

In the Court of S. Kamaldeep Singh Dhaliwal, UID No. PB0270 Sub
Divisional Judicial Magistrate, Patti.

Case Reg.No	133
Date of Instt.	14.6.2017
CNR.No	127/2017
Date of decision	23.3.2018

State

versus

1. Amarjit Singh son of Pargat Singh, resident of village Sabhra, Tehsil Patti, District Tarn Taran.
2. Harpreet Singh son of Jagtar Singh, resident of village Hundan, Police Station Sadar Patti, District Tarn Taran.

.....Accused

F.I.R No.106 dated 11.12.2016, under Sections 420, 406 and 120-B of IPC, Police Station Sadar Patti.

Present:- Shri Ashok Kumar, Assistant Public Prosecutor (APP) for the State.

Both accused on bail with counsel Sh.A.S.Dhillon Advocate.

J U D G M E N T

1. The accused have been sent by the Officer In-charge of Patti to stand trial for the offence punishable under Sections 420, 406 and 120-B of IPC.
2. Brief facts of the prosecution case are that the present case has been registered on the statement of complainant Inderjit Singh to the effect that he is the resident of village Sabhra and he is agriculturist and on 18.11.2014. He started selling his crops to commission agent shop of Kabal Singh of village Darajke, Tehsil Patti and he had borrowed some amount from said commission agent at Bhikhiwind and he used to sell his crop to the commission agent shop of Kabal Singh situated at village Bhikhiwind and during the dealings of money, Kabal Singh Commission Agent got executed blank pronote and receipt from him and Kabal Singh kept pronote and receipt with him and on 4.4.2016 he had returned the amount of Rs.3,87,500/-

to Kabal Singh which he had borrowed from him and Balraj Singh son of Manjit Singh, resident of village Sabhra was also present there and he had given the said amount to Kabal Singh from his ICIC Limit of bank and he demanded his blank pronote and receipt from Kabal Singh Commission Agent but Kabal Singh told him that he has kept his pronote and receipt and he will give him later on and after some days, Amarjit Singh son of Pargat Singh went to the commission agent shop of Kabal Singh and Amarjit Singh is his neighbourer and Kabal Singh told him on telephone that he has handed over the blank pronote and receipt to Amarjit Singh and Pargat Singh and they will give the same to him and he demanded blank pronote and receipt from Amarjit Singh and Pargat Singh but both of them did not give said pronote to him. Rather both the accused filled said blank pronote and receipt and threatened him that they will file case for recovery against him if he does not give him Rs.2,00,000/- otherwise they will file suit of Rs.10,00,000/- in the court and both the accused are blackmailing him to recover the amount. Therefore, legal action be taken against both accused and application of the complainant was marked for inquiry and present FIR, under Sections 420, 406 and 120-B of IPC has been registered against both accused and during investigation, both the accused were arrested vide separate arrest memo. Personal search of both accused were conducted. Information memos were prepared. Statements of witnesses under section 161 Cr.P.C were recorded and after completion of necessary formalities, challan against the accused was presented in the court.

3. On appearance of accused, they were supplied with the report and other documents free of costs as required under Section 207 of Code of Criminal Procedure.

4. Finding a prima facie case made out under Sections under Sections 406, 420 and 120-B of Indian Penal Code, the charge was framed against accused accordingly, to which they pleaded not guilty and claimed trial.
5. In evidence, the prosecution examined PW1 Inderjit Singh and PW2 Balraj Singh and thereafter, prosecution evidence was closed by order of the court.
6. The examination of all the accused under Section 313 of Code of Criminal Procedure were dispensed with as there was no incriminating evidence appearing against them.
7. I have heard the arguments of learned APP for statement and defence counsel and following points arises for determination.
 - i). Whether on 14.5.2016 you both the accused with the criminal conspiracy of each other. Dishonestly cheated the complainant Inderjit Singh and both accused in pursuance of criminal conspiracy wrote the heavy amount in the above said pronote dated 14.5.2016 where complainant has never received the above said heavy amount and you committed an offence punishable under Section 420 read with section 120-B of IPC?
 - ii) Whether you both accused in pursuance of the criminal conspiracy misused the pronote dated 14.5.2016 which was entrusted you both of you in good faith and thereby you both the accused cheated the complainant and committed an offence under Section 406 of IPC?
8. It is the basic principle of criminal law that prosecution has to prove its case beyond every reasonable shadow of doubt and if there is any doubt in the prosecution story, benefit of doubt should be given to accused. In the case in hand, prosecution is duty bound to prove on record that both the accused committed cheating with complainant Inderjit Singh by misusing the pronote dated 14.5.2016 issued by complainant Inderjit Singh and both the accused also committed criminal breach of trust and prosecution is duty bound to prove its case against both the accused beyond every reasonable shadow of

doubt and prosecution in order to prove its case has firstly examined PW1 Inderjit Singh who is the complainant in the present case but he did not support the prosecution story during examination in chief and clearly deposed that he never took any amount from Kabal Singh and he never sold his crop to Kabal Singh Commission Agent and he never moved any application to police against accused he does not know anything about the accused. Further prosecution examined PW2 Balraj Singh and he has also not supported the case of the prosecution during examination in chief and clearly deposed that he does not know nothing about the case and he does not identify accused in the court. Thereafter, since complainant and eye witnesses have turned hostile. Therefore, there was no necessity to examine other formal witnesses because no improvement could be made by examining remaining formal witnesses and thereafter prosecution evidence was closed by order.

9. After hearing arguments of Learned APP for the State and learned defence counsel, this court is of the considered conclusion that prosecution has miserably failed to prove its case against both the accused by leading cogent and convincing evidence beyond every reasonable shadow of doubt because prosecution has mainly examined PW1 Inderjit Singh who is complainant in the present case and PW2 Balraj Singh who is eye witness in the present case but both these witnesses have not supported the case of the prosecution. During examination in chief and they were declared hostile at the request of Learned APP for the State and they were subjected to lengthy cross examination by APP for the state but nothing favourable to the prosecution could be brought on record and they have given rational answer while facing cross examination and there is no incriminating material on judicial file. Therefore, prosecution has failed to prove its case against both the accused by leading sufficient evidence and evidence on record is not sufficient to con-

vict both the accused and hostile testimony of complainant and eye witness make prosecution story highly doubtful and it is settled principle of law that if there is any doubt in the prosecution story, benefit of doubt should be given to accused. Therefore, I do not agree with the arguments of learned APP for the State and I find no force in the same and points formulated above are accordingly decided against prosecution and in favour of both the accused and both the accused namely Amarjit Singh and Harpreet Singh are hereby acquitted of the charges framed against them by giving them benefit of doubt. Their bail bonds and surety bonds stand discharged. File be consigned to record room.

Pronounced in open court.

March 23, 2018

S.G. Inderjit

(Kamaldeep Singh Dhaliwal)
(UID No.PB0270)
Sub Divisional Judicial Magistrate,
Patti,

State Vs. Amarjit Singh etc.

Present:- Shri Ashok Kumar, Assistant Public Prosecutor (APP) for the State.

Both accused on bail with counsel Sh.A.S.Dhillon Advocate.

No PW is present today but complainant and eye witnesses have turned hostile, therefore, no improvement could be made by examining the remaining formal witnesses. Therefore, the evidence of prosecution was closed by order of the court.

The examination of all the accused under Section 313 of Code of Criminal Procedure were dispensed with as there was no incriminating evidence appearing against them.

Arguments heard. Vide separate detailed judgment of even date, accused have been acquitted of the charges framed against them. The bail/surety bonds of accused are hereby discharged. However, accused are directed to furnish bonds under Section 437-A of IPC for a sum of Rs.40,000/- each with one surety of like amount each. Bail bonds and surety bonds furnished, same are accepted and attested. File be consigned to the record room.

Pronounced in open court
Dated: 23.03.2018

(Kamaldeep Singh Dhaliwal)
Sub Divisional Judicial Magistrate,
Patti,

