

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

Date of decision:27.08.2015.

Deepak

.....Petitioner

v.

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Sandeep Jasuja,Advocate for the petitioner.

Jaswant Singh,J.(Oral)

Accused/petitioner-Deepak has filed the present revision assailing the judgment and order dated 18.12.2014 passed by JMIC,Abohar whereby he was convicted for the offences under Sections 457/380/411 IPC and sentenced to undergo RI for 2 years and to pay fine of Rs.2000/- and in default of payment of fine to undergo RI for one month under Section 457 IPC; RI for 6 months and to pay fine of Rs.1000/- and in default to undergo RI for 15 days under Section 380 IPC and RI for 6 months and to pay fine of Rs.1000/- and in default to undergo RI for 15 days under Section 411 IPC. Further challenge is to the order dated 6.6.2015 passed by learned Additional Sessions Judge, Fazilka whereby conviction and sentence under Sections 457/380 were kept intact while setting aside order of conviction under Section 411 IPC.

It is submitted by the learned counsel for the petitioner that the Courts below while convicting and sentencing the accused have

overlooked the material contradiction in testimony of PW-1 HC Jaswant Singh and PW-6 ASI Gurdeep Singh, Investigating Officer. It is further submitted that courts below have also ignored contradiction in the statement of the complainant. It is then contended that no independent witness was joined at the time of recovery of stolen articles thus casting a doubt on the entire prosecution story.

After hearing learned counsel for the petitioner and perusing the impugned judgments and orders, I find no illegality or miscarriage of justice so as to invoke revisional jurisdiction of this Court.

As regards alleged contradiction in the testimonies of PW-1 HC Jaswant Singh and PW-6 ASI Gurdeep Singh, Investigating Officer, learned trial court after referring to testimonies of these two witnesses has come to a categorical finding that the same stand corroborated. While PW-6 ASI Gurdeep Singh recovered stolen articles from the accused vide possession memo Ex.PA the same was witnessed by PW-1 HC Jaswant Singh. These two witnesses were cross examined by the defence counsel at length but nothing could be extracted so as to cast any doubt or to shake credibility of these two witnesses in this regard. Further, the accused neither pleaded nor produced any evidence on record to show previous enmity with PW-1 and PW-6 .

Similar is the case regarding alleged contradiction in the statement of complainant Vijay Kumar-PW2. Learned trial Court has noticed that the complainant during his examination in chief proved his

statement Ex.PA wherein name of father and grandfather of accused were mentioned. However, during his cross examination if the complainant stated that he does not know their names, then the same does not put any doubt upon his statement as the defence counsel did not put statement Ex.PA to the complainant for confronting him with his statement Ex.PA. Moreover, the remaining portion of his testimony stood duly corroborated by the other evidence on record. No question or suggestion had been put to complainant to show his enmity with the accused Deepak.

As regards non-joining of independent witness, it has come in evidence that a secret information was received that the accused was present at Sitto Road and thereafter raid was conducted there and accused was apprehended and recovery effected and in these circumstances the Investigating Officer was having no time to join any independent witness as it could have given time to the accused to flee away from the spot.

In view of foregoing discussion the learned counsel for the petitioner has not been able to point out any illegality or overlooking of any material evidence by the Courts below which would have clinched the issue in favour of accused-petitioner.

Dismissed.

27.08.2015.
joshi

(Jaswant Singh)
Judge