

PBBTB10008602019



Presented on : 30-07-2019
Registered on : 30-07-2019
Decided on : 30-09-2025
Duration : 6 years, 2 months, 0 days

IN THE COURT OF
Judicial Magistrate Ist Class
AT Phul,Bathinda
(Presided Over by Ms. Reena Rani)
UID No. PB0824
CHI/118/2019

S T A T E

Vs.

1. Mandeep Singh s/o Rajinder Singh r/o District Ludhiana.
2. Jangir Singh s/o Sahu Ram r/o District Ludhiana.
3. Romy Kumar s/o Raj Kumar r/o District Ludhiana.

.....Accused

FIR No.28, Dated 14.03.2018
U/S: 420, 34 IPC.
P.S: - Dialpura.

Present: Sh. Sahil Jindal, learned APP for the state.
Sh. Romy Bansal Advocate and Sh. VK Garg, Advocate for
the accused.

JUDGMENT: -

1. The abovenamed accused have been sent to face trial for commission of offences punishable under sections 420, 34 IPC by SHO, Police Station, Dialpura.
2. In brief, the version of the case of prosecution is that on 14.03.2018, complaint made a statement to SI Gurmail Singh to the effect

that accused Mandeep Singh son of Rajinder Singh, Jangir Singh son of Sahu Ram and Romy Kumar son of Raj Kumar, all resident of District Ludhiana have committed fraud under the garb of lifting scrap, but loaded stones in the vehicle no. PB13S-7112, thereby causing loss of Rs. 21,60,000 to the complainant. On the basis of statement of complainant an FIR was registered and naka was set up at Hamirgarh. A canter vehicle was intercepted by the police and two persons fled from the scene and complainant identified them as Romy and Jangir Singh. One accused named Mandeep Singh apprehended by the police. Accused was arrested. On checking the canter was found with stones meant for footpath construction. The said canter alongwith stones was taken into police possession. Further investigation was conducted by IO ASI Navyugdeep Singh and arrested the other two accused- Romy and Jangir Singh. Thus, the present FIR under Section 420, 34 IPC registered against the accused. During the course of investigation, the accused was arrested, ruqa was sent to the police station, FIR was registered, rough site plan of the place of occurrence was prepared and statements of witnesses under Section 161 Cr.P.C. were recorded. On completion of the investigation, the challan against the accused was presented in the court against accused Mandeep Singh, Jangir Singh and Romy Kumar under Section 420, 34 IPC.

3. Upon presentation of the challan, copies of challan and other documents were supplied to the accused free of costs as required under Section 207 of the Cr.P.C.

4. After hearing the learned counsel for accused as well as Learned APP for State and after perusing the Police Report and documents appended with it, a prima facie case under Sections 420, 34 IPC was made out against all the accused and accordingly they were charge sheeted, to which they pleaded not guilty and claimed trial. Consequently, the case was fixed for evidence of the prosecution.

5. In order to substantiate its case, prosecution has examined following witnesses: PW1 is complainant- Darshan Singh, PW2 Sukhmander Singh, PW3 Retired Inspector Gurmail Singh Investigating Officer, PW4 ASI Navyugdeep Singh Investigating Officer(further investigation handed- over to him), PW4 HC Gurpal Singh, memo witness, PW5 Harinderpal @ Hari Om, weighed the vehicle no. PB13S7112, PW6 is Junior Assistant Office at RTO Sangrur - Gurjinder Singh, brought the original record pertaining to the vehicle no. PB13S7112, which is in the name of Harjinder Singh.

PW 1	Complainant	Darshan Singh
PW2	Material Witness	Sukhmander Singh
PW3	Investigating Officer	SI Gurmail Singh
PW4	Investigating Officer	ASI Navyugdeep Singh
PW4	Memo Witness	HC Gurpal Singh
PW5	witness- weighed the vehicle	Harinderpal @ Hari Om
PW6	witness- brought original record of vehicle	Junior Assistant Office at RTO Sangrur - Gurjinder Singh

The prosecution has produced and proved on record the following documents: -

Exhibits	Documents
Ex. PW3/A	FIR
Ex. PW3/B	Police Proceedings
Ex. PW3/C	Rough Site Plan
Ex. PW3/D	Rough site plan of place of recovery.
Ex. P A	Statement of complainant
Ex. P B	Arrest memo of the accused Mandeep Singh

Ex. P C	Personal search memo
Ex. P D	Recovery memo
Ex. PW4/A	Arrest memo of accused romy kumar and Jagir Singh
Ex. PW4/B	Personal search memo
Ex. PW5/A to Ex. PW5/D	Computerised weight of vehicle
Ex. PW6/A	Original Record pertains to vehicle
Ex. PW6/B	Certificate U/S 65B.
Ex. P 1 to Ex. P 24	Computerised Bills
Ex. P 25 to Ex. P 27	Photographs of stones.

6. Thereafter, the prosecution evidence was closed by the order of the court dated 22.09.2025.

7. Statement of accused under section 313 of the Code of Criminal Procedure, 1973 was recorded without oath. All the incriminating evidence was put to the accused. All accused stated that they are innocent and have committed no offence. They further stated that a false case has been registered against them. In defence evidence, they did not opt for leading defence evidence. Hence, the matter was fixed for final arguments.

8. I have heard learned APP for the state, learned defence counsel and have gone through the case filed carefully.

POINT FOR DETERMINATION AND APPRECIATION OF EVIDENCE THEREOF:-

“The main point for consideration before this court is that, Whether the accused persons, in furtherance of their common intention, committed cheating with complainant by dishonestly inducing him under the garb of lifting goods (scrap) and causing loss of Rs. 21,60,000/- by loading stones on the pretext of scrap, thereby committing offences punishable under Sections 420 and 34 IPC”?

9. The burden of proof rests on the prosecution to prove this fact and the degree of this burden is *beyond reasonable doubt*. The entire evidence is

appreciated in totality. It is contended that the accused was found in possession of canter filled with stones and that the accused has cheated the complainant. Hence, they are liable for the offences under Section 420 and 34 of IPC.

In order to prove this fact, the prosecution has examined himself as PW1 and Sukhmander Singh as PW2. In the statement of the witness under Section 161 Cr.P.C. It is recorded that he has a factory of agriculture works and he sold the scrap to accused Mandeep Singh, Jangir Singh and Romy Kumar belong to Ludhiana. They were using 6 tyre canter bearing registration No. PB13S7112, in which about 12 tonnes of scrap could be loaded. The allegations is that, instead of loading, scrap, the accused fill the canter with stones, weighed it along-with the scrap and thereby caused loss of Rs. 21,60,000/- to the complainant. On 19.10.2021 complainant Darshan Singh *PW-1* examined in chief reiterated that alleged offence was committed by the accused persons. However, during cross examination he admitted that bills he produced on file do not bear the name of accused persons and further admitted that he did not issue any gate pass regarding the entry of the said vehicle into his factory. Witness Sukhmander Singh also signed the above statement at Point B.

On 19.10.2021, Sukhmander Singh has been joined as a material witness as *PW2*. However, he denied having made such statement before the police and categorically deposed that could not say that the photographs of stones Ex. P25 to Ex. P27 were recovered from the canter. He further states that no recovery of stones was made in his presence and he had no knowledge about the facts. Thus, Sukhmander Singh *PW2* has not supported the version of the prosecution. The learned APP for the State was given opportunity to cross examine the witness and categorically stated that he had no knowledge about the incident. Despite being cross-examined, nothing incriminating against the accused has cropped up.

PW3- Investigation Officer SI Gurmail Singh deposed that complainant made statement to him on and the basis of which FIR Ex.P3/A was registered. When a canter (vehicle) was intercepted by police two accused fled from the scene and

one Mandeep Singh was arrested vide arrest-cum-intimation memo Ex. PB. Personal search memo Ex. PC and rough site plan Ex. P3/D were prepared. Therafter, further investigation was handed-over to other IO.

PW4 ASI Navygdeep Singh examined, who conducted the further investigation and deposed that he arrested the remaining two accused namely Romy Kumar and Jangir Singh vide memo Ex.P4/A and personal search memo Ex. P4/B. In his cross he deposed that he only effected the the arrest of two accused and know nothing about the facts of the case.

PW4 HC Gurpal Singh deposed that accused Romy Kumar and Jangir Singh fled from the scene and accused Mandeep Singh was arrested vide arrest memo Ex.PB, personal search was conducted vide memo Ex. PC and police proceedings were conducted vide Ex. PD. He further deposed that he signed the relevant memos and identified the accused persons in court. In his cross-examination he admitted that he did not know accused Romy Kumar and Jangir nor they were arrested by him. Further he deposed that he had not seen case property in the court and no document regarding ownership of the vehicle was recovered from the canter.

PW5 Harinderpal Singh @ Hari Om deposed that on dated: 14.03.2018, he weighed the vehicle no. PB-13S-7112 by computer *Kanda* (weighedbridge) and produced the printed slips Ex. PW5/A to Ex. PW5/D in court. In his cross-examination he admitted that he did not know anything about the case property.

PW6 Gurjinder Singh deposed that he has brought the original record FORM No. 24 pertains to the vehicle no. PB-13S-7112, which stands in the name of Harjeet Singh son of Pritam Singh vide Ex. P6/A alongwith Certificate under section 65B of Indian Evidence Act Ex. PW6/B. In his cross-examination he admitted that during investigation his statement was not recorded by police.

10. It is a settled principle of law that in a criminal case the onus of proving an offence against the accused is always upon the prosecution by leading cogent evidence. The prosecution must discharge its burden *beyond reasonable doubt* and the chain of surrounding circumstances must also be

plugged in. In the instant case, the material witness namely Sukhmander Singh has not supported the case of prosecution to the extent that he has no knowledge about the incident. The Ld. APP for the State has availed its right to cross-examine the material witness and his testimony in totality does not support the case of the prosecution. The Hon'ble Supreme Court in ***“State of Rajasthan Vs. Teg Bahadur”***, reported as 2004(4) RCR(Criminal) 538, has held that evidence of a hostile witness would is not to be thrown away at the first instance but it must be subject to close scrutiny and that portion of the evidence which is consistent with the case of prosecution or the defence may be accepted. This Court has carefully examined the testimony of all the official witnesses and the eye witnesses.

11. After careful examination of oral and documentary evidence, the following key observations are made: (a) Lack of direct link between accused and alleged fraudulent transactions as the complainant (PW1) admitted in cross-examination that the bills produced on record do not bear the names of any of the accused. This fact significantly weakens the case, as the foundational element of fraudulent inducement directly attributable to the accused is missing. (b) Further the key witness i.e. PW2 Sukhmander Singh does not support prosecution version and categorically stated that he had no knowledge about the incident. Despite being cross-examined by the learned APP, no material admissions could be drawn. (c) Further the recovery and memo witnesses did not convincingly support the prosecution case. There is no independent corroboration was presented to link the accused with either the forged documents or actual loading of the stones. Most witnesses were formal in nature and did not contribute to establishing culpability. (d) Further there is no proof of ownership or connection with vehicle. The vehicle (PB13S-7112) was found registered in the name of one Harjinder Singh, not any of the accused. The prosecution failed to prove that the accused had any legal control or ownership over the said vehicle at the relevant time. (e) It is also

significant to note that both Pws (PW1 and PW2) deposed in their cross-examination that the accused persons were arrested in 2017. However, peruals of the record reveals that the FIR itself was registration in 2018. This major contradiction shakes the very foundation of the prosecution version and further weakens its case.

12. It is a settled principle of law that in a criminal case the onus of proving an offence against the accused is always upon the prosecution by leading cogent evidence. The prosecution must discharge its burden *beyond reasonable doubt* and the chain of surrounding circumstances must also be plugged in. In the instant case, the material witness/eye-witness has not supported the case of the prosecution. The evidence of other official witnesses is formal in nature and is not sufficient to prove the guilt of the accused for the offences under Section 420, 34 IPC. Thus, on this score alone, the case of the prosecution falls flat on the ground and the prosecution has failed to prove its case beyond reasonable doubt.

13. After careful appreciation of the evidence led the accused person i.e. namely Mandeep Singh, Jangir Singh and Romy Kumar are hereby acquitted of the charges framed against them, for benefit of doubt. All the accused are directed to furnish personal bonds in the sum of Rs. 30,000/- each under Section 437-A Cr.P.C. to ensure the presence of the accused before the Learned Appellate Court on filing of appeal or revision, as the case may be, in case any appeal or revision is preferred by the State. Case property, if any, be disposed of as per rules after the expiry of period of limitation for filing an appeal or revision has expired. Personal bonds in the sum of Rs. 30,000/- are furnished, which are accepted and attested. File be consigned to Judicial Record Room, after due compliance.

Pronounced in open Court:
30.09.2025

(Ms. Reena Rani)
Judicial Magistrate First Class,
Phul (UID No. PB0824)

Direct Dictation