In the Court of Ms. Ekta, PCS,
(Unique Identity Code: PB0463)
Judicial Magistrate Ist Class,
Ludhiana.

Challan No. 151 dated 27.03.2018
Computer ID No. CHI/1170/18
Decided On : 03.08.2018

State	Versus	Sudhir Kumar aged 24 years S/o Ram Pal R/o Village Ibrahamabad, VPO Dalha Safipur, District Unao, U.P., at present residing at Golden Tower, Village Kumbrha, Phase-8, Mohali.

FIR No. 130 dated 19.06.2017
Under Sections 420, 465, 467, 471 of IPC
Police Station Sadar, Ludhiana.

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Present: Sh. Harkamalpreet Singh, APP for the State.
Accused on bail with Counsel Sh. Kunal Vohra, Adv.

<u>JUDGMENT</u>

1. The above said accused has been sent up by the SHO of Police Station Sadar, Ludhiana to face trial for the commission of offences punishable under Sections 420, 465, 467 and 471 of Indian Penal Code (IPC).

2. In nutshell, the case of the prosecution is that on 19.06.2017, ASI Paramjit Singh alongwith other police officials was present at Octroi, Ferozepur Road, Ludhiana in connection with patrolling and checking of suspected persons where Hem Raj Goel came present and got recorded his statement to the effect that he was doing business of manufacturing medicines in the name and style of Unitech Pharmaceuticals Ltd. His firm was having account no. 198010200002813 in AXIS Bank Ltd, Threekey Branch, Ferozepur Road, Ludhiana. On 07.06.2017, he had given cheque no. 041471 out of the said account as salary to his employee Harminder Singh Kalsi. On 08.06.2017, Harminder Singh Kalsi told him that vide

said cheque, already an amount of Rs. 1,23,656/- has been withdrawn by one Sudhir Kumar out of the said account. He immediately went to Bank and got his statement of account and came to know that even vide cheque no. 041489, an amount of Rs. 1,40,215/- was withdrawn on 07.06.2017 by one Anil Banotra. Thus, total Rs. 2,63,871/- were withdrawn from his account vide forged cheques by the accused in connivance with bank officials and thus, forgery was committed with him. On the basis of statement of complainant, present FIR was registered. The Investigating Officer moved written application before Manager, AXIS Bank, Ferozepur Road, Threekay and obtained photocopy of cheque no. 041471 and 041489 and statement of account of complainant and the same were taken into police possession. On 27.06.2017, Investigating Officer went to IDBI Bank, Branch Fortis Hospital, Phase-8, Mohali, where accused Sudhir Kumar had presented forged cheque no. 041471 on 31.05.2017 and had withdrawn Rs. 1,23,656/- from the account of complainant and moved written application before the Bank Manager and got the account of the accused closed and obtained address and statement of account of accused Sudhir Kumar. Similarly, Investigating Officer visited IDBI, Sector-8 Bank, Chandigarh where accused Anil Banotra presented cheque no. 041489 and had withdrawn Rs. 1,40,215 from the account of complainant and got account of accused Anil Banotra closed and obtained address and statement of account of accused. On 01.01.2018, accused Sudhir Kumar was arrested. On 15.03.2018, already passed original cheques bearing no. 053302, 053309, 043270, 043280, 043292 from the account of complainant were obtained from Axis Bank which were taken into police possession and the specimen signatures of son of complainant namely Sunil Goel, who was working as Director in Unitech Pharmaceuticals Ltd., were obtained. The said 5 cheques bearing standard signatures of Sunil Goel alongwith specimen signatures of Sunil Goel and cheque no. 041471 were put into a parcel and the same was sealed with seal bearing impression "PS" and the parcel was sent to Forensic Science Laboratory for comparison of signatures, report of which is awaited. Accused Anil Banotra is yet to be arrested in the present case. After completion of investigation and other formalities, the final report under Section 173 CrPC against accused Sudhir Kumar was presented in the Court.

3. On presentation of challan, copies of challan and documents relied upon by the prosecution were supplied to the accused, free of cost, as enshrined under Section 207 of Cr.P.C.

4. The arguments on charge were heard. After hearing submissions and going through the file of the case, this Court was of the opinion that there were sufficient grounds to presume that the accused has prima-facie committed offences punishable under Sections 420, 465, 467 and 471 of IPC. Accused was duly served with the charge sheet, to which he pleaded not guilty and claimed trial.

5. To prove its case, prosecution has examined PW1 Hem Raj Goyal, complainant and PW2 Sunil Goyal. Thereafter, evidence on behalf of the prosecution was closed by order.

6. PW1 Hem Raj Goyal, complainant and PW2 Sunil Goyal have not supported the case of the prosecution. They deposed that they did not know the facts of the present case. The police had not recorded their statement.

7. Finding no incriminating evidence against the accused, recording of statement of accused under Section 313 of Cr.P.C. was dispensed with.

8. I have heard the learned APP for the State as well as learned defence Counsel and have gone through the record carefully. The following points arose for determination in this case:-

1. ***Whether on or before 31.05.2017, accused Sudhir Kumar forged and fabricated cheque no. 041471 purporting to be signed by Sunil Goyal and used the same as genuine and on 31.05.2017, dishonestly withdrew an amount of Rs. 1,23,656/- by way of said cheque from the account of complainant in Axis Bank causing wrongful loss to complainant and wrongful gain to himself and as such, committed the offences punishable under Sections 420, 465, 467 and 471 of IPC?***
2. ***Conclusion.***

9. I have heard the submissions made by learned APP for the State, learned Defence Counsel and have also gone through the record. My findings on the aforesaid points are as under :-

<u>Point of determination no. 1:-</u>

10. It is a well established principle of law that the prosecution has to prove its case beyond shadow of reasonable doubt against the accused. To prove the charges against the accused under Sections 420, 465, 467 and 471 of IPC, prosecution has examined PW1 Hem Raj Goyal, who is the complainant of the present case at whose instance the present FIR has swung into action and PW2 Sunil Goyal, but they have not supported

the case of the prosecution. They deposed that they did not know the facts of the present case. The police had not recorded their statement. They were declared hostile on the request of learned APP for the State and the APP was allowed to cross-examine both these witnesses, but despite cross-examination, he could not extract any favourable word from their mouth which could support the prosecution version. As such, there is no evidence on record that on or before 31.05.2017, accused Sudhir Kumar forged and fabricated cheque no. 041471 purporting to be signed by Sunil Goyal and used the same as genuine and on 31.05.2017, dishonestly withdrew an amount of Rs. 1,23,656/- by way of said cheque from the account of complainant in Axis Bank causing wrongful loss to complainant and wrongful gain to himself. Accordingly, point of determination no. 1 is answered negatively.

Conclusion

11. In view of the given facts and circumstances of the case, this Court comes to the conclusion that there is nothing against the accused and he cannot be held guilty only by way of stretch of imagination. I have no other option, but to acquit the accused. Accordingly, accused Sudhir Kumar stands acquitted of the charges framed against him. His surety also stand discharged. Case property be not disposed of as accused Anil Banotra is yet to be arrested in this case and put to trial. File be consigned to the record room after due compliance.

Pronounced in open Court.
Dated : 03.08.2018

(Ekta)
(Unique Identity Code: PB0463)
Judicial Magistrate Ist Class,
Ludhiana.

Manu Sharma
Stenographer-II