

**In the Court of Amandeep Kaur, PCS,
Judicial Magistrate Ist Class,
Dhuri.
(UID No.PB0607)**

Case Type	CHI
Filing No.	1337/2017 Filing Date: 15.12.2017
Registration No.	152-2017 Registration Date: 15.12.2017
CNR No.	PBSGB1-001384-2017
Date of Decision	29.08.2025

State	Versus	1.	Kulwant Singh Incharge JE Union son of Ram Karan Singh r/o House no.54 ward no.01 Idgah Road Near Bus Stand Raikot.
		2.	Karnail Singh Parbandhak Village Tibba son of Chand Singh r/o Burj Hari Singh, PS Mansa.
		3.	Davinder Kumar Secretary son of Kishori Lal r/o House no.410, street no.11 Purana Bisan Nagar, Patiala.
		4.	Neelam Rani wife of Vijay Kumar son of Seeta Ram r/o Ranjana Marg Indira Basti, Street no.4, Ward no.18, Sunam owner of Singla Pipe Factory Khokhar Kalan, Sunam Road.
			 Accused

FIR No.80 dated 23.10.2015
Under Sections 409, 420, 120-B of IPC.
Police Station SherpurDhuri.

Present: Sh. Girish Garg, APP for the State.
 Accused Kulwant Singh on bail with Sh. Sanjiv Chowdry,
 Advocate,
 Accused Karnail Singh on bail with Sh. SS Meemsa,
 Advocate.
 Accused Davinder Singh on bail with Sh. PK Mittal,
 Advocate.
 Accused Neelam Rani on bail with Sh. RK Singla, Advocate.

Amandeep Kaur,
Judicial Magistrate Ist Class,
Dhuri dated 29.08.2025.

JUDGMENT:-

1. The accused has been sent up to this Court by the Station House Officer, Police Station Sherpur to stand trial for offence under Sections 409, 420, 120-B of the Indian Penal Code, 1860 (hereinafter, for short 'IPC').

2. Tersely, it is the case of the prosecution that an order to register an FIR was received vide order no.7832/3 dated 21.10.2015 against Netar Singh BDPO, Kulwant Singh Junior Engineer, Karnail Singh, Davinder Kumar and Naresh Kumar Secretary Gram Panchayat regarding using of low quality pipes for installation and misappropriating the funds allotted for developmental projects. The inquiry regarding the same was got conducted by *Upp Mandal* Officer, Malerkotla who vide his letter no.73 dated 12.05.2015 submitted his inquiry report that the accused officials in connivance with employees have misappropriated the funds allotted by the Government. It has been reported that the Government had allotted Rs.8,00,000/- for development of irrigation project to Gram Panchayat of Village Tibba, Block Sherpur. It is further reported that Sh. Karnail Singh *Prabandak* had prepared false estimation in connivance with Incharge Junior Engineer Sh. Kulwant Singh and had used low quality material due to which the pipeline is clogged due to which the said amount has been spent uselessly. For the said purpose Sh. Karnail Singh without any purpose had withdrawn a sum of Rs.80,000/- vide cheque no.177581. Similarly, a sum of Rs. 1,00,000/- was paid to M/s Singla Pipe Factory Sunam Road Khokhar vide cheque no.177850 dated 15.02.2014 and no bill regarding the same has been

placed on record. It is further reported that the low quality material has been used for the laying of said pipes project and the said material has been purchased at higher rates from the Market rates and a sum of Rs.5,93,660/- has been misappropriated and misused. It is further reported that Sh. Kulwant Singh JE, *Parbandhak* Karnail Singh, Secretary Panchayat Davinder Kumar and Netar Singh BDPO of Sherpur Village Kheri Kalan, Block Sherpur are responsible for the same. It is further reported that a sum of Rs.1,00,000/- were allotted by the Hon'ble Chief Minister Punjab during his Sangat Darshan of Village Kheri Kalan, Block Sherpur District Sangrur for construction of Computer Room, Rs.2,00,000/- for Dharamshala and Rs.8,00,000/- for laying of drainage pipes. However, no computer room and Dharamshala has been constructed. It is further reported that a sum of Rs.2,50,000/- as been paid of M/s Singla Pipe Factory, Sunam Road, Lehra Gagga without any basis. It is further reported that JE Kulwant Singh had placed forged and false estimates in order to complete the official record. Sh. Netar Singh BDPO, Kulwant Singh JE and Karnail Singh Secretary Gram Panchayat in connivance each other had purchased low quality material at higher rates then the market rate prevalent and had misappropriated Rs.6,93,086/- and they are responsible for the same.

It is further reported that a sum of Rs.4,50,000/- was given to village Badshapur Block Sherpur under RDF Scheme for drawing of sewage system to Gram Panchayat. M/s Singla Pipe Factory, Sunam Road, Khokhar, Lehra Gagga was paid for RCC Pipes of 350 mm dire, whereas, no supply regarding the said pipes was received. The pipes used for laying of sewage

system was of low standards and RCC Pipes were purchased from M/s Singla Pipe Factory, Khokhar Kalan, Sunam Road, Lehra Gagga at rates higher than the market rates prevailing in village Lehra Gagga and same are lying unused in the village. It is further reported that Kulwant Singh JE had threatened the Gram Panchayat of said village to use the said pipes. Accordingly, a sum of Rs.1,84,562/- was misappropriated and Sh. Kulwant Singh JE, Naresh Kumar Secretary Gram Panchayat and Netar Singh BDPO are responsible for the same.

It is further reported that a sum of Rs.3,00,000/- was received under RDF Scheme of village Kala Bula Block Sherpur, Sangrur for laying of sewage system in Gram Panchayat and Kulwant Singh JE had prepared false estimate and has used low quality material and the said pipe line is clogged and the expenditure done for laying of pipes has gone wasted. Accordingly, a sum of Rs.99463/- has been misappropriated by Kulwant Singh JE, Naresh Kumar Secretary Gram Panchayat and Netar Singh BDPO by using low quality material at higher rates.

Lastly, it has been reported that a sum of Rs.593660/- Gram Panchayat Tibba, Rs.6,93,860/-Gram Panchayat Kheri Kalan, Rs.1,84,526/- Gram Panchayat Badshapur, Rs.99463/- Village Kala Bula has been misappropriated by Netar Singh BDPO, Kulwant Singh Incharge JE and M/s Singla Pipe Factory Sunam Road Lehra Gagga. Concludingly, a sum of Rs.15,70,771/- has been misappropriated by the accused Netar Singh BDPO Sherpur, Kulwant Singh JE, Karnail Singh *Parbandhak* Tibba, Davinder Singh Secretary Gram Panchayat Tiba, Naresh Kumar Secretary Gram Panchayat and

M/s Singla Pipe Factory, Sunam Road, Lehra Gagga and direction to register FIR against said persons was received from *Sayunkt Vikas Commissioner cum Director Pendu Vikas* dated 17.10.2015 to SSP Sangrur. Accordingly, as per directions of Senior Superintendent of Police Sangrur, FIR against Netar Singh, Kulwant Singh JE, Karnail Singh *Parbandhark* Tibba, Davinder Kumar Secretary Gram Panchayat Tibba, Naresh Kumar Secretary Panchayat and Neelam Rani- owner of Singla Pipe Factory Sunam road Lehra Gagga was registered under Sections 409, 420, 120-B IPC. Thereafter, the accused were arrested and released on bail. Arrest and intimation memos were prepared. Vide order dated 9959/P dated 18.07.2016 Naresh Kumar Secretary Gram Panchayat was declared innocent. Accused Netar Singh BDPO had died on 31.12.2016. Accordingly, after completion of investigation of other formalities challan against accused Kulwant Singh JE, Karnail Singh *Parbhandak* Village Tibba, Neelam Rani owner M/s Singla Pipe Factory and Davinder Kumar Secretary was presented under Sections 420, 420 and 120-B of IPC in the Court for judicial verdict.

3. On presentation of challan, complete copy of the challan and other documents relied upon by the prosecution was supplied to the accused under Section 207 Cr.P.C, free of costs.

4. A *prima facie* case for offence under Sections 409, 420, 120-B of IPC was made out against the accused. Accordingly, charge sheet for the offence was framed against the accused persons to which the accused pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution examined PW-1 Jasvir Singh, PW2 Ram Sarup, PW3 Parkash Singh, PW4 ASI Makhan Khan, PW5 Narinder Veer Singh Toor, PW6 ASI Kamaljeet Singh, PW7 Retired ASI Balvir Singh, PW8 SI Malkit Singh, PW9 Retired Superintendent Darshan Singh, PW10 Davinder Singh, PW11 Retired Superintendent Pushap Pal Sharma. Thereafter, Learned APP for the State closed the prosecution evidence vide a separate statement.

6. After closure of prosecution evidence, statement of the accused under Section 313 Cr.P.C. was recorded by putting all the incriminating evidence appearing against them to which they denied alleging the same to be incorrect and pleaded their false implication. Accused Neelam Rani in her statement under Section 313 Cr.P.C pleaded that she is innocent person and she has not committed the alleged offence. She further pleaded that she has been falsely implicated in the present case. All the allegations levelled against her are absolutely false. She has nothing to do with the allegations mentioned in the present case. She had supplied superior quality of pipes. The inquiry officer was biased. No quality test was conducted.

Accused Kulwant Singh in his statement under Section 313 Cr.P.C pleaded that he is innocent person and he has not committed the alleged offence. He has been falsely implicated in the present case at the instance of and in conspiracy with higher officials of our department Parkash Singh, Davinder Singh etc. the abovesaid personal also got registered a false FIR no.57 against him and he has been already acquitted by the Hon'ble Court in that case. All the

allegations levelled against him are absolutely false. He has nothing to do with the allegations mentioned in the present case. He has performed his duty as per law.

Accused Karnail Singh and Davinder Kumar in their statement under Section 313 Cr.P.C pleaded that they are innocent persons and they have not committed the alleged offence. They have been falsely implicated in the present case. All the allegations levelled against them are absolutely false. They have nothing to do with the allegations mentioned in the present case. They have performed their duty as per law. In defence evidence, accused opted to lead defence evidence but did not examine any witness in his defence and tendered into evidence certified copy of judgment dated 27.08.2019 as Ex.D1. However, learned counsel for accused closed the defence evidence vide separate statement.

7. I have heard the learned APP for the State, learned defence counsel and have gone through the case file carefully. The following fact in issue to be determined in the present case arises:-

(1) Whether in the year of 2013 in the area of PS Sherpur, all accused along with Netar Singh BDPO (since deceased) entered into an agreement to do an illegal act of misappropriation and besides the above said agreement they did some acts in pursuance of said agreement to commit the offence of criminal breach of trust and thereby committed an offence under Section 120-B of IPC

(2) Whether in the year of 2013, 2014 in the area of village

Tibba, Kherikalan, Badashpur and Kalabulla, accused namely Kulwant Singh JE, Karnail Singh Panchayat Secretary, Devinder Kumar Panchayat Secretary and Netar Singh BDPO (since deceased) were entrusted amount/fund for the installation of pipes for the purpose of drain of dirty waters in the above said villages in capacity as a public servants and in pursuance of criminal conspiracy with accused Neelam Rani purchased the pipes of substandard quality from accused Neelam Rani and committed criminal breach of trust in respect of the said funds and thereby accused Kulwant Singh JE, Karnail Singh, Panchayat Secretary, Devinder Kumar, Panchayat Secretary committed an offence punishable under Section 409 of IPC whereas accused Neelam Rani committed an offence punishable under Section 420 of IPC

8. Learned APP for the State has argued that the accused has committed the offence punishable under Sections 420, 409 and 120-B of IPC and prayed for conviction of the accused by taking into consideration the statement of the witnesses recorded by the police. Learned APP for the State has submitted that the prosecution has adduced cogent, consistent and trustworthy evidence to bring home the charges leveled against the accused. Learned APP of the State has prayed for convicting the present accused.

9. On the other hand, learned defence counsels has raised his counter arguments thereby stating that the accused persons are absolutely innocent and

they have been falsely implicated in this case. The prosecution has miserably failed to prove its case beyond the shadow of reasonable doubt. Thus, affording benefit of doubt, the accused must be acquitted for want of proper, cogent and convincing prosecution evidence.

10. In order to substantiate the charges leveled against the accused, the prosecution has examined PW-1 Jasbir Singh who supported and corroborated the prosecution version, which has not been re-produced here for the sake of brevity and repetition. He also proved on record his report as Ex.P1, letter as Ex.P2, resolution dated 01.12.2013 as Ex.P3, resolution dated 14.11.2013 as Ex.P4, quotations as Ex.P5 and Ex.P6, photographs as Ex.P7, original bills no.782 dated 11.11.2013 as Ex.P8, original bill no.790 dated 17.12.2013 as Ex.P9, muster roll as Ex.P10 and Ex.P11, resolution dated 10.01.2014 as Ex.P12 and bill as Mark B.

11. Thereafter, prosecution has examined PW2 Ram Sarup, who supported and corroborated the prosecution version, which have not been re-produced here for the sake of brevity and repetition.

12. The prosecution further examined PW3 Parkash Singh, retired Chief Engineer Rural Development and Panchayat Punjab, who stepped into witness box and deposed that on the lines of the version of prosecution and proved on record letter bearing no.536 dated 31.03.2014 as Ex.PW3/A, letter bearing no.3430 dated 19.10.2015 as Ex.PW3/B, letter bearing no.4036 dated 23.10.2017 as Ex.PW3/C, letter bearing no.6397 dated 23.10.2017 as Ex.PW3/D, letter bearing no.6347 dated 23.10.2017 as Ex.PW3/D, letter bearing

no.3376 dated 13.10.2017 as Ex.PW3/E, letter bearing no.4239 dated 01.06.2015 as Ex.PW2/B, letter bearing no.5107 dated 06.08.2015 as Ex.PW2/C, report as Ex.P1 and letter bearing no.73 dated 12.05.2015 as Ex.P2.

13. Prosecution further examined PW4 ASI Makhan Khan who deposed that he was posted at complaint Branch, SSP Office Sangrur. He identified the signature of Sh. Pritpal Singh, the then SSP Sangrur at endorsement as Ex.PW4/A and documents as Ex.PW3/B, He also identified the signature of Sh. Pritpal Singh, SSP Sangrur on point as Ex.PW4/B and Ex.PW4/C on the application no.9959 dated 29.10.2015.

14. Thereafter, prosecution further examined Narinder Veer Singh Toor, Superintendent, BDPO Office, Sunam, who stepped into witness box as PW5 and deposed that he was posted as Superintendent at BDPO Office, Sunam. He had brought the original service book and personal file of the accused Karnail Singh (VDO) and accused was appointed as VDO on dated 20.04.1988 and got retired on 29.08.2014. He further deposed that he was working as VDO at Sherpur Block from dated 08.11.2010 to 29.08.2014. He further deposed that he had seen the photocopy of service book as Ex.PW5/A (consisting of four sheets), which are correct as per original record brought by him.

15. The prosecution further examined ASI Kamaljeet Singh, who stepped into witness box as PW6 and proved on record possession/recovery memo as Ex.PW6/A, arrest cum intimation memo of accused Neelam Rani as Ex.PW6/B and personal search memo as Ex.PW6/C. He identifying accused

Neelam Rani in the Court.

16. The prosecution further examined Retired ASI Balvir Singh, who stepped into witness box as PW7 and proved on record arrest cum intimation memo of accused Devinder Kumar as Ex.PW7/A and personal search memo as Ex.PW7/B. He identifying accused Devinder Kumar in the Court.

17. Thereafter, the prosecution further examined SI Malkit Singh- Investigating Officer, who stepped into witness box as PW8 and deposed about the manner and method of investigation and deposed regarding memos prepared during investigation. He further proved on record the documents i.e. application moved by Superintendent Engineer with the permission of Joint Secretary cum Director, Rural Development and Panchayat Development, Punjab to SSP Sangrur as Ex.PW3/B, endorsement as Ex.PW4/A, FIR as Ex.PW8/A, endorsement as Ex.PW8/B, registration number and bills as Ex.PW8/C to Ex.PW8/J, arrest cum intimation memo of accused Neelam Rani as Ex.PW6/B, personal search as Ex.PW6/C, arrest cum intimation memo of accused Devinder Singh as Ex.PW7/A, personal search memo as Ex.PW7/B, arrest cum intimation memos of accused Karnail Singh and Kulwant Singh as Ex.PW8/K and Ex.PW8/L, personal search memos as Ex.PW8/M and Ex.PW8/N, respectively, arrest cum intimation memo of accused Netar Singh as Ex.PW8/O, personal search memo as Ex.PW8/P, endorsement on order no.9959/P as Ex.PW4/C, death certificate of accused Netar Singh as Ex.PW8/Q. He further identified accused persons present in the Court.

18. Thereafter, the prosecution further examined Retired

Superintendent Darshan Singh, Panchayat Raj, who stepped into witness box as PW9 and deposed that he was appointed as a Superintendent Panchayati Raj at Sangur from the year 2015 to 30.09.2020. He further deposed that he brought the certified record of Kulwant Singh regarding his posting at Block Sherpur as Ex.PW9/A (containing three sheets), which was correct as per record. He further deposed that accused Kulwant Singh was posted as JE as per orders dated 21.03.2013 and order number is 520-26 and he joined as a JE at Sherpur on 22.03.2013.

19. Then, the prosecution examined Davinder Singh, SDO Panchayati Raj, Sunam, who stepped into witness box as PW10 and deposed that in the year, 2015, he was posted as JE in the BDPO Office, Sherpur. He further deposed that one measurement book having no.121 was given to him, when he joined as JE in BDPO Office. He further deposed that in this book there was NREGA related record and this book was taken from him by Kulwant Singh, JE in his personal capacity as he wanted to issue utilization certificate and to complete the remaining record, but when he demanded the book back so, that it could be given to the inquiry officer, Kulwant Singh JE denied to give him back the measurement book. He further deposed that he tried to contact him many times and he also visited Raikot Office and Ludhiana Office (XEN Panchayati Raj Office) but he could not recover the book. He further deposed that he had also written regarding the same to the BDPO Office, Sherpur that Kulwant Singh JE had not give the measurement book due to his bad intention. He further deposed that regarding the same he had also given an application to the Mr.

Jasvir Singh, Inquiry Officer, SDO, Panchayati Raj Office and he proved application as Ex.PW10/A and identified his signature at point-A.

20. Then, the prosecution examined PW11 Retired Superintendent Pushap Pal Sharma (wrongly mentioned as Pushap Pal Singh in the list of witnesses), who stepped into witness box as PW11 and deposed that on 07.10.2017, he was posted as Superintendent at Office of Chief Engineer Panchayati Raj Public Works Department, Punjab, Vikas Bhawan Sector-62, Sahibjada Ajit Singh Nagar. He further deposed that he had brought the original official record of sanction orders vide letter No.CEPR/E/2017(22)/3376 dated 17.10.2017 with him in the Court, the original sanction orders attached with the Court file vide as Ex.PW3/E, on which he identified the signature of the then Chief Engineer Panchyati Raj, Punjab, SAS Nagar namely Parkash Singh at point-A. He further deposed that the sanction orders attached with the Court file are genuine as per the record brought by him in the Court. He further deposed that he had brought the original official record of sanction orders vide letter No.6/46/2017-/2017-RDE-2/4036 dated 24.10.2017 and sanction orders vide letter No.6397 dated 23.10.2017 attached with the Court file as Ex.PW3/C and Ex.PW3/D, on which he identified the signature of the then Director Rural Development and Panchayat namely Sibin C at point-A. He further deposed that the sanction orders attached with the Court file is genuine as per the record brought by him.

21. It is a cardinal principle of criminal jurisprudence that the prosecution should prove the guilt of the accused beyond reasonable doubt by leading cogent

and convincing evidence. Further, it is settled principle of law that in order to bring home the guilt of the accused, the prosecution should stand or fall on its own legs and it cannot derive benefit from the weakness of the defence of the accused. The presumption of innocence is a legal principle that every accused of any crime is considered innocent until proven guilty. Under the presumption of innocence, the legal burden of proof is thus on the prosecution, which must bring forth compelling evidence before the court. If the prosecution does not prove the charges then the person is given benefit of doubt.

22. Before we advert to the discussion in the matter, I deem it appropriate to have look at the outlay and the essentials of Sections 409, 420 and 120 IPC, in terms of the dictum of law, laid down by the Hon'ble Apex Court, which are referred to in the succeeding paras.

23. In Deepak Gaba and others vs. State of U.P. and another, reported in 2023(1) Scale 381, the Hon'ble Apex Court, has highlighted the essential ingredients of Sections 405, 409 IPC in paras 13 and 14 which are reproduced below:-

"13. Section 406 of the IPC prescribes punishment for breach of trust which may extend to three years or with fine or with both, when ingredients of Section 405 of the IPC are satisfied. For Section 406 of the IPC to get attracted, there must be criminal breach of trust in terms of Section 405 of the IPC.

For Section 405 of the IPC to be attracted, the following have to be established:

(a) the accused was entrusted with property, or entrusted with dominion over property;

(b) the accused had dishonestly misappropriated or converted to their own use that property, or dishonestly used or disposed of that property or wilfully suffer any other person to do so; and

(c) such misappropriation, conversion, use or disposal should be in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract which the person has made, touching the discharge of such trust.

14. Thus, criminal breach of trust would, *inter alia*, mean using or disposing of the property by a person who is entrusted with or otherwise has dominion. Such an act must not only be done dishonestly, but also in violation of law or any contract express or implied relating to carrying out the trust. No sooner are the two fundamental ingredients of 'criminal breach of trust' within the meaning of Section 405IPC proved, and if such criminal breach is caused of by a public servant or a banker, merchant or agent, the said offence of criminal breach of trust is punishable under Section 409 IPC, for which it is essential to prove that:

- (i) The accused must be a public servant or a banker, merchant or agent;
- (ii) He/She must have been entrusted, in such capacity, with property; and
- (iii) He/She must have committed breach of trust in respect of such property.

Accordingly, unless it is proved that the accused, a public servant or a

banker etc. was 'entrusted' with the property which he is duty bound to account for and that such a person has committed criminal breach of trust, Section 409 IPC may not be attracted.

'Entrustment of property' is a wide and generic expression. While the initial onus lies on the prosecution to show that the property in question was 'entrusted' to the accused, it is not necessary to prove further, the actual mode of entrustment of the property or misappropriation thereof. Where the 'entrustment' is admitted by the accused or has been established by the prosecution, the burden then shifts on the accused to prove that the obligation vis-à-vis the entrusted property was carried out in a legally and contractually acceptable manner."

24. Section 415 of the Penal Code reads thus:

“Section 415. Cheating.- Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to 6 Section 406. Punishment for criminal breach of trust.- Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.” The ingredients to constitute an offence of cheating are as

follows:

i) there should be fraudulent or dishonest inducement of a person by deceiving him;

ii) (a) the person so induced should be intentionally induced to deliver any property to any person or to consent that any person shall retain any property, or

(b) the person so induced should be intentionally induced to do or to omit to do anything which he would not do or omit if he were not so deceived; and

iii) in cases covered by (ii) (b) above, the act or omission should be one which caused or is likely to cause damage or harm to the person induced in body, mind, reputation or property.

A fraudulent or dishonest inducement is an essential ingredient of the offence. A person who dishonestly induces another person to deliver any property is liable for the offence of cheating.

25. Section 420 of the Penal Code reads thus:

“Section 420. Cheating and dishonestly inducing deliver of property.- Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable to being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.” The ingredients to

constitute an offence under Section 420 are as follows:

- i) A person must commit the offence of cheating under Section 415; and
- ii) The person cheated must be dishonestly induced to
 - (a) deliver property to any person; or
 - (b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.

Cheating is an essential ingredient for an act to constitute an offence under Section 420.

A court exercising its inherent jurisdiction must examine if on their face, the averments made in the complaint constitute the ingredients necessary for the offence.

26. Section 120B. Punishment of criminal conspiracy.--(1)

Whoever is a party to a criminal conspiracy to commit an offence punishable with death, [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

27. The allegation against the accused persons namely Kulwant Singh, Karnail Singh and Davinder Kumar is about the commission of

offences under Sections 409/120B, Indian Penal Code. To be more precise, the act complained of is dishonest misappropriation of public funds entrusted to them, which they had seized and, were holding in trust to be dealt with in accordance with law. There can be no dispute that the misappropriation of the public funds allotted for public service and their being thus entrusted with the funds or dominion over them, was an act committed by them while acting in the discharge of their official duty. But the act complained of is subsequent dishonest misappropriation which is the second necessary element of the offence of criminal breach of trust under Section 409, Indian Penal Code. Could it be said, that the act of dishonest misappropriation or conversion complained of bore such an integral relation to the duty of the accused that they could genuinely claim that they committed it in the course of the performance of their official duty ?

In the facts of the instant case, the answer is in negative. The nature or quality of the act complained of is of such a nature that it attaches to or partakes the official character of the accused who allegedly did it. The alleged act of misappropriation or conversion, can be reasonably said to be imbued with the colour of the office held by the accused. As pointed out by Varadachariar J. in *Hori Ram Singh Vs. Emperor* AIR 1939 FC 43, generally, in a case under Section 409, Indian Penal Code, "the official capacity is material only in connection with the 'entrustment' and does not necessarily enter into the later act of misappropriation or conversion,

which is the act complained of."

In sum, the *sine qua non* for the applicability of this Section is that the offence charged, be it one of commission or omission, must be one which has been committed by the public servant either in his official capacity or under colour of the office held by him.

28. It is a case of the prosecution that an order to register an FIR was received vide order no.7832/3 dated 21.10.2015 against Netar Singh BDPO, Kulwant Singh Junior Engineer, Karnail Singh, Davinder Kumar and Naresh Kumar Secretary Gram Panchayat regarding using of low quality pipes for installation and misappropriating the funds allotted for developmental projects. The inquiry regarding the same was got conducted by *Upp Mandal* Officer, Malerkotla who vide his letter no.73 dated 12.05.2015 submitted his inquiry report that the accused officials in connivance with employees have misappropriated the funds allotted by the Government. It has been reported that the Government had allotted Rs.8,00,000/- for development of irrigation project to Gram Panchayat of Village Tibba, Block Sherpur. It is further reported that Sh. Karnail Singh *Parbandak* had prepared false estimation in connivance with Incharge Junior Engineer Sh. Kulwant Singh and had used low quality material due to which the pipeline is lying clogged due to which the said amount has been spent uselessly. For the said purpose Sh. Karnail Singh without any purpose had withdrawn a sum of Rs.80,000/- vide cheque no.177581. Similarly, a sum of Rs. 1,00,000/- was paid to M/s Singla Pipe Factory Sunam Road Khokhar vide cheque no.177850 dated 15.02.2014 and no bill regarding the

same has been placed on record. It is further reported that the low quality material has been used for the said laying of pipes project and the said material has been purchased at higher rates from the market rates and a sum of Rs.5,93,660/- has been misappropriated and misused. It is further reported that Sh. Kulwant Singh JE, *Parbandhak* Karnail Singh, Secretary Panchayat Davinder Kumar and Netar Singh BDPO of Sherpur Village Kheri Kalan, Block Sherpur were responsible for the same. It is further reported that a sum of Rs.1,00,000/- were allotted by the Hon'ble Chief Minister Punjab during his Sangat Darshan of Village Kheri Kalan, Block Sherpur District Sangrur for construction of Computer Room, Rs.2,00,000/- for Dharamshala and Rs.8,00,000/- for laying of drainage pipes. However, no computer room and Dharamshala has been constructed. It is further reported that a sum of Rs.2,50,000/- as been paid of M/s Singla Pipe Factory, Sunam Road, Lehra Gagga without any basis. It is further reported that JE Kulwant Singh had placed false/forged estimates in order to complete the official record. Sh. Netar Singh BDPO, Kulwant Singh JE and Karnail Singh Secretary Gram Panchayat in connivance with each other had purchased low quality material at higher rates than the market rate prevalent and had misappropriated Rs.6,93,086/- and they are responsible for the same.

It is further reported that a sum of Rs.4,50,000/- was given to village Badshapur Block Sherpur under RDF Scheme for drawing of sewage system to Gram Panchayat. M/s Singla Pipe Factory Sunam road Khokhar Lehra Gagga was paid for RCC Pipes of 350 mm dire, whereas, no supply

regarding the said pipes was received. The pipes used for laying of sewage system was of low standards and RCC Pipes were purchased from M/s Singla Pipe Factory Khokhar Kalan, Sunam road Lehra Gagga at rates higher than the market rates prevailing in village Lehra Gagga and same are lying unused in the village. It is further reported that Kulwant Singh JE had threatened the Gram Panchayat of said village to use the said pipes. Accordingly, a sum of Rs.1,84,562/- was misappropriated and Sh. Kulwant Singh JE, Naresh Kumar Secretary Gram Panchayat and Netar Singh BDPO are responsible for the same.

It is further reported that a sum of Rs.3,00,000/- was received under RDF Scheme of village Kala Bula Block Sherpur, Sangrur for laying of sewage system in Gram Panchayat and Kulwant Singh JE had prepared false estimate and has used low quality material and the said pipe line is clogged and the expenditure done for laying of pipes has gone wasted. Accordingly, a sum of Rs.99463/- has been misappropriated by Kulwant Singh JE, Naresh Kumar Secretary Gram Panchayat and Netar Singh BDPO by using low quality material at higher rates.

Lastly, it has been reported that a sum of Rs.593660/-- Gram Panchayat Tibba, Rs.6,93,860/--Gram Panchayat Kheri Kalan, Rs.1,84,526/-- Gram Panchayat Badshapur, Rs.99463/--Village Kala Bula has been misappropriated by Netar Singh BDPO, Kulwant Singh Incharge JE and M/s Singla Pipe Factory Sunam Road Lehra Gagga. Concludingly, a sum of Rs.15,70,771/- has been misappropriated by the accused Netar Singh BDPO Sherpur, Kulwant Singh JE, Karnail Singh Parbandhak Tibba, Davinder Singh

Secretary Gram Panchayat Tiba, Naresh Kumar Secretary Gram Panchayat and M/s Singla Pipe Factory Sunam Road Lehra Gagga and direction to register FIR against said persons was received from *Sayunkt Vikas Commissioner cum Diractor Pendu Vikas* dated 17.10.2015 to SSP Sangrur. Accordingly, as per directions of Senior Superintendent of Police Sangrur FIR against Netar Singh, Kulwant Singh JE, Karnail Singh Parbandhark Tibba, Davinder Kumar Secretary Gram Panchayat Tibba, Naresh Kumar Secretary Panchayat and Neelam Rani- owner of Singla Pipe Factory Sunam road Lehra Gagga was registered under Sections 409, 420, 120-B IPC. Vide order dated 9959/P dated 18.07.2016 Naresh Kumar Secretary Gram Panchayat was declared innocent. Accused Netar Singh BDPO had died on 31.12.2016. Accordingly, the challan against accused Kulwant Singh JE, Karnail Singh Parbhandak Village Tibba, Neelam Rani and Davinder Kumar Secretary has been presented.

29. In the instant case, in order to prove the guilt of accused persons namely Kulwant Singh, Karnail Singh and Davinder Kumar under Sections 409 and 120-B of IPC, the prosecution had to proved the essential ingredients of the said offences as enumerated hereinabove. From the testimony of prosecution witnesses and the report of PW1 Jasvir Singh XEN, Panchayat Department Fatehgarh Sahib it is coming out that JE Kulwant Singh along with and other accused persons namely Karnail Singh and Davinder Kumar had been entrusted with the public money for the developmental projects and laying of sewage pipes. The accused persons namely Kulwant Singh, Karnail Singh and Davinder Singh in the present case were entrusted with the public money which they

were duty bound to account for and being entrusted with public money they had misappropriated the said public money by purchasing pipes of sub-standard quality and the material used to prepare pipes was below the specified norms. PW1 Jasvir Singh- Inquiry officer during his inquiry reported that the neither any tenders were floated before purchasing of pipes nor any quotations were called. The said report of the Inquiry officer corresponds with the version of PW3 Parkash Singh, Chief Engineer, Panchayati Raj who has during his cross-examination submitted that neither any tenders were floated nor any quotations were called. A public servant whenever is entrusted with any public function he ought to adhere to the trust imposed by the government to use and spend the said entrusted public money in the best possible way and to utilize it in a way that the public trust is honored. The floating of tenders and seeking quotations from the vendors in general was the *sine qua non* for the performance of public duties in the instant case. The accused persons, namely Kulwant Singh, Karnail Singh and Davinder Kumar has neither alleged that any tenders were floated or quotations were called by them for laying of pipes. It is an undeniable fact that the accused persons namely, Kulwant Singh, Incharge JE Union, Karnail Singh *Parbhandak* Village Tibba and Davinder Kumar Secretary had failed to seek tenders and quotations for the public work for which public money was entrusted to them. They had directly went on to purchase pipes from M/S Singla Pipe Factory. Merely, the said conduct of the accused persons, namely Kulwant Singh, Karnail Singh and Davinder Kumar is sufficient to prove that they have de-relicted in performing their official public duties. The learned counsel for

accused had argued that there was no direction in which way the said funds were ought to be used. In this regard this court is of the view that the accused persons, namely Kulwant Singh, Karnail Singh and Davinder Kumar were duty bound to perform their duties to the best interest possible of the public and should have utilized the public money to its foremost value. The prosecution has proved on record quotations taken by Inquiry Officer as Exhibit P5 and P6 in order to prove that the quotations could have been taken at rates cheaper than the ones at which the accused persons namely Kulwant Singh, Karnail Singh and Davinder Kumar in connivance with each other had purchased them from M/S Singla Pipe Factory. Meaning thereby, the accused persons in connivance with each other had purchased the pipes at rates higher than the rates at which the same could have been purchased by the accused persons namely, Kulwant Singh, Incharge JE Union, Karnail Singh Parbhandak Village Tibba and Davinder Kumar Secretary Furthermore, PW2 during his cross-examination specifically deposed that the pipes were not according to the size as per the resolution of the Gram Panchayat. Meaning thereby, the pipes allegedly purchased were not as per the specification and need and resulted in wastage of public money.

30. The Inquiry officer PW1 has in his report specifically reported that accused Kulwant Singh J.E. has prepared and kept on record false estimates duly signed by the then BDPO Netar Singh- (deceased). It is further reported that the same contains reference of other items like purchasing of RCC pipes- without mentioning there size and specifications, de-watering of pond, digging

of earth without any basis and are fictitious. The said estimates also doesn't contain the details of demarcation points from which they have to be installed. It has also been reported that the RCC pipes layed from primary school till Hanuman Mandir have diameter of 350 mm and the said pipes were not installed keeping in view the fact that the same are to be installed for discharge of sewage / waste water, the level is uneven due to which the waste water is not able to discharge and the funds have been wasted due to dereliction in performing their duties. *Interalia*, it has also been reported that one cheque bearing no 177576 dated 04/2/2014 for a sum of Rs 8 lakhs was issued to M/S Singla Pipe Factory. However, the bill of said firm M/S Singla Pipe Factory is dated 05/02/2014. Meaning thereby, the cheque had been issued on the date in prior to the purchasing of goods. Additionally, the said bill does not contain CST/ Vat no. The accused has failed to give any plausible explanation for the said act and conduct.

31. Most importantly, the accused Karnail Singh had withdrawn Rs. 80,000/- vide cheque no.177581 and no objective and need for withdrawing alleged amount has been shown by the accused and there is no record regarding the same. The accused has failed to account the withdrawal of above said amount from the account vide cheque. The accused has failed to rebut the allegations that had been arrayed against them.

32. The accused persons namely Kulwant Singh, Karnail Singh and Davinder Kumar as alleged that they have been falsely implicated in the present case with officials of their department Parkash Singh and Davinder Kumar.

However, the accused has failed to prove on record any evidence in order to prove that the instant case has been falsely registered against him and there was any motive/grudge for registration of instant false FIR against them. Accused has also failed to plead any reason behind getting registered false FIR against the accused by the officials of their department.

33. In the instant case, the prosecution has duly proved on record that the accused persons, namely, Kulwant Singh, Incharge JE Union, Karnail Singh Parbhandak Village Tibba and Davinder Kumar Secretary were public servants who had been entrusted with public money to which they were duty bound to account for and by their alleged conduct of purchasing sub-standard quality of pipes, non ISI marked without calling tenders and quotations, making of advance payments to M/S Singla Pipe Factory and then preparing of false estimates by the Junior Engineer have committed criminal breach of conduct by a public servant who had misappropriated the Government funds granted for development purposes. The prosecution has duly proved on record that the accused persons, namely, Kulwant Singh, Incharge JE Union, Karnail Singh Parbhandak Village Tibba and Davinder Kumar Secretary were entrusted with public money for the purpose of installation of pipes for the purpose of laying of sewage drains being a public servant and by entering into an agreement to do the illegal act misappropriated the amount entrusted and in pursuance of criminal conspiracy purchased pipes of sub-standard quality from M/s Singla Pipe Factory and committed offense of criminal breach of trust. In the instant case, the burden of proof had shifted upon accused persons namely Kulwant

Singh, Karnail Singh and Davinder Kumar to prove that the accused had carried out the entrusted property in a legally, contractual and acceptable manner. Howsoever, the accused persons namely Kulwant Singh, Karnail Singh and Davinder Kumar have failed to disprove allegation made against them after due inquiry and they have also failed to rebut the same by way of any ocular or documentary evidence. Mere assertions, howsoever, grave cannot take place to prove. Meaning thereby, the accused persons namely Kulwant Singh, Karnail Singh and Davinder Kumar have failed to satisfy conscience of the court that the property entrusted with them was carried out in a legally, contractual or acceptable manner and was not adverse to the interest of the public.

34. With regard to the culpability of accused Neelam Rani owner of M/s Singla Pipe Factory under Section 420 IPC read with Section 120-B IPC, this Court of the considered view that the prosecution has failed to sufficiently prove on record the alleged connivance of accused Neelam Rani with the other accused persons in providing sub standard quality material at rates higher than the market value. Furthermore, the prosecution has failed to prove that accused Neelam Rani was signatory to any of the bills issued by M/s Singla Pipe Factory. The prosecution has failed to prove that the accused Neelam Rani had entered into any illegal act or conduct and conspired with other accused persons in order to cheat or dishonestly induce any person to deliver any property etc. The prosecutions has failed to establish culpability of accused Neelam Rani beyond reasonable doubt.

35. Keeping in view the aforesaid discussion, case of the prosecution

stands duly proved on record beyond reasonable doubt as against accused persons namely Kulwant Singh, Karnail Singh and Davinder Kumar. Consequently, the accused namely Kulwant Singh, Karnail Singh and Davinder Kumar are found guilty for having committed offence punishable under Sections 409 of IPC read with Section 120-B of the Indian Penal Code, 1860 and they are convicted accordingly. However, the prosecution has failed to prove its case against accused Neelam Rani for the charges levelled against her beyond reasonable doubt. Accordingly, no offence is made out against accused Neelam Rani and she is acquitted for the charges charge sheeted against her by granting benefit of doubt. Let the convicts namely Kulwant Singh, Karnail Singh and Davinder Kumar be heard on the quantum of sentence.

Pronounced.
29.08.2025
Anshul

(Amandeep Kaur), PCS,
Judicial Magistrate Ist Class,
Dhuri/UID No.PB0607

QUANTUM OF SENTENCE:

Present: Learned APP for the State.
 Convicts in custody with counsel.

Convict submitted that they are first time offenders and are not the previous convict and sole bread winner of his family. Convict prayed for taking a lenient view while imposing the sentence.

On the other hand, learned APP for the State prayed for severe punishment to the convicts as such kind of offences are on the rise.

After giving my thoughtful considerations to the rival submissions of convicts and learned APP for State and keeping in view the antecedents of the convicts and nature of offence and circumstances of the case, the convicts are sentenced as under:-

Sr. no.	Accused	Under Section	Sentence
1.	Kulwant Singh	409 IPC	Rigorous imprisonment for a period of three years and to pay fine of Rs.5,000/- and in default of payment of fine to undergo simple imprisonment for a period of 15 days.
		120-B IPC	Rigorous imprisonment for a period of 01 year.
2.	Karnail Singh	409 IPC	Rigorous imprisonment for a period of three years and to pay fine of Rs.5,000/- and in default of payment of fine to undergo simple imprisonment for a

			period of 15 days.
		120-B IPC	Rigorous imprisonment for a period of 01 year.
3.	Davinder Kumar	409 IPC	Rigorous imprisonment for a period of three years and to pay fine of Rs.5,000/- and in default of payment of fine to undergo simple imprisonment for a period of 15 days.
		120-B IPC	Rigorous imprisonment for a period of 01 year.

Period of imprisonment already undergone by the accused during inquiry, investigation or trial of the case, if any, be set off from the substantive sentences to be undergone by him. All the sentences shall run concurrently. Fine paid against proper receipts. The accused be released in this case if otherwise not required in any other case after undergoing the sentence. Ahlmad is directed to send separate letter in this regard alongwith one copy of this order to Jail Superintendent, Sangrur. Copy of the judgment received by the accused, free of cost. File be consigned to the Judicial Record Room, Dhuri after due compliance in all respects.

Pronounced.
29.08.2025
Ashul

(Amandeep Kaur), PCS,
Judicial Magistrate Ist Class,
Dhuri/UID No.PB0607

Amandeep Kaur,
Judicial Magistrate Ist Class,
Dhuri dated 29.08.2025.