

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

Date of Decision: 03.02.2016.

CRR No.1789 of 2006 (O&M)

PRITAM PAL

....PETITIONER.

VERSUS

STATE OF HARYANA

....RESPONDENT.

WITH

CRR No.1998 of 2006 (O&M)

PRITAM SINGH

....PETITIONER.

VERSUS

STATE OF HARYANA

....RESPONDENT.

CORAM : HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. Ravindra Jain, Advocate for the petitioners.

Mr. Sandeep Vashishth, Deputy Advocate General,
Haryana.

SNEH PRASHAR, J.

The above captioned two criminal revision petitions had arisen from a judgment dated 24.07.2006 passed by learned Additional Sessions Judge, Ambala in Criminal Appeals No.42 and 96 of 2004 upholding the judgment of conviction dated 23.12.2003 and order of

sentence dated 24.12.2003 passed by Special Railway Magistrate, (Haryana), Ambala Cantt. in Criminal Complaint No.17 dated 18.05.1994 under Section 3 of the Railway Property (Unlawful Possession) Act (for short, "Railway Act") registered at Police Station RPF/OP/Jagadhri vide which petitioners Pritam Pal and Pritam Singh alongwith one Ved Pal son of Raghubir Singh were held guilty, convicted and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.1000/- each. In default of payment of fine, they were to undergo rigorous imprisonment for two months each.

The facts relevant for being noticed are as under:-

On 18.05.1994 at around 1:00 p.m., ASI Ram Kishan, G.R.P., Jagadhri on receipt of message of ASI Balbir Singh, Police Station Farakpur that some persons after cutting Eucalyptus trees were loading them in a cart, reached at the spot and arrested two persons carrying eight number wooden pieces. On enquiry they disclosed their names as Pritam Pal son of Kalu Ram and Pritam Singh son of Vilayati Ram and stated that they were working with Railway Contractor Ved Pal on hire basis of Rs.100/- for carrying wooden pieces. Since the stolen property was of railway, information was given to RPF Post Jagadhri on which ASI Ram Kishan alongwith other police officials reached the spot and found that eight wooden pieces of four Eucalyptus trees were being carried away by Pritam Pal and Pritam Singh. The stolen property was taken in possession and petitioners were arrested. The place from where trees were allegedly cut was got identified. Samples from the wooden pieces were taken and

sent to Wood Anatomy, Botany Division, Forest Research Institute, Dehradun (UP) for verification and as per scientist report three samples were of the same tree and one piece was different. During interrogation, petitioners suffered disclosure statements. Accused Ved Pal seeing the police party had fled away from the spot and was arrested on 20.05.1994 by Sub Inspector R.P. Singh. He also suffered a disclosure statement and in pursuance of the same got recovered an axe used by him for cutting the trees, which was taken into possession. On completion of investigation and other formalities the complaint was sent to the Court for trial.

The petitioners alongwith accused Ved Pal were charge-sheeted under Section 3 of the Railway Act, to which they pleaded not guilty and claimed trial.

The prosecution examined as many as ten witnesses to substantiate its charge against the petitioners-accused.

After closure of evidence of the prosecution, statements of petitioners-accused under Section 313 of the Code of Criminal Procedure (for short "Cr.P.C.") were recorded by putting to them the incriminating evidence available on record, which they denied and pleaded false implication.

Analyzing the evidence available on record and the submissions made by learned Public Prosecutor and learned counsel representing the petitioners-accused, learned trial Court convicted and sentenced them as indicated above.

Feeling aggrieved by the impugned judgment of conviction

dated 23.12.2003 and order of sentence dated 24.12.2003 passed by learned trial court, the petitioners-accused preferred three separate appeals which were dismissed by learned Additional Sessions Judge, Ambala vide judgment dated 24.07.2006.

Still unsatisfied, the petitioners have preferred the instant criminal revisions.

The submissions made by Mr. Ravindra Jain, learned counsel appearing for the petitioners and Mr. Sandeep Vashishth, learned Deputy Advocate General representing the State of Haryana have been heard and record has been perused.

Learned counsel for the petitioners submitted that he does not challenge the judgment of conviction dated 23.12.2003 and confines his prayer only to reduction in quantum of sentence awarded vide order dated 24.12.2003 to the sentence already undergone by the petitioners in the instant case as the petitioners are poor persons and are the only earning members of their families. Petitioner Pritam Pal has a wife, two children and old parents who are dependent on him whereas Pritam Singh has a wife and three children and is a government employee.

Perusal of the record reveals that PW2 Constable Ram Rattan, PW5 Ram Kishan Retd. ASI and PW6 Balbir Singh ASI had all consistently deposed that on 20.05.1994 the petitioners were found loading the wooden pieces of 'Eucalyptus trees' belonging to the railway department, in a bullock cart and on asking they disclosed that they were doing so at the instance of Ved Pal. The trees cut were counted and found

to be eight in number. The petitioners were arrested and the bullock cart loaded with wood of 'Eucalyptus trees' was taken in possession vide memo Ex.PW3/F. Piare Lal Sub Inspector PW3 proved the disclosure statements Ex.PW3/D and Ex.PW3/E suffered by petitioners Pritam Pal and Pritam Singh respectively. From the test report Ex.PW1/A and the testimonies of the prosecution witnesses it is duly proved that the pieces of 'Eucalyptus trees' recovered from the conscious possession of the petitioners were the same which had been illegally cut from the 'Eucalyptus trees' standing over the railway land. The said trees were being removed dishonestly without the consent of the railway authority.

Thus, finding no ground for intervention in the judgment of conviction dated 23.12.2003 recorded by learned trial Court, the same is hereby affirmed.

Coming to the order on quantum of sentence dated 24.12.2003, as per the custody certificate dated 02.02.2016 petitioner Pritam Pal has already undergone actual sentence of 1 month and 28 days whereas petitioner Pritam Singh has undergone actual sentence of 2 months and 11 days out of the awarded sentence. The wood of the illegally cut trees of Railways was recovered at the spot and nothing could be taken away. Also considering the fact that the petitioners are facing a protracted trial for the last more than twenty years and that they have small children and parents dependant on them, who will be the real sufferers if the petitioners are sent behind the bars at this stage, I find that it would be in the interest of justice to reduce the quantum of sentence

awarded to the petitioners to the period of sentence already undergone by each of them in the instant case.

The criminal revisions are disposed of accordingly.

(SNEH PRASHAR)
JUDGE

03.02.2016.
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Note: Whether to be referred to the Reporter or not? Yes.