

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

CRR No.249 of 2007 (O&M).
Decided on:-30.09.2015.

Jagjit Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Vishal Satija, Advocate for
Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Sultan Singh Gill, DAG, Punjab.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition against the judgment dated 6.2.2007 passed by learned Additional Sessions Judge, Hoshiarpur whereby his appeal against the judgment dated 8.4.2004 passed by learned Sub Divisional Judicial Magistrate, Dasuya, was dismissed.

Vide judgment dated 8.4.2004, the trial Court had convicted and sentenced the petitioner for offence punishable under Section 61(1)(a) of the Punjab Excise Act, 1914 (hereinafter referred to as 'the Act') to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month.

Briefly stated, the facts of the case are that FIR No.51 dated

19.10.2000 under Section 61(1)(a) of the Act was registered against the petitioner-accused at Police Station Hajipur on the allegations that on 19.10.2000 at about 3.30 p.m. in the area of T-point, Hajipur, he was found in possession of 80 bottles of illicit liquor. As per the prosecution version, the police party headed by HC Sarabjit Singh of Excise Staff, Mukarian was present at T-point, Hajipur in connection with excise checking. In the meantime, a scooter came from Hajipur side. The driver of said scooter was signalled to stop. However, the driver of the scooter tried to slip away, but he was apprehended by HC Sarabjit Singh with the help of other police officials. On inquiry, he disclosed his name as Jagjit Singh. He was carrying some luggage wrapped in gunny bags on the pillion of the scooter and on search of said gunny bags, two plastic cans were recovered. On opening their corks, the said plastic cans were found to contain illicit liquor. The accused was arrested. 180/180 Mls. contents out of each plastic can were taken out as sample. The remaining liquor was measured which came into 39 bottles of 750/750 Mls. each and one bottle of 570 Mls. out of the said plastic cans. The liquor after its measurement was again put in the same plastic cans. The entire case property was taken into police possession vide recovery memo Ex.PA which was attested by the witnesses.

After completing the investigation, the challan was presented in the Court. The copy of challan was supplied to the accused as envisaged under Section 207 Cr.P.C.

Finding a prima-facie case against the accused, the charge under Section 61(1)(a) of the Act was framed against the accused to which he pleaded not guilty and the trial was conducted.

The trial Court vide judgment dated 8.4.2004 had convicted and sentenced the petitioner for the period mentioned above.

Aggrieved with the judgment of conviction and sentence passed by the trial Court, the petitioner had preferred an appeal, but the same was also dismissed by learned Additional Sessions Judge, Hoshiarpur vide judgment dated 6.2.2007.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition challenging the aforesaid judgments.

In view of the limited scope of interference in revisional jurisdiction, learned counsel for the petitioner-accused has confined his arguments qua the quantum of sentence only and prayed that the sentence awarded to the petitioner may be reduced to the period already undergone by him.

This Court has perused the case file and heard learned counsel for the parties.

Perusal of the statement of PW1 HC Sarabjit Singh, who is the investigating officer of the case shows that he has supported and corroborated the case of the prosecution and stood the test of cross-examination. Nothing has come in his cross-examination which could affect

his testimony to show any enmity or ill-will towards the petitioner-accused. Similarly, PW2 Jarnail Singh, Excise Peon, who was member of the police party at the time of recovery has supported the testimony of PW1 regarding recovery in his statement. The testimony of PW2 Jarnail Singh cannot be discarded merely because he is a Government official. Rather, his testimony inspires full confidence. No motive of false implication at the hands of PW1 and PW2 in the present case where recovery of illicit liquor to the tune of 80 bottles, was made out.

During the trial, the defence has taken a plea that no independent witness was joined in the investigation, but the same was discarded by the trial Court. As it being a chance recovery, no independent witness was required to be joined. The other evidence of the prosecution available on the file has inspired confidence and cannot be thrown away. The appeal preferred by the petitioner was dismissed and the learned appellate Court has considered the plea raised by learned defence counsel that no independent witness has been joined. The learned appellate Court has considered the said contention including the contention that the prosecution case is based on the statement of police official witnesses only who are quite junior police officials.

The impugned judgment dated 8.4.2004 passed by learned Magistrate is based on evidence which includes PW1 HC Sarabjit Singh, who is the investigating officer of the case and PW2 Jarnail Singh, Excise

Peon, who was member of the police party at the time of recovery. Both the courts below have considered the case minutely and it is in these circumstances, the minimum sentence of imprisonment and recovery of fine was imposed.

Considering the fact that the petitioner is suffering the protracted trial from the year 2000, it must have caused him sufficient harassment and mental agony. The petitioner has remained in custody from 6.2.2007 to 26.3.2007 i.e. about one month and 20 days as against the awarded sentence of six months. As per his assertion, the petitioner is stated to be first time offender and the only earning member of his family. Therefore, this Court while considering the judgment passed in ***CRR No.2895 of 2015*** titled as ***Gurmail Singh Versus State of Punjab*** decided on 23.9.2015, by taking a lenient view in the matter, holds that the interest of justice would be met if the sentence of the petitioner is reduced to the period already undergone by him.

Ordered accordingly.

However, the petitioner shall undergo the sentence of imprisonment in default of fine, if the fine is not already paid or deposited now.

The petition stands disposed of.

September 30, 2015

Yag Dutt

(HARI PAL VERMA)
JUDGE