

**SANJAY KUMAR VS STATE OF HARYANA (CRR No. 66 of
2013)**

Court: High Court of Punjab and Haryana at Chandigarh

Delivered On: 10th January, 2013

Bench: Hon'ble Mr. Parmajeet Singh, J.

Relevant Sections/Articles: Section/s 65 and 66 of the Information Technology Act, 2000 and Section/s 420, 467, 468, and 471 of the Indian Penal Code, 1860.

FACTS OF THE CASE¹:

Senior Branch Manager, Vijay Bank, NIT, Faridabad moved a complaint against the petitioner stating that the petitioner was deputed by M/s Viramati Software and Telecommunications Ltd. to maintain the software supplied by them to the bank. In connection with rendering services, petitioner got access to the ledger and other accounts. While reconciling accounts, certain discrepancies were noticed by the staff members and it was revealed that the petitioner was having a SB Account No. 21499 in his personal name in their bank. He manipulated the entries by forging and fabricating the entries from one account to another and got the entries pertaining to the amount of the bank and withdrew the amounts from the bank on various dates by issuing cheques in his own favor, certain amount from the cash counter and remaining by clearing/transferring transactions. According to the enquiry, the accused-petitioner has carried out forgery through which he had caused wrongful gain to himself and wrongful loss to the bank. When the bank came to know about the whole incident, they called the accused and confronted him with the details of the fraud but he did not admit to it and instead was trying to avoid the conversation. He only admitted to embezzle the amount of Rs. 17 lacs and was reluctant in giving any further information regarding the correct amount

¹ [Sanjay Kumar Vs State Of Haryana \(CRR No. 66 Of 2013\)](#)

of fraud and assured the bank that he would pay the money. On the receipt of complaint, a case was registered against him and the after the investigation process, challan against him was presented in the court. A charge was framed against him to which he pleaded and claimed not guilty.

ISSUES RAISED:

Whether the trial court was justified in their judgement?

RULE OF LAW WHICH APPLIES:

1. Section 420 of Indian Penal Code²:

“whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

2. Section 467 of Indian Penal code³:

“whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquaintance or receipt acknowledging the payment of money, or an acquaintance or receipt for the delivery of any movable property or valuable security, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, shall also be liable to fine.”

² [Section 420 of Indian Penal Code, 1860](#)

³ [Section 467 of Indian Penal Code, 1860](#)

3. Section 468 of Indian Penal Code⁴:

“whoever commits forgery, intending that [document or electronic record forged] shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

4. Section 471 of Indian Penal Code⁵:

“whoever fraudulently or dishonestly uses as genuine any [document or electronic record] which he knows or has reason to believe to be a forged [document or electronic record], shall be punished in the same manner as if he had forged such [document or electronic record].”

5. Section 65 of Information and Technology Act, 2000⁶:

“whoever knowingly or intentionally conceals, destroys or alter alters or intentionally or knowingly causes another to conceal, destroy, or alter any computer source code used for a computer, computer program, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time begin in force, shall be punishable with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.”

6. Section 66 of Information and Technology Act, 2000⁷:

“if any person, dishonestly or fraudulently, does any act referred to in section 43, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five lakh rupees or with both.”

STATING THE APPLICATION OF RULE OF LAW WHICH APPLIES:

All the prosecution witnesses have supported the prosecution case. The prosecution witness 1 and prosecution witness 2 have given their statement and it was confirmed that Sanjay was an employee at Viramati Software and Telecommunications Ltd. and have been appointed in their branch for the purpose of maintenance of the software system. Name of Sanjay along with his residence number was mentioned and also it was confirmed that he had his personal account opened in their bank as the details were mentioned in the bank records along with his

⁴ [Section 468 of Indian Penal Code](#)

⁵ [Section 471 of Indian Penal Code](#)

⁶ [Section 65 of Information Technology Act, 2000](#)

⁷ [Section 66 of Information Technology Act, 2000](#)

specimen signature. From the bank statement it was clear that 2 lakh rupees were deposited in his account by clearing but the prosecution witness 3 stated that Sanjay could not find any supporting evidence. This money was transferred from his interest account and this fact was confirmed as it was mentioned in the report that first he increased the interest portion in his account through first time creation to the extent of rupees 2lakh and then applied interest from all other SB accounts. To escape from the clutches of the branch employees, Sanjay split the transaction into two parts to mislead them. Using the same method, Sanjay forged the interest entries and got more money deposited into his account. He used the account of one Anil Kumar which was already closed. He forged the entries and changed the account from close to open and transferred money to his account. Prosecution witness 3 stated that the transactions rooted through Anil kumar and Jeet singh account were later deleted from the files which came to the knowledge of others during audit.

The learned counsel for the accused argued during the course of arguments that no password was allotted to Sanjay. It is true that no password was given to an employee but we cannot undermine the fact that for the purpose of maintaining the software, he had access to all the files to which only an employee could have. Also, we cannot ignore the fact that the amount was deposited into his account and he had withdrawn it to which no justification can be given.

In this manner, he had cheated and forged the records to cause wrongful loss to the bank. Furthermore, he tampered with the computer source document and changed the information which was there in the computer resource to mislead the bank. Therefore, he was charged under sections 420, 467, 468 and 471 of Indian Penal Code and under Sections 65 and 66 of Information and Technology Act, 2000. Prosecution was able to prove this beyond reasonable doubts. He was not charged under Section 72 of the Information and Technology Act, 2000 though he forged the entries and cheated the bank but he never disclosed the information or breach the confidentiality by revealing it to some third person. So he was acquitted of offence under Section 72.

CONCLUSION:

The trial court was justified in convicting the accused petitioner and had proved that there was not any error in upholding the conviction of the accused petitioner. Learned council for the petitioner failed in proving their points moreover they failed to point out any misreading or non-reading of the evidence and cannot point out any uncertainty in the judgements. The findings of guilt, reached against the accused-petitioner does not, thus, suffer from any infirmity, legal or factual and does not therefore, warrant interference by this court in exercise of this court's revisional jurisdiction.



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