

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

CRR No.941 of 2007.

Date of Decision: 29.11.2016.

Ashok Kumar

....Petitioner.

VERSUS

State of Punjab

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Lalit Garg, Advocate for the petitioner.

Mr. Ankur Jain, Assistant Advocate General, Punjab.

SNEH PRASHAR, J.

Petitioner Ashok Kumar was held guilty and was convicted for commission of offence punishable under Section 292 of the Indian Penal Code (for short, "IPC") and was sentenced to undergo Rigorous Imprisonment for one year and to pay a fine of Rs.1000/- and in default of payment of fine to further undergo Rigorous Imprisonment for seven days by learned Judicial Magistrate Ist Class, Nabha vide judgment/order dated 23.04.2005.

The allegation against the petitioner was that on 04.07.2001 ASI Karamvir Singh, after getting a First Information Report registered on the basis of the secret information received by him, conducted a raid at his (petitioner's) shop and found that a blue/obscene movie was being played by him before the children on VCR and TV. The cassette, TV and VCR were

taken in possession.

The petitioner was charge-sheeted for commission of offence under Section 293 IPC by the learned Magistrate to which he pleaded not guilty. The trial was conducted in due process of law. Considering the evidence led by the prosecution and the submissions made on behalf of the petitioner, learned Magistrate convicted the petitioner under Section 292 IPC and sentenced him as indicated above.

The appeal preferred by the petitioner was dismissed by learned Additional Sessions Judge, Patiala vide judgment dated 28.03.2007. Aggrieved by the same, the petitioner preferred the instant revision.

The submissions made by Mr. Lalit Garg, learned counsel representing the petitioner and Mr. Ankur Jain, learned Assistant Advocate General, representing the State of Punjab have been heard.

At the very outset, learned State counsel filed affidavit of Gurcharan Singh Dhaliwal, PPS, Deputy Superintendent, Central Jail, Patiala giving detail of the custody of the petitioner in the instant case. It is mentioned in the affidavit that the petitioner on completion of the period of sentence awarded to him was released from the jail on 23.11.2007. In other words, the petitioner has already undergone the sentence awarded to him by learned trial Court.

In response to the custody certificate produced by learned State counsel, learned counsel for the petitioner submitted that since the petitioner has already undergone the sentence and stands released, he does not challenge the judgment of conviction recorded against him and the revision be accordingly disposed of.

Perusal of the judgment passed by learned trial Court and

prosecution reveals that PW1 ASI Karamvir Singh, the Investigation Officer alongwith PW2 Head Constable Manjit Singh, conducted raid at the shop of the petitioner and apprehended him red handed while playing a blue/ obscene movie to the people present at his shop. Both the witnesses unequivocally narrated the entire incident and stated that the petitioner was showing a blue/ obscene movie on the TV with the help of a VCR to some children. On seeing the police party, the children as well as the petitioner fled away from the spot. The VCR, TV and cassette were taken in police possession. Later on the petitioner on his own surrendered before the Investigation Officer and was arrested. Since the commission of offence was detected on a raid conducted by the police in pursuance of a secret information, the police officials were the main and material witnesses and there being nothing to indicate that the police officials had any reason to be hostile towards the petitioner, there is no reason to discard their testimony. Accordingly, the judgment of conviction recorded against the petitioner is maintained.

The petitioner has already undergone the sentence awarded to him and this petition is disposed of accordingly.

(SNEH PRASHAR)
JUDGE

29.11.2016
jitender sharma

Whether speaking/ reasoned : Yes

Whether Reportable : No