

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 1795 of 2012 (O&M)
Date of decision: 02.12.2015

H.C. Jagmel Singh and another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Daldeep Singh, Advocate
for the petitioners.

Mr. J.S.Sekhon, AAG, Punjab.

SABINA, J.

Petitioners along with their co-accused (since deceased) had faced the trial qua commission of offence punishable under Section 223, 224 of the Indian Penal Code, 1860 ('IPC' for short) in FIR No. 112 dated 7.8.2007, registered at Police Station Gidderbaha. Trial Court vide judgment/order dated 20.5.2011 ordered the conviction and sentence of the petitioners under Section 223 IPC. Aggrieved against the said judgment/order of their conviction and sentence, petitioners preferred an appeal and the same was dismissed by the Appellate Court vide order dated 11.5.2012. Hence, the present petition by the petitioners.

Prosecution story, in brief, is that on 7.8.2007, petitioner No. 2 reported that he was posted as Escort Guard at Gidderbaha. At about 7.15 A.M., Sukhwinder Singh who was a detainee in a case under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 ('Act' for short), escaped from

the lockup due to carelessness and negligence of Head Constable Jagmel Singh, Head Constable Sukhmander Singh (since deceased) and Head Constable Satpal. Petitioner No. 1, Sukhmander Singh (since deceased) and Satpal ran after detainee Sukhwinder Singh to apprehend him but the detainee managed to escape. The matter was investigated. During investigation Head Constable Satpal moved a representation that, in fact, he was on medical leave at the time of the alleged occurrence and he had been falsely involved in the case. After investigation of the case, challan was presented against the petitioners, Head Constable Sukhmander Singh (since deceased) and Sukhwinder Singh detainee.

During the pendency of the trial, Head Constable Sukhmander Singh died and the proceedings qua him stood abated.

Learned counsel for the petitioners has submitted that the petitioners have been falsely involved in this case. In fact, petitioner No. 2 was not on duty at the relevant time. It was Head Constable Satpal Singh who had allowed the detainee to escape.

Learned State counsel, on the other hand, has opposed the petition.

During the course of arguments, it has transpired that Sukhwinder Singh detainee has also died.

So far as the petitioners are concerned, prosecution led its evidence to establish that they were on duty as Escort Guards at the relevant time. The said fact was proved on record by PW-4 Constable Gurdev Singh. Sukhwinder Singh (since deceased) was confined in judicial lock-up at Gidderbaha on 7.8.2007 who was an accused in FIR No. 118 dated 18.6.2007 under Section 22 of the

Act,

registered at Police Station Malout. In the present case, FIR

was registered by PW-5 Assistant Sub Inspector Gurbachan Singh. He arrested accused Satpal Singh, Head Constable Sukhamnder Singh (since deceased) and petitioner No. 1. PW-6 Sub Inspector Makhan Singh investigated the case. He arrested the detainee/accused Sukhwinder Singh on 17.9.2007 who had escaped from the lawful confinement. PW-7 Head Constable Iqbal Singh arrested petitioner No. 2 on 29.5.2008. PW-9 Deputy Superintendent of Police Jagjit Singh Bhagtana deposed that he had found Satpal Singh innocent during investigation and had recommended the registration of the FIR against Head Constable Jagmail Singh, Head Constable Tarsem Singh and Head Constable Sukhmander Singh (since deceased).

Thus, prosecution had proved on record that the petitioners were on duty as Escort Guards at the time when detainee Sukhwinder Singh (since deceased) had escaped from judicial lock-up. Petitioners were required to perform their duty with due care and caution. Rather due to the negligence of the petitioners, the detainee managed to escape from the lawful confinement. In the facts and circumstances of the present case, the Courts below had rightly ordered the conviction of the petitioners under Section 223 IPC. Petitioners were imposed fine to the tune of ₹ 2,000/- each. The order of sentence in the facts and circumstances of the present case cannot be said to be harsh.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

December 02, 2015

Gurpreet