

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

CRR-797-2006

Date of decision: 2.2.2016

Firoz Ahmad

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Rahul Jaswal, Advocate for
Mr.VK Thakur, Advocate for the petitioner

Mrs.Lavanya Paul, Assistant Advocate General, Punjab

SNEH PRASHAR, J.

The revisionist- petitioner alongwith his co-accused Mohinder Singh was convicted under Section 411 of the Indian Penal Code (for short 'IPC') vide judgment of conviction dated 19.4.2005 passed by learned Judicial Magistrate, 1st Class, Kapurthala and was sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.500 each and in default of payment of fine to further undergo rigorous imprisonment for ten days vide order dated 20.4.2005, whereas one Sanjiv Kumar was acquitted by giving benefit of doubt. The appeal filed by the petitioner was dismissed by learned Sessions Judge, Kapurthala vide judgment dated 20.3.2006.

The facts garnered from the record are as under:-

On 20.12.2003 at 7.50 am ASI Jagjit Singh alongwith his official companions laid a Naka at T-point on Hussainpur Road towards Talwandi Chaudharian Mithra Adda. In the meantime, a tractor make

Mahindra attached with a trolley in which a tiller and a land leveler were loaded and was being driven by a Sikh gentleman and a clean shaven was sitting on the mudguard, reached there. On being stopped, the driver and his companion came down and tried to run away, but were apprehended by the police. The Sikh gentleman disclosed his name as Mohinder Singh and the other as Firoz Ahmad @ Babu (petitioner). The tiller and land leveler were found to be the stolen property regarding which, First Information Report No.120 dated 16.12.2003 under Section 379 IPC was registered at Police Station Kotwali, Kapurthala. The petitioner and his companion could also not produce anything to prove their ownership in respect of the trolley. On 21.12.2003, learning about recovery of a stolen trolley by the police, Harjinder Singh alongwith Gurcharan Singh went to Police Station Kotwali to ascertain the identity of the trolley and found the same to be his stolen property. On the basis of his statement a First Information Report No.122 dated 21.12.2003 under Sections 379/411 IPC was registered at Police Station Kotwali, Kapurthala. The petitioner and his co-accused Mohinder Singh were arrested. Based on their disclosure statement one Sanjiv Kumar was also arrested. On completion of investigation, a final report under Section 173 Cr.P.C. was filed in the Court.

Charge under Section 411 IPC was framed against all the three accused, to which, they pleaded not guilty and claimed trial.

To substantiate its allegations, prosecution examined PW1 Gursharan Singh, PW2 Paramjit Singh, PW3 HC Jarnail Singh and PW4 ASI Jagjit Singh. After closure of evidence of the prosecution, statements of the accused as envisaged under Section 313 of the Code of Criminal

Procedure were recorded. They denied the incriminating evidence put to them and pleaded innocence and false implication.

Considering the submissions made by learned Assistant Public Prosecutor for the State as well as the counsel representing the petitioner (accused) and evaluating the evidence brought on record, learned trial Court convicted and sentenced the petitioner and co-accused Mohinder Singh, as noticed above. Aggrieved against the judgment of conviction and order of sentence, the petitioner filed an appeal, which was dismissed by learned Sessions Judge, Kapurthala vide judgment dated 20.3.2006.

Feeling still dissatisfied, the petitioner filed the present criminal revision petition.

The submissions made by learned counsel for the parties have been heard and record perused.

As the matter was opened for arguments, learned counsel for the petitioner contended that in view of the concurrent findings of both the courts below holding the petitioner guilty for the offence punishable under Section 411 IPC, he would not contest the present petition on merits as regards the judgment of conviction, but he prayed that the petitioner, who is a poor person and is having two small children and the responsibility of old parents, be given the relief on probation.

A close examination of the prosecution evidence reveals that no holes can be picked up in the findings returned by the learned trial Court and affirmed by learned First Appellate Court, for arriving at the conclusion that the charge against the accused- petitioner stands established. As such, no intervention is warranted in the judgment of conviction and the same is

hereby affirmed.

Coming to the quantum of sentence, admittedly, recovery of the stolen property had been made. Considering the submissions made on behalf of the petitioner and the fact that he belongs to poor strata of society; has a family consisting of two small children and old parents to support and is facing a protracted trial for the last twelve years, this Court feels that the ends of justice would be served if instead of sending him behind the bars, he is released on probation on his executing the probation bonds in the sum of Rs.20,000/- with one surety in the like amount under Section 4(1) of the Probation of Offenders Act, 1958 to the satisfaction of learned Chief Judicial Magistrate, Kapurthala. Ordered accordingly.

The bonds be furnished within a period of one month from the date of receipt of the certified copy of this order, failing which, the present petition shall be deemed to be dismissed. The amount of fine deposited by the petitioner is converted into litigation expenses.

The present criminal revision petition is disposed of accordingly.

2.2.2016
gsv

(SNEH PRASHAR)
JUDGE