

**IN THE COURT OF MONIKA GOYAL, ADDL. SESSIONS
JUDGE, SAS NAGAR, MOHALI**

Criminal Appeal No. 41/22.11.2016
CIS NO.CRA/263/2016
CNR No. PBSA01-006558-2016
Date of decision: 29.7.2019

1. Veerdavinder Singh, aged about 29 years son of Late Sh. Buta Singh, resident of House No.T-4/166, RSD Shahpur Kandi, RSD Colony Jugial, Pathankot Permanent resident of Nawan Pind, Mehta Road, Amritsar.
2. Gurmeet Singh, aged about 46 years, son of Mohan Singh, Shop No.103/7, Indian Batteries, City Centre, Baba Phula Singh Road, Amritsar, Amritsar, Permanent resident of Nawan Pind, Mehta Road, Amritsar.

...Appellant

Versus

State of Punjab.

....Respondent

...

Appeal against the judgment dated 07.11.2016 passed by the Court of Ms. Vipindeep Kaur, PCS, Chief Judicial Magistrate, SAS Nagar, vide which, both accused/appellants have been convicted to undergo rigorous imprisonment for a period of 2 years under Section 420 IPC, 1 year under Section 120-B IPC, 1 year under Section 66C of IT Act, 1 year 66D of IT Act, in FIR No.07 dated 18.06.2012, u/s 66/66C/66D IT Act and 420/465/467/468/471/120B IPC, PS Mohali bearing Police Challan No.127/29.09.2012 decided on 07.11.2016 and fine of Rs.2500/- each has been imposed upon the appellants/accused.

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Present: Appellant on bail with counsel Sh. A.S. Longia Adv.
Sh. Manjit Singh Addl. P.P for the State.

JUDGMENT:-

1. Appellants-accused Veerdavinder Singh and Gurmeet Singh were convicted and sentenced by the court of Ms. Vipindeep Kaur, PCS, Chief Judicial Magistrate, SAS Nagar, on 07.11.2016, vide which, both accused/appellants have been convicted to undergo Rigorous imprisonment for a period of 2 years under Section 420 IPC, 1 year under Section 120-B IPC, 1 year under Section 66C of IT Act, 1 year 66D of IT Act, in FIR No.07 dated 18.06.2012, u/s 66/66C/66D IT Act and 420/465/467/468/471/120B IPC, PS Mohali bearing Police Challan No.127/29.09.2012 decided on 07.11.2016 and fine of Rs.2500/- each has been imposed upon the appellants/accused. Feeling aggrieved they have preferred the present appeal.

2. Facts necessary for disposal of this appeal are that complainant Mr. T.R Dogra is retired Divisional Engineer from BSNL Pathankot and is holder of pension account No.10179073323 in SBI Branch Dalhousie road Pathankot. Bank has provided him ATM-cum-Debit card facility on ATM card No.6220180129000036068. He checked his account balance on dated 31.10.2011 at 1832 hours from SBI Dalhousie Road Pathankot and his account balance was showing Rs.1,50,096.89/-. On 01.11.2011 at 1225/1226 hours he made two withdrawals of Rs.15,000/- and Rs.8000/- respectively from ATM of State Bank of Patiala located at Shahpur Chownk Pathankot. When he checked

his account balance, he was shocked to see that only Rs.30,692/- was balance in his account. On seeing this, he contacted his bank to know the details of withdrawal from his account, he was told that withdrawal of Rs.1,19,551/- has been carried out through 13 online transactions. He has submitted his complaint to SBI Dalhousie Road Pathankot and also to the local police. The SSP Pathankot had marked his complaint to Police Station State Cyber Crime Punjab. Thereafter, ruqa was prepared, FIR was registered.

During investigation of this case, it was found that a withdrawal of Rs.1,19,551/- was carried out in the account of the complainant through 13 online transactions and when the details of the bank statement for account No.10179073323 has been taken from the bank, along with other details regarding these fraudulent transactions, then it came into light that these purchases have been carried out through payment gateway of Bill-desk. As per the report of Bill-desk these purchases have been carried out through e-bay, hutch. Bill-desk has provided the information regarding IP addresses, from which requests for these fraudulent transactions were executed and all the IP addresses i.e. 117.207.144.174, 117.199.86.222 and 117.199.92.193 belongs to Bharat Sanchar Nigam Limited and as per BSNL report, the IP addresses 117.207.144.174 on dated 31.10.2011, IP address 117.199.86.222 on dated 01.11.2011 and IP address 117.199.92.193 on dated 02.11.2011, the particular time assigned to the broad band connections installed in the telephone No. 1870-264465, which is in the name of Veerdavinder Singh

S/o Late Buta Singh R/o T-4/166 RSD Shahpur Kandi, RSD Colony, Jugial, Pathankot. As per the report of e-bay the user of Email ID gurmitvillage@yahoo.in (namely Gurmit Singh with buyer user ID-singh098) had purchased the items from different vendors/merchants and the delivery of the items has been made on the address provided by purchaser/user of the above said ID. The e-mail ID gurmitvillage@yahoo.in from which all the request for purchases have been executed was registered with e-bay on 04.10.2011 at 18:54:19 GMT from IP address 117.199.83.122. The purchaser who had given his information as Gurmit Singh having email ID gurmitvillage@yahoo.in had purchased gold coins of different measurements and from different sellers and the delivery of the said items had been made by the sellers through different courier services, at the address given/provided by the purchaser i.e. Indian Batteries, City Centre Amritsar, Baba Phula Singh road Amritsar having mobile number 09878895560. The Investigating officer had collected the information with regard to the above said transactions. During investigation the Investigating Officer had recovered gold coins, wireless keyboard, memory cards etc. at the instance of accused and after completion of investigation, challan was presented before the learned Ilaqa Magistrate for trial.

3. After the presentation of challan before the learned trial court on 29.09.2012, learned trial Magistrate supplied copies of documents to the accused and after hearing learned A.P.P for the State and learned defence counsel, finding a prima facie case under Sections 66,

66C, 66D of IT Act and 120-B, 420, 465, 467, 468, 471 read with Section 120B IPC, a charge sheet was served upon them to which the accused pleaded not guilty and claimed trial.

4. To prove guilt of the accused prosecution examined PW1 Inspector Bahadur Singh, PW2 ASI Ved Parkash, PW3 Sunil Kumar, PW4 Raj Kumar, PW5 Prem Lal, PW6 Davinder Singh, PW7 Damandeep Singh Nodal Officer Vodafone, Punjab, PW8 Moi, PW8 Arvind Kumar, PW9 Karan Singh, PW10 HC Harbans Singh, PW11 SP Jain Nodal Officer Bharti Airtel Ltd., Rajiv Gandhi Technology Park Plot No.21, Chandigarh, PW12 Avtar Singh and PW13 Constable Ram Kumar. Thereafter, evidence of the prosecution was closed by orders of the Court.

5. After the closure of the prosecution evidence, all the incriminating evidence appearing in the statements of prosecution witnesses were put to the accused by recording their statements under Section 313 Cr.P.C but they refuted all the allegations by pleading innocence and by alleging false implication. They further submitted that they want to lead evidence in defence but no evidence in defence was led by the accused and thereafter defence evidence closed by order of the Court.

6. After hearing learned A.P.P for the State as well as learned defence counsel, learned trial Magistrate found the accused-appellants guilty under Section 420, 120-B of IPC and under Section 66-

C and 66-D of Information Technology Act and convicted them thereunder by awarding them the following sentence:-

Name of accused	Under Section	Rigorous Imprisonment	Fine
Veerdavinder Singh	420 IPC	2 years (Two years)	Rs.2500/-
	120-B of IPC	1 year (One year)	--
	66-C of I.T Act	1 Year (One year)	--
	66-D of I.T Act	1 year (One year)	--
Gurmeet Singh	420 IPC	2 years (Two years)	Rs.2500/-
	120-B of IPC	1 year (One year)	--
	66-C of I.T Act	1 Year (One year)	--
	66-D of I.T Act	1 year (One year)	--

7. Feeling aggrieved, appellants-accused have filed the present appeal and when notice of the appeal was issued, learned Addl.P.P for the State put in appearance and contested the appeal.

8. I have heard the learned counsel for appellants-accused, learned Addl.P.P for the State and have also gone through the record with their help.

9. Counsel for the appellants had argued that the trial Court had wrongly convicted the present accused for Cyber crime. He pointed out that the complainant has not been examined, because he had already died. He submitted that the trial Court had not taken into account that Section 66 of the Information Technology Act stands repealed and thus the finding given by the trial Court are not maintainable. He further argued that the case property has not been produced before the Court at the time of the cross examination of the witness, thus no opportunity was granted to the accused to confront the witness on the said point. He

submitted that the witnesses were unable to identify the case property allegedly recovered from accused. He argued that no independent witness was produced by the prosecution, who had joined by the police officials at the time of recovery or recording the disclosure statements of the accused. He pointed out that the prosecution had miserably failed to prove the case beyond the reasonable doubt. He submitted that the accused had not induced any person to part away with his valuable security, thus offence under section 420, 120-B of IPC is not made out and he prayed for setting aside the Judgment of conviction and order of sentence and prayed that accused be acquitted.

10. Learned Addl P.P has argued that the prosecution has fully proved its case by examining all the material witnesses. He further argued that the case of the prosecution is based on the documentary evidence. He submitted that due to the death of the complainant, he could not be examined by the prosecution, but the non-examination of the complainant is not fatal to the case of the prosecution, as other material witnesses examined by the prosecution have duly supported its case by proving all the relevant documents on record. He further argued that if the appellants-accused wanted to prove their innocence, they could have led evidence in this regard, but to no avail. Learned Addl. P.P further argued that the learned trial Court has rightly convicted and sentenced the accused/appellants and prayed for dismissal of the present appeal.

11. Taking into account the evidence on record as well as submissions of both the parties, this Court is of the considered view that

the allegations against the present accused are that they had illegally transacted the money from the account of T.R Dogra complainant and made purchases through online transaction line and thus caused illegal withdrawal of Rs.1,19,551/- from the account of the complainant. It need to mention here that the complainant has not been examined by the prosecution, but vide order dated 4.4.2014, it has been highlighted before the trial Court that the complainant had already expired and his wife Satya Wati had appeared before the trial Court and stated that she had entered into a compromise with the accused. It need to mention here that she had raised a plea regarding the said compromise before the Hon'ble High Court, but the matter was sent to the trial Court and the matter was proceeded further, as the offence under Section 467 IPC was not compoundable. It need to mention here that as the complainant had already expired, due to which, he could not be examined and therefore the arguments raised by counsel for the appellants has no substance regarding non-examination of the complainant.

12. Further in order to prove its case, prosecution had examined Inquiry Officer ASI Ved Parkash as PW2, as the present FIR was lodged after inquiry. PW2 had deposed before the Court as to how he had inquired into this matter. He submitted that on verification of the account of the complainant, he found out that payment Gateway of Bill-desk was used to make transactions from the account of complainant and I.P addresses were obtained from BSNL, as per which at the time of occurrence on the particular date and time, I.P address was assigned to the

present accused Veerdavinder Singh. Further he deposed before the Court that purchases were made through ebay and email and ID of buyer was gurmitvillage@yahoo.in and was registered on 4.10.2011 having contact No.9878895560 and it was issued in the name of Mr. Ashish Bhandari, but on perusal of call details of the above mentioned mobile number, it was found that calls have been forwarded to the phone number of accused Veerdavinder Singh i.e 9888264465 and the delivered items were sent at the address of Gurmit Singh and other accused. He proved on record the Inquiry report as Ex.P1. He also produced on record various documents whereby he had communicated with State Bank of India, BSNL, ebay India Private Limited, verification from Sukh Store and informations from Courier services and GPO, which are Ex.PW2/A to Ex.PW2/D/1. He also communicated with Yahoo relating to the email ID of gurmitvillage@yahoo.in and regarding recharging of the mobile phones. He proved on record the documents Ex.PW2/K to Ex.PW2/M. Further Ex.P9/A also proves on record, date and time of the transactions made from the account of complainant T.R Dogra, I.P address used in these transactions and that it has been made to ebay and Hutch.

In cross examination, he was asked about recording the statements of witnesses, but he replied that he had communicated with them through emails. He admitted that the documents are not signed by the officers of the concerned Companies. Therefore, the main focus of the cross examination of this witness was on the signatures and seal of the concerned Companies on the alleged documents. Perusal of the documents

produced on record by this witness shows that he had communicated with State Bank of India and he had received statement of account of complainant T.R Dogra, which shows that transaction through Bill-desk has been made on 1.11.2011. Record of S.B.I pertaining to the account of complainant T.R Dogra has further been corroborated by PW9 Karan Singh as Ex.P9/A. Though only question put to witness PW9 is that he do not identify the signatures of Bank Manager, but it need to mention here that this document was proved through the witness of S.B.I, thus authenticity of this document stands duly proved. Thus Ex.PW2/B read with Ex.P9/A duly shows the transactions made from the account of complainant T.R Dogra through Bill-desk.

The Inquiry Officer PW2 had also brought on record Ex.PW2/C which is confidential document issued by BSNL, where it had showed that IP address at the particular date and time was issued to user ID-ve1870264465_ncdr@bsnl.in. The details mentioned in Ex.PW2/C fully corresponds with the transaction time and date and IP address given in Ex.P9/A. Further BSNL had provided the subscriber details, as per which, it was issued to Veerdavinder Singh having current phone No.01870-264465. It is pertinent to mention here that Ex.PW2/C has been proved on record by the officials from BSNL i.e Raj Kumar PW4, who had correlated the IP address with ID, which was issued in the name of the present accused Veerdavinder singh. The witness PW4 had also produced on record the document Ex.PW4/A which clearly depicts that user ID-ve1870264465_ncdr@bsnl.in is in the name of present accused

Veerdavinder Singh, therefore from the perusal of these documents uptill now it stands established that online transactions were made from the account of complainant T.R Dogra by using IP address which was issued in the name of present accused Veerdavinder Singh. Further the Inquiry Officer PW2 had communicated with ebay India Private Limited asking them to give him details about the purchases made from the transactions, their IP addresses, items delivered, address of the items delivered, Courier service which delivered articles etc. ebay India Private Limited had communicated vide Ex.PW2/E giving details of the items purchased. It need to mention here that this document Ex.PW2/E had given details of the items purchased, name of buyer i.e Gurmit Singh, his address of Amritsar, IP address, email ID gurmitvillage@yahoo.in, contact number i.e 09878895560 as well as date and time and Shipment details sent through India Post (Speed Post) or other courier services. It need to mention here that ebay had also issued authentication certificate under Section 65-A and B of Indian Evidence Act 1872, but no witness had come to prove these documents apart from the Inquiry Officer. But there is other corresponding evidence to prove these documents, as the prosecution had examined witnesses from Seller and Courier Services and in this regard, it need to mention here that Ex.PW2/E had pointed out that ebay is only an online Platform for community to engage in ecommerce activities and they do not manufacture, sell or distribute any product and items and all the transactions are individual between buyer and seller. In the items depicted in this document, one of the item is Micro SD Sandisk, Mobile Phone,

Memory card and user ID of seller is sukhstore. Sukhstore had communicated with SSP Cyber Crime where it has been provided through email that this memory card was purchased by Gurmit Singh and invoice of which has been produced on record as Ex.PW2/H. Ex.PW2/F shows that it was purchased by Gurmit Singh and many memory cards have been recovered from him. Invoice is on record as Ex.PW2/H, but no witness has been examined in this regard.

It need to mention here that Inquiry Officer during his inquiry had found that the present accused had also purchased one Logitech K 230 wireless Keyboard on 1.11.2011 for an amount of Rs.1074/- and when accused Veerdavinder Singh after inquiry was arrested, then the said wireless keyboard was recovered from the house of accused Veerdavinder Singh, which has been produced before the Court as MO-2. Investigating Officer Inspector Bahadur Singh has duly produced the case property before the trial Court in his examination in chief, but no objection had been raised by the accused when this case property was exhibited, but counsel for the accused had taken objection that this property was not produced before the Court at the time of the cross examination of the witness. It need to mention here that no objection to the identity of the case property was raised when the case property was exhibited in the Court and moreover, no request was made by accused for calling the case property in Court during cross examination, thus he is not entitled to raise this objection first time in appeal. As regards this keyboard, it need to mention here that as per Ex.PW2/E, this keyboard was

purchased on 1.11.2011 through IP address 117.199.83.211 having buyer's name Gurmit Singh address Indian batteries City centre Amritsar Baba Phula Singh road Amritsar. This IP address stands duly reflected in Ex.PW2/C. Prosecution in order to corroborate this, had brought on record Ex.P8/A, which is invoice of this wireless keyboard. It is pertinent to mention that as per this invoice, consignee of this invoice is eBay India Private Limited and buyer is Gurmit Singh at City Centre near Baba Phula Singh road Amritsar. Moi, Proprietor R.R Enterprises while deposing before the trial Court as PW8 proved on record this invoice Ex.P8/A. He also proved email correspondence with SSP Cyber Crime. Correspondence in this regard with Investigating Officer Bahadur Singh is Ex.P8/B, as per which, he had produced on record the full details of the buyer, seller, IP address, details of buyer etc. and all these details correspond fully with Ex.PW2/E, therefore the statement of PW8 had corroborated the statement of Inquiry Officer that this wireless keyboard has been purchased by using BSNL Broadband of accused Veerdavinder Singh and had been delivered at the address of Gurmit Singh present accused, as even in present appeal, address of account Gurmit Singh is same. As already mentioned above, this wireless keyboard was duly recovered by the Investigating Officer from the house of accused Veerdavinder Singh. In detailed cross examination of IO Bahadur Singh PW1, who had recovered this wireless keyboard, only question put to him regarding keyboard is about the seller of keyboard. He was also asked about the ownership of the keyboard, but when this keyboard has been recovered from the house of accused, onus

was on the accused to prove that it do not belongs to him, but no such evidence was brought on record and even nothing in this regard has been explained by the accused while recording his statement under Section 313 Cr.P.C.

13. Counsel for the accused had raised that no independent witness has been joined by the Investigating Officer at the time of recovery. In this regard it is hereby submitted that though investigating agency had not joined any independent witness at the time of recovery, but same is not fatal to the case of the prosecution, when police officials have duly proved on record the recovery of articles as referred to above, made from the accused. It need to mention here that there is no motive with the police officials to falsely implicate the present accused while discharging their official duty. Even otherwise, every person is busy in his own affairs and no one prefers to become a police witness primarily because of risk involved in the present like cases and consequently it is a time consuming process. In **Appabhai and Another versus State of Gujrat AIR 1988 696 (SC)**, it was held that “the prosecution story cannot be thrown out, on the ground that an independent witness had not been examined by the prosecution, It was further held in the said authority that civilized people are generally insensitive, when a crime is committed, even in their presence, and they withdraw from the victim's side and from the side of the vigilant. They keep themselves way from the Courts, unless it is inevitable”. In the present case also, in view of the above discussion, the prosecution has duly proved its case by examining the material witnesses.

Thus, non joining of independent witness is not fatal to the case of prosecution, rather statement of Inquiry Officer Bahadur Singh and recovery stands corroborated through the statement of HC Harbans Singh PW10, who was member of the police party and had duly proved on record the recovery memo Ex.P6 vide which the present wireless keyboard had been recovered. No suggestion has been put to these witnesses that the above mentioned wireless keyboard was not recovered from the accused. Therefore, it stands proved beyond reasonable doubt that the present accused had made illegal online transaction through the bank account of complainant T.R Dogra and had purchased the above mentioned wireless keyboard from R.R Enterprises through eBay India Private Limited by using Broad band connection installed at the house of Veerdavinder Singh and received delivery of articles at the house of accused Gurmeet Singh, thus present accused had conspired to whether to commit cheating and impersonation by using computer resources and also committed identity theft.

14. Further it has come on record that the present accused had purchased gold coins by making illegal transactions from the account of complainant T.R. Dogra and as already mentioned, IP address of all these transactions stands duly proved on record through Ex.PW9/A, Ex.PW2/C and Ex.PW4/A and it stands proved that same was installed at the house of accused Veerdavinder Singh and was delivered at the house of accused Gurmit Singh. It is also pertinent to mention here that as per Mark P4 proved on record by PW5 Prem Lal from General Post Office Amritsar

that the articles mentioned in Ex.PW2/E were delivered to the house of accused Gurmit Singh. As per Mark P5, record stands destroyed, but prosecution had also examined Arvind Kumar from Mehar Singh Jewellers as PW8 who had brought on record the invoice as Ex.PW8/A to Ex.PW8/C, which shows the sale of gold coins to Gurmit Singh at the address City Centre Amritsar. It need to mention here that the amount duly correspond with Ex.PW9/9 being the payment made from the account of T.R. Dogra complainant. Moreover, these gold coins have been recovered by the Investigating Officer Bahadur Singh PW1 from both the accused vide recovery memo Ex.P7 and Ex.P11. The gold coins have been produced on record as MO3 to MO65. Counsel for the accused while cross-examining the Investigating Officer PW1 had pointed out that it is difficult to identify the coins, which have been procured by the accused through illegal transactions in the present case. It need to mention here that there is no requirement for identifying the coins, which particularly belongs to the present case, as prosecution had duly proved on record that the present accused had purchased the gold coins from the Mehar Singh Jewellers, which have been recovered from the accused. The recovery of the gold coins has not been disputed by the accused and even both the accused had failed to prove on record as to how they have procured gold coins which are 63 in numbers and what are their source of income to procure them, rather in their statements u/s 313 Cr.P.C they simply stated that they have been falsely implicated. Accused have failed to establish on record any enmity of Investigating Officer/Inquiry Officer with them.

Moreover, it is difficult to implant so many gold coins on anyone, therefore objection raised by counsel for the accused regarding identification of the coins has no material bearing to the facts and circumstances of the case. Same has also been corroborated by C Ram Kumar PW13, who also proved the disclosure statement Ex.P13 made by accused Veerdavinder Singh.

Further the prosecution had examined Avtar Singh PW12, who had proved on record the consignment No.50145223844 delivered at the address of Gurmit Singh vide Mark P12/A, therefore, as already held above that the present accused had illegally transacted from the account of complainant T.R Dogra to purchase gold coins through online transaction.

Also there is allegation on the accused that they had impersonated as some one else and committed identity theft. In this regard, prosecution has proved on record the statement of account of complainant T.R. Dogra as Ex.P9/A that by using Broad band, as already discussed above, accused had illegally transacted from the account of T.R. Dogra and purchased gold coins through eBay/Hutch and inquiry officer had brought on record communication received from Yahoo as Ex.PW2/J as per which e-mail had been made in the name of Gurmit Singh having Yahoo mail ID gumitvillage@yahoo.in. Further PW8 had brought on record the details of the purchaser of wireless keyboard vide document Ex.P8/B, whereby contact number of buyer has been shown as 09878895560. Thus, as per Ex.P8/B, present accused Gurmit Singh had shown his contact number as

09878895560. In order to show that accused had committed identity theft, prosecution had examined PW11 S.P. Jain Nodal Officer from Bharti Aritel who had submitted that this mobile no.9878895560 was registered in the name of Manish Kumar and perusal of Ex.P11/A shows that this number was issued to Manish Kumar of Gurdasspur, but inquiry office PW2 had stated that accused Veerdavinder Singh had forwarded the calls from mobile no.9878895560 to 9888264465 and in this regard he relied upon the document Ex.PW2/L, Ex.PW2/M and Ex.PW2/N. PW2/L is the form, vide which this mobile number 9888564465 was issued in the name of Veerdavinder Singh. In order to prove these contentions, prosecution had examined PW7 Damandeep Singh Nodal Officer, Vodafone who had proved on record the call details of Mobile No.9888264465 as Ex.P7/C, which also contains filtered communication between mobile no. 9878895560 and 9888264465 which shows that the calls have been forwarded from mobile No. 9878895560 to mobile No. 9888264465. Therefore it stands established that the present both the accused by using mobile number issued in the name of Munish Kumar had placed orders with different companies through the account of complainant T.R. Dogra, thus they have committed identity theft.

Moreover, prosecution had proved on record the mobile numbers issued in the name of Davinder Singh and Sunil Kumar vide Ex.P7/A and Ex.P7/B and got the same recharged through the account of complainant T.R. Dogra. Sunil Kumar had stepped into the witness box as PW3 where he had submitted that he had never made two payments of

Rs.500/- each to pay the bill of his mobile No. 9646143657. Even Davinder Singh stepped into the witness box as PW6 and also submitted that he never asked Veerdavinder Singh to pay Rs.2/- in his mobile number 9646010154. Therefore the accused had fraudulently and dishonestly used the unique identification feature of the complainant T.R. Dogra to payments of Mobile Phones of Sunil Kumar and Davinder Singh.

Thus prosecution has proved beyond reasonable doubt through the evidence on record that the present accused Veerdavinder Singh, after using the BSNL Broad band connection installed at his house, made illegal transactions from the account of complainant T.R Dogra through Ebay/Hutch and procured gold coins and computer accessory in connivance with accused Gurmit Singh, who had received these articles at his address by conspiring with each other and cheated the complainant of his hard earned money, identity theft by using computer resources and cheated the complainant by impersonation. Counsel for the accused had argued that Section 66 of the Information Technology Act 2008 stand repealed, but no such judgment has been brought on record by him qua Section 66-C and 66-D of Information Technology Act 2008. Moreover Counsel had argued that the present complainant had not induced any one to part away with valuable security, but in this regard, it is pertinent to mention that accused by some way had procured the details of the account of complainant T.R Dogra and utilized them to make online transactions and by making those transactions, both the accused had received gold coins and other articles by paying from the account of

complainant T.R Dogra.

15. In view of the above discussion, I find no infirmity in the impugned judgment of conviction and as such the same is up-held.

16. As the present accused/appellants had committed a serious offence as referred to above, therefore, I find no ground to reduce the sentence and as such sentence passed by the trial Court is found to be adequate and the same is hereby confirmed. Finding no merit, the present appeal is hereby dismissed. Appellants/accused are taken into custody. Their conviction warrants be prepared and issued to serve the sentence already awarded by the trial Court. Record of trial Court be sent back. File of this appeal be consigned to the record room.

Announced in open Court
Dated : 29.7.2019

* *Balwinder Singh*
Stenographer Grade I

(Monika Goyal)
Addl. Sessions Judge
SAS Nagar Mohali
Uid No. PB0439

Present: Appellant on bail with counsel Sh. A.S. Longia Adv.
Sh. Manjit Singh Addl. P.P for the State.

Arguments have been heard. Vide my separate detailed judgment of even date, the present appeal has been dismissed. Appellants/accused have been taken into custody. Their conviction warrants be prepared and issued to serve the sentence already awarded by the trial Court. Record of trial Court be sent back. File of this appeal be consigned to the record room.

Announced in open Court
Dated : 29.7.2019

(Monika Goyal)
Addl. Sessions Judge
SAS Nagar Mohali
Uid No. PB0439

* *Balwinder Singh*
Stenographer Grade I