

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1)

CRR No.3263 of 2014

Dhyan Chand alias Dhanarh and another

...Petitioners

VERSUS

State of Haryana

...Respondent

(2)

CRR No.3437 of 2014

Rajni

...Petitioner

VERSUS

State of Haryana

...Respondent

Date of Decision: February 13, 2015

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sanjeev Kumar Panwar, Advocate
for the petitioners (in CRR No.3263 of 2014).

Mr.Karan Gupta, Advocate
for the petitioner (in CRR No.3437 of 2014).

Mr.Deepak Grewal, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Both the above-mentioned petitions are taken up together
being arisen from same judgment.

Petitioners have filed these revision petitions under
Section 401 Cr.P.C. challenging the judgment dated 25.09.2014
passed by learned Addl. Sessions Judge, Bhiwani, vide which the
appeal filed by the petitioners against the judgment of conviction
dated 29.01.2013 and order of sentence dated 01.02.2013 passed by

learned Sub Divisional Judicial Magistrate, Charkhi Dadri, has been dismissed.

It is mainly stated in the revision petition that judgments and orders have been passed by the Courts below without considering the facts and circumstances of the present case and also without appreciating the evidence on record in right perspective and therefore, same are untenable in law, contrary to the proved facts of the case and liable to be set aside.

Notice of motion was issued in both the revision petitions and learned State counsel appeared and contested the petitions.

The brief facts of the case are that Inspector Krishan Kumar along with police party received secret information that Vinod wife of Mange Ram residing at Ghikara road, Dadri, is carrying out the business of prostitution at her house and if a raid is conducted, then she could be apprehended. It is further the case of the prosecution that Constable Ranjeet Singh was made as a bogus customer and was handed over a currency note of ₹100/-, which was signed by the Investigating Officer and Ranjeet Singh was directed to signal after settling the amount of prostitution with Vinod. They reached the spot. Thereafter, bogus customer went to them and after making settlement with the accused persons, he signalled the police party. Thereafter, they raided the house. Two ladies along with two young boys had been apprehended on the spot with the help of other police officials. Out of the two ladies, one has disclosed her name as Vinod and told herself to be the owner of the house. Other lady told her name as

Rajni. The other two persons were Dhyan Chand alias Dhanarh and Satbir Singh alias Satyamittar.

It is also the case of the prosecution that during the search of the house, eight bottles of English liquor were also recovered. After necessary investigation, challan was presented. Accused Vinod was charge-sheeted under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 and 61(i) (a) of the Punjab Excise Act, 1914, to which she pleaded not guilty and claimed trial. Other accused were charge-sheeted under Sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956, to which they also pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 ASI Mahender Singh, PW-2 ASI Daya Ram, PW-3 SI Sahab Ram, PW-4 Chhotu Ram retired Inspector, PW-5 EASI Bijender, PW-6 Krishan Kumar, retired Inspector, PW-7 C.Ranjit Singh. Accused were examined under Section 313 Cr.P.C. and they pleaded themselves as innocent.

Learned trial Court after appreciating the evidence, convicted and sentenced the accused as stated above. An appeal was filed by the accused, which was also dismissed by learned Addl. Sessions Judge, Bhiwani.

Learned counsel for the petitioners argued that findings given by learned Courts below are not as per evidence. It is case of no evidence and the accused have been wrongly convicted and sentenced by the Courts below.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

The star witness in the present case is PW-7 Constable Ranjeet Singh, who was deputed as bogus customer and the whole case is based upon his statement. In his statement, he has stated that on 11.02.2006, he along with SHO Chhotu Ram was on patrolling where they got secret information against the accused. He was sent by SHO as bogus customer. He went to the house of Vinod and talked to her. Then he signalled the police party and they came there. He stated that in the police party, SHO Chhotu Ram, ASI Attar Singh, Lady Constable Hem Lata, Lady Constable Sunita and three other employees were also present whose names he does not remember. Satyamitter, two ladies and one man were apprehended. He gave ₹100/- currency note to Vinod, which was given by Inspector Sahib Incharge CIA. In the chief-examination, he nowhere stated that as to what he talked with accused Vinod. He has nowhere stated that he settled the talk with Vinod for prostitution for a consideration and money was paid for that purpose. He also nowhere stated that other accused were found in compromising situation. Rather, in cross-examination, he states that no recovery of liquor is effected from the accused. ₹100/- currency note is not on the case file and he did not know the number of that currency note. Accused were sitting in routine manner. These accused were not found in objectionable condition. There is no contract of prostitution business with him.

Keeping in view the chief examination read with cross-

examination, I find that no offence is made out from the evidence on record against the accused. Similar is the statement of PW-6 Krishan Kumar, retired Inspector. He stated that he sent Constable Ranjeet Singh as bogus customer by giving currency note of ₹100/- by signing his small initials on the same and asked him to talk with Vinod and directed the Constable to give signal after the talk. He further stated that after receiving the signal, the house was raided. Two young boys , Vinod and Rajni were found there. On conducting search upon the person of Vinod by Lady Constable, then the same currency note of ₹100/- was got recovered. In cross-examination, he stated that no person of public have ever given complaint nor there was any complaint from the neighbourhood. No medical of the accused was got conducted. No liquor was found from the possession of the accused. During raid the accused were not found in objectionable position and sitting in routine manner. He also stated that case property is not present in the Court. The currency note was not taken into possession during inquiry neither the currency note is on the file nor in the Court today. He also stated in cross-examination that there was no objectionable conduct nor there was any immoral act with the bogus customer.

In view of the statement of the Investigating Officer also, no offence is made out. Keeping in view the above discussion, I find that the Courts below have misread the material evidence. No offence is made out from the statements of these star witnesses. The judgment of conviction dated 29.01.2013 and order of sentence dated

01.02.2013 passed by learned Sub Divisional Judicial Magistrate, Charkhi Dadri and judgment dated 25.09.2014 passed by learned Addl. Sessions Judge, Bhiwani, are set aside.

Therefore, finding merit in both the revision petitions, the same are allowed. Petitioners Dhyan Chand alias Dhanarh, Satbir Singh alias Satyamittar and Rajni are acquitted of the charges framed against them and they be set at liberty forthwith, if their custody is not required in connection with any other case.

February 13, 2015
Vgulati

(INDERJIT SINGH)
JUDGE