

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

Criminal Revision 1430 of 2008

Date of Decision : November 22, 2016

Jamu and others		Petitioners
	Versus	
State of Haryana		 Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. Satish Chaudhary, Advocate
for the petitioners.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

T.P.S.MANN, J. (Oral)

The petitioners alongwith Sammu and Sahabuddin were tried for committing offence punishable under Section 8 of the Punjab Prohibition of Cow Slaughter Act (hereinafter referred as to as 'the Act') for contravening the provisions of Section 4A of the said Act. Vide judgment and order dated 30.3.2006/5.4.2006, learned Sub-Divisional Judicial Magistrate, Nuh, convicted them for the aforementioned offence and sentenced them to undergo rigorous imprisonment for a period of one and half years and to pay a fine of Rs.2,500/- each and in default of payment of fine, to further undergo rigorous imprisonment for one month. The fine imposed was deposited by them there and then.

Aggrieved of their conviction and sentence, the petitioners and their co-convicts preferred an appeal. Vide judgment dated 14.7.2008, learned Additional Sessions Judge

Gurgaon found no merit in the appeal and, accordingly, dismissed the same. Still not satisfied, the petitioners preferred the present revision, which stands admitted.

The prosecution story, in brief, is that on the intervening night of 7/8.5.2000, HC Ramphal from Police Station, Nuh, alongwith Constables Sher Singh and Nihal Singh were on patrol duty. He received secret information that some persons were carrying weak male cow calves to Rajasthan from Haryana in truck Nos. HR-46-6309 and HR-46-5260 through a Kacha path within the area of village Palla for slaughtering them and in case Nakabandi was conducted, the offenders with trucks and male cow calves could be nabbed. On this information, the HC with the help of both the constables set up a Naka at the disclosed place. After about 15/20 minutes, both the trucks came there and were stopped. Truck bearing No. HR-46-6309 was found carrying 31 male cow calves and in the said truck, Jamu, Fakruddin and Sammu were sitting whereas truck bearing No. HR-46-5260 was found carrying 32 male cow calves and Wahid and Sahabuddin were sitting. They could not produce any permit for transporting those animals to Rajasthan from Haryana. They were arrested. Both the trucks were taken into possession.”

In support of its case, the prosecution examined PW1 Dr. Om Parkash, Veterinary Surgeon, PW2 Sub-Inspector Anil Kumar, PW3 complainant Sher Singh and PW4 Head Constable Ramphal.

When examined under Section 313 Cr.P.C., the petitioners

denied the allegations of the prosecution and pleaded their false implication. However, they did not produce any evidence in defence.

Learned counsel for the petitioners has submitted that the prosecution had not led sufficient evidence to prove its case that the cows or the animals in the trucks were meant for slaughtering. It is further submitted by learned counsel for the petitioners that simply because the petitioners belonged to a particular community, no presumption could be drawn against them that the cows were being taken for the purposes of slaughtering. Reliance has been placed upon the judgment of this Court in **Sadru Vs. State of Haryana**, 1999 (1) R.C.R. (Crl.) 450. It is also contended that the recovery memo bore the number of the FIR, which casts a doubt in the prosecution case.

Having heard learned counsel for the petitioners, this Court finds that the starved and almost dead animals were being transported by the petitioners and others at the dead of night on a Kacha path and, therefore, it cannot be said that they were being transported for a purpose other than slaughtering. Under these circumstances, no case is made out for any interference in the conviction of the petitioners.

As regards the question of sentence, it may be noticed that the petitioners are facing the agony of criminal prosecution for the last more than sixteen years. As per the custody certificate already brought on record by the learned State counsel, the petitioners have undergone an actual sentence of three months and four days. They are also not shown to be either involved or convicted in any other

case. Under these circumstances, a case is made out for reduction of their sentences.

Resultantly, conviction of the petitioners for the offence under Section 8 of the Punjab Prohibition of Cow Slaughter Act for contravening the provisions of Section 4A of the said Act is upheld. Their substantive sentences of imprisonment are reduced to rigorous imprisonment for one year each. The sentence of fine awarded by the Courts below is maintained.

The revision is, accordingly, disposed of.

November 22, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No