

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

CRR No.678 of 2006 (O&M)

Date of decision: 29.07.2015

Balbir Singh & others

... Petitioners

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Mehtab S. Khaira, Advocate for
Mr. Hemant Bassi, Advocate for the petitioners.

Mr. M.S. Sidhu, Additional Advocate General, Haryana.

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TEJINDER SINGH DHINDSA, J.

In terms of judgment of conviction dated 30.01.2003 and order of sentence dated 31.01.2003 passed by the Sub Divisional Judicial Magistrate, Loharu, the present petitioners were held guilty for the commission of offence under Section 411 of the Indian Penal Code, convicted and sentenced to undergo RI for a period of 1 ½ year and to pay a fine of Rs.500/- each. Appeal having been preferred, vide judgment dated 17.03.2006 rendered by the learned Additional Sessions Judge, Bhiwani, conviction of the petitioners has been maintained and the sentence has been reduced from 1 ½ years rigorous imprisonment to 1 year.

2. Resultantly, the instant petition is directed against the judgment dated 17.03.2006 passed by the Additional Sessions Judge, Bhiwani.

3. Briefly noticed, the process of law commenced on the basis of a complaint made by Vijay Parbha alleging that on 28.06.1997, she along with her brother were going to Jaipur in a bus and she had a brief case

which had been kept by her side. When they reached bus stand Loharu, she found the lock of the brief case broken and an envelop containing currency notes of Rs.1500/- missing. Complainant alleged that three young boys were sitting behind her and she suspected these three young boys to have stolen the envelop containing the currency notes. Based on the complaint, FIR No.215 dated 28.06.1997 was registered at Police Station Loharu. During the course of investigation on 01.07.1997, the present petitioners were found sitting in a park near the railway station and were apprehended on the basis of suspicious. On their search, five currency notes in the denomination of Rs.100/- each were got recovered from their possession along with the envelop. The complainant is stated to have identified all the accused.

4. To prove the case, prosecution examined PW1 ASI Sajjan Singh, PW2 Vijay Parbha (complainant), PW3 Ranbir Singh, PW4 Head Constable Jagdish Chander and PW5 Inspector Om Parkash. Accused were examined under Section 313 Cr.P.C. and they denied the prosecution allegations levelled against them. Having appreciated the evidence adduced on record, the trial Court has convicted the petitioners as noticed herein above.

5. Counsel appearing for the petitioners would at the very outset make a submission that he is not assailing the conviction on merits but confines the scope of the petition only as regards quantum of sentence.

6. Learned State counsel would, however, oppose the prayer and would submit that the judgment of conviction passed by the trial Court and upheld by the Appellate Court is based on valid and cogent reasoning. Learned State counsel further submits that the petitioners were involved in yet another case i.e. FIR No.303 dated 20.11.1996.

7. Having heard counsel for the parties at length, I find force in the limited submission raised by counsel appearing for the petitioners qua quantum of sentence.

8. It has gone uncontroverted that the present petitioners already stand acquitted pertaining to the proceedings initiated in the other FIR i.e. bearing No.303 dated 20.11.1996. Petitioners have already faced the pains of protracted trial for a period of over 15 years. The incident relates back to the year 1997. Each of the petitioners had already undergone a sentence period of 2½ months out of the substantive sentence of one year as on 29.05.2006 i.e. the date, sentence of the petitioners had been suspended by this Court during the pendency of the instant petition. The petitioners have not misused such concession thereafter. They are not stated to be involved in any other criminal proceedings. Learned State counsel concedes that the fine imposed upon each of them already stands paid.

9. In the totality of circumstances, the conviction of the petitioner is affirmed and the revision petition is disposed of with regard to modification as regards sentence and the same being directed to be reduced to the period already undergone. Bail bonds furnished by the petitioners shall stand discharged.

Petition disposed of.

29.07. 2015

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

Note: Whether referred to the Reporter?

no