



102

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CRA-S-2255-SB-2004 (O&M)**

**Date of decision: 27.03.2025**

**Jagroop Singh and others**

**... Appellants**

**Vs.**

**State of Punjab**

**... Respondent**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Ms. Komalpreet Kaur, Advocate (*Amicus Curiae*)  
for the appellants.

Mr. Subhash Godara, Addl. A.G., Punjab.

\*\*\*\*\*

**HARPREET SINGH BRAR, J. (ORAL)**

1. Present appeal has been preferred against the judgment of conviction and the order of sentence dated 12.10.2004 passed by learned Additional Sessions Judge, Moga, in FIR No.216 dated 20.10.2003 under Sections 489-B & 489-C of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Dharamkot, vide which the appellants were convicted and sentenced under Section 489-C of IPC and were ordered to undergo rigorous imprisonment for a period of four years and to pay a fine of Rs.5,000/- each along with default mechanism.



2. Brief facts of the case are that on 20.10.2003, SI Kirpal Singh along with other police officials was present on patrolling duty and was present at bus stand Bhinder Kalan and he received a secret information that Frendy Masih, Soni, Gurjant Singh, Kulwant Singh, Jatinder Singh and Jagroop Singh are manufacturing counterfeit currency notes and are circulating the same in Villages Indgarh and Kishanpura on two scooters by posing those as genuine. In case they are apprehended, large quantity of counterfeit currency notes can be recovered from their possession. After receiving this information, the Investigating Officer along with co-officials was going to Village Indgarh from Village Bhinder Khurd and when reached near bridge of canal in the area of Village Bhinder Khurd at about 03.00 p.m., six persons were seen coming on two scooters. On seeing the police party, they tried to turn back, however, they were apprehended. Upon inquiry, the person, who was driving scooter bearing registration No.PB-67-6641, disclosed his name as Frendy Masih and two other persons riding on the said scooter disclosed their names as Soni and Gurjant Singh and the person, who was driving another scooter bearing registration No.PB-10J-4525, disclosed his name as Kulwant Singh and two other persons riding on the same disclosed their names as Jatinder Singh and Jagroop Singh. The Investigating Officer conducted their search and 90 currency notes each bearing same number i.e. 4HH 365638, 81 counterfeit currency notes each bearing same



number i.e. 4HH 365634, 25 counterfeit currency notes each bearing same number i.e. 4HH 204835, 68 counterfeit currency notes all bearing same number i.e. 6NB 698977, 34 counterfeit currency notes each bearing same number i.e. 3QL 943011 and 29 counterfeit currency notes all bearing same number i.e. 5AG 777956 were recovered from the right pockets of their respective trousers worn by accused persons Frendy Masih, Soni, Gurjant Singh, Kulwant Singh, Jatinder Singh and Jagroop Singh, respectively. Each note was worth Rs.100/-. All the counterfeit currency notes were taken into possession vide separate recovery memos and *ruqa* was sent to the police station through Constable Harjinder Singh and the appellants were arrested.

3. Learned trial Court, vide judgement of conviction dated 12.10.2004, convicted the appellants under Section 489-C of IPC and vide order of sentence of even date, they were ordered to undergo rigorous imprisonment for a period of four years and to pay a fine of Rs.5,000/- each along with default mechanism.

4. Learned *Amicus Curiae*, *inter alia*, contends that the factual ingredients to constitute the offence under Section 489-C of IPC were not available on record and the appellants were convicted under Sections 489-C of IPC. There is no evidence with regard to usage of counterfeit currency as genuine and learned trial Court jumped over the conjectures and surmises to return a finding, which is not based on any evidence led by the prosecution.



The factual position is that the prosecution has not collected any such evidence, which would remotely indicate the knowledge of the appellants regarding currency being counterfeit. As such, conviction of the appellants is not sustainable in the eyes of law. Further, the independent witness, namely Gopal Krishan, joined during the process of recovery at the spot, was not examined by the prosecution for the reasons best known to it. In view of the contradictions between the statements of the Investigating Officer and the witness to the recovery memo, no reliance can be placed upon alleged depositions of these witnesses. The link evidence is completely missing regarding the report of expert. She further contends that appellant No.1 Jagroop Singh and appellant No.2 Jatinder Singh have undergone the actual sentence of more than 01 year and 01 month and appellant No.3 Gurjant Singh and appellant No.4 Kulwant Singh have also undergone actual custody of 01 year, 02 months and 27 days and appellants No.2 to 4 are not involved in any other criminal activity. Appellant No.1 is involved in one more case under NDPS Act, however, he is on bail in that FIR.

5. *Per contra*, learned State counsel opposes the prayer of the appellants, as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, they do not deserve any leniency.

6. Having heard learned counsel for the parties and after perusing



the record of the case with their able assistance, it transpires that the appellants were convicted the offence under Section 489-C of IPC, for which no minimum punishment has been prescribed. As per the custody certificates, appellants No.2 to 4 are not involved in any other case and appellant No.1 is involved in one more case under NDPS Act, however, in the said FIR, he is on bail. Further, appellant No.1 Jagroop Singh and appellant No.2 Jatinder Singh have undergone the actual sentence of more than 01 year and 01 month and appellant No.3 Gurjant Singh and appellant No.4 Kulwant Singh have also undergone actual custody of 01 year, 02 months and 27 days. Since there is no minimum punishment prescribed under Section 489-C of IPC, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the appellants is reduced to the period already undergone by them.

7. In *Deo Narain Mandal Vs. State of U.P., (2004) 7 SCC 257*, the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in



mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient.

8. Further, the Hon'ble Supreme Court in ***Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166***, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realize the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

9. A perusal of the judgment of conviction passed by learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. However, the FIR (*supra*) was lodged on 20.10.2003 and the appellants have been suffering the agony of trial for last more than 21 years. Since their conviction, they have grown into law-abiding citizens and desire to live a peaceful life.

10. Consequently, present appeal is disposed of in the following terms:-

(i) The judgment of conviction dated 12.10.2004 passed by learned



Additional Sessions Judge, Moga is upheld.

- (ii) The order of sentence dated 12.10.2004 is modified to the extent that the sentence of rigorous imprisonment for 04 years and fine along with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.

11. All the pending miscellaneous application(s), if any, shall stand disposed of.

12. The High Court Legal Services Authority is directed to pay remuneration to learned *Amicus Curiae* as per relevant Rules/Orders.

27.03.2025  
*vishnu*

**[ HARPREET SINGH BRAR ]**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No