e. jamabandi register for the year 1985-86 of village Tatariyewala pertaining to khewat no.145, Surjit Kaur daughter of Kishan Singh was registered as owner to the extent of $\frac{1}{4}$ share alongwith co-sharer Gurdev Singh to the extent of $\frac{1}{2}$ share, Gurnam Singh to the extent of $\frac{1}{4}$ share. Further, he proved on file copy of said jamabandi as Ex.PW8/A. He has also brought the mutation register pertaining to mutation nos. 2535, 3043, 3049 and 3050 and proved on file copies of said mutations as Ex.PW8/B to Ex.PW8/E. The record produced by him in the court is true and correct as per rules of their department.

20. Learned counsel for the accused Shingara Singh first of all contended that the complainant has not come into witness box to depose

against the accused. It is further contended that the accused is a bonafide purchaser of land of Pritam Kaur through a valid power of attorney Nihal Kaur by paying the entire sale amount in the account of Nihal Kaur. It is further contended that the accused has been falsely implicated in the present case just to harass him. Learned counsel for the accused has referred the cross examination of PW1 Baldev Singh **in which, he categorically admitted this fact that Pritam Kaur had executed a valid power of attorney in favour of his mother in law Nihal Kaur for selling the land. He further admitted that Nihal Kaur as per the instruction of Pritam Kaur, had sold the the land in question to Shingara Singh and she had told him about this fact.** He further admitted that Nihal Kaur had received the sale amount given by the purchaser Shingara Singh through bank transaction. He further admitted that the amount as mentioned in the sale deeds dated 11.11.2004 registered vide vasika no.5381 and 5382 stood duly deposited in the account of Nihal Kaur. He further admitted that Pritam Kaur soon after the execution of these two sale deeds had told him that Nihal Kaur on her behalf had received the sale consideration amounts in her bank account which subsequently, Nihal Kaur had withdrawn and gave to the real brother of Pritam Kaur namely Gurcharan Singh, resident of village Chuhar Chak, District Moga and Gurcharan Singh subsequently had given the said amount to Pritam Kaur. **He further admitted that he has seen the power of attorney Ex.PW1/B executed on 19.10.1989 by Pritam Kaur in favour of Nihal Kaur and same is a valid power of attorney as on the date, when Nihal Kaur executed two sale deeds dated 11.11.2004** and even, thereafter, he has seen the said power of attorney and clause (3) specifically gives the powers to Nihal Kaur to sell the properties of Pritam Kaur. He further admitted that Pritam Kaur used to tell

him that she had lodged a civil suit against Shingara Singh for cancellation of sale deeds dated 11.11.2004. He further admitted that a detailed inquiry was done by an official of the rank of DSP and it was found that Shingara Singh was innocent. He further admitted that Pritam Kaur was in habit of giving her power of attorney to one person after another and she would not cancel the previous power of attorneys and would keep on giving these power of attorneys to different people. He further admitted that Pritam Kaur gave power of attorneys to different persons in order to sell/transfer her land measuring 52 kanals 7 marlas situated in village Tatariyewala. He further admitted that firstly, Pritam Kaur gave such a power of attorney to her husband namely Gurnam Singh, then to her mother in law Nihal Kaur and then to her brother Gurcharan Singh. So, PW1 Baldev Singh had categorically admitted the power of attorney in question executed in favour of Nihal Kaur as valid document and on the basis of that power of attorney, accused Shingara Singh purchased the property in question measuring 52 kanals 7 marlas and paid the full consideration amount to Nihal Kaur. The power of attorney has also been duly proved on the file by PW3 Manmohanjeet Singh Rakhra as Ex.P1 and he has stated that he has brought the entry register embossing documents from period of 01.01.1988 to 30.03.1994 and as per record, at Sr. No. 6 dated 09.01.1990, entry regarding general power of attorney which was presented by Nihal Kaur widow of Kartar Singh, resident of village Tatariyewala, Moga. Sh. Rajinder Singh, the then Superintendent, Divisional Commissioner Office, Ferozepur signed on said entry and also signed on power of attorney. The power of attorney Ex. P1 bears the signature of above said Sh. Rajinder Singh and he identified the signature of Sh. Rajinder Singh on the same. Further, he proved on file

copy of relevant entry of above said register as Ex. P2. In the cross examination also, he admitted that the document Ex.P1 i.e. power of attorney in question as correct and genuine. PW4 Karnail Singh has deposed that on 11.11.2004, Nihal Kaur came for scribing sale deed on behalf of Pritam Kaur as power of attorney of land measuring 26 kanals 8 marlas and 25 kanals 19 marlas situated in village Tatariyewala, District Moga in favour of Shingara Singh. He scribed sale deeds and made entry regarding same at Sr. No. 1070 and 1071 dated 11.11.2004 in his register. He proved on file photocopies of relevant entries as Ex.P3 & Ex. P4. PW5 Retired DSP Rattan Singh has only proves the part investigation conducted by him. PW6 Pal Singh (Retired Naib Tehsildar) has proved his signatures as the then Sub Registrar, Moga on documents Ex. P1 and Ex. P2. He had got executed the sale deed bearing vasika no.5381 and 5382 dated 11.11.2004 as per law and rules of his department. PW8 Bhupinder Singh has deposed that as per their official record i.e. jamabandi register for the year 1985-86 of village Tatariyewala pertaining to khewat no.145, Surjit Kaur daughter of Kishan Singh was registered as owner to the extent of $\frac{1}{4}$ share alongwith co-sharer Gurdev Singh to the extent of $\frac{1}{2}$ share, Gurnam Singh to the extent of $\frac{1}{4}$ share. Further, he proved on file copy of said jamabandi as Ex.PW8/A. He has also brought the mutation register pertaining to mutation nos. 2535, 3043, 3049 and 3050 and proved on file copies of said mutations as Ex.PW8/B to Ex.PW8/E. The record produced by him in the court is true and correct as per rules of their department.

21. Accordingly, after appreciating the whole evidence, it is evident that there is no incriminating evidence against the accused Shingara Singh on the file to prove the ingredients of Sections 420, 465, 467, 468, 471, 120-

B of IPC. Moreover, the complainant herself has not come into witness box to depose against the accused. The sale deeds in question were validly executed. No criminal conspiracy of the accused Shingara Singh is proved on the file. There is not an iota of evidence against the accused. No evidence has been led by the prosecution to prove the ingredients of cheating, Section 420 of IPC, forgery and criminal conspiracy with other. No witness is examined to prove that power of attorney was forged and fabricated document. The prosecution witnesses have admitted in their evidence that power of attorney executed by Pritam Kaur was a valid power of attorney on the basis of which, sale deeds were executed in favour of accused.

22. It is the cardinal principle of criminal jurisprudence that the accused is presumed to be innocent and therefore, the burden lies on the prosecution to prove his guilt beyond a reasonable doubt. Therefore, the prosecution is under legal obligation to prove each and every ingredient of the offence beyond any reasonable doubt. This general burden never shifts and it always rests on the prosecution. At the conclusion of the trial, the prosecution can succeed only on discharging its burden of proving the case against the accused Shingara Singh. Hence, having regard to the above stated discussion, this court is of the considered opinion that there is nothing on the file from which it can be inferred that the accused Shingara Singh has ever committed the offence in question. There is nothing incriminating on record to connect the accused Shingara Singh with the commission of offence. Thus, the prosecution has miserably failed to prove its case against the accused Shingara Singh beyond the shadow of reasonable doubt and by giving the benefit of doubt, the accused Shingara Singh is ordered to be acquitted of the charges framed against him. Case property be dealt with, as

per rules, after the expiry of period of limitation for filing appeal or revision if any. Keeping in view the provisions of Section 437-A Cr.P.C, accused Shingara Singh is directed to furnish bail bonds and surety bonds in the amount of ₹30,000/- which shall remain effective for period of six months with the undertaking that in case of appeal, accused shall appear on receipt of notice. File be consigned to the Record Room after due compliance and same shall be revived as and when presence of other accused is procured.

Pronounced:-

Date of judgment:-20.12.2023

(Lovish, Stenographer G-II)

(Preeti Sukhija), PCS,
Addl. Chief Judicial Magistrate
Moga / (UID No.PB0276)