

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40483-2016 (O&M)
DECIDED ON: November 15, 2016

INDERJIT SINGH WALIA

.....PETITIONER..

VERSUS

STATE OF PUNJAB

....RESPONDENT..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Hitesh Kaplish, Advocate,
for the petitioner.

JASPAL SINGH, J.

By virtue of instant petition preferred under Section 482 of the Code of Criminal Procedure (for short, "Cr.P.C."), the petitioner has sought quashing of order dated 03.08.2016 passed by Additional Sessions Judge, Hoshiarpur whereby order dated 28.10.2013 passed by Additional Chief Judicial Magistrate, Hoshiarpur, imposing penalty of ₹4,00,000/- under Section 446 Cr.P.C., has been upheld.

2. Undisputably, FIR No.196, dated 06.09.2000, under Sections 304-A, 279 and 427 IPC, Police Station Sadar, Hoshiarpur was registered, in which bus bearing registration No.PB-07H-8585, was involved. The said bus was taken into possession by the police. Two separate applications for sapurdari, qua the said bus were moved i.e. one by Inderjit Singh Walia and the other by Jawahar Singh. Vide order dated 15.09.2000, the bus in question was released on sapurdari to the revisionist. Jawahar Singh filed a revision against

the said order. Vide order dated 19.10.2000, the ld. Additional Sessions Judge, Hoshiarpur, set aside the order dated 15.09.2000 and sent back the matter to the trial court for fresh decision. Pursuant to said order, the offending bus was ordered to be released in favour of Jawahar Singh of Hoshiarpur Express Company. Vide order dated 22.03.2001 Inderjit Singh Walia was directed to produce the bus in question in the court on 26.03.2001. However, Inderjit Singh did not produce the vehicle in the Court and seizure warrants of bus No.PB-07H-8585, were issued. The order of issuance of seizure warrants was stayed by the Hon'ble High Court. Subsequently, the revision petition was dismissed by the Hon'ble High Court and seizure warrants were again ordered. On 12.06.2001, an application for recalling the seizure warrants was moved by Inderjit Singh Walia and in support of his said application, the sapurdar produced Rapat No.11 entered in the roznamcha of PS Mehtiana regarding the snatching of the bus. On the other hand, the respondent i.e. the Hoshiarpur Express Transport company, produced Rapat No.40 of 12.06.2001, vide which the SHO, PS Mehtiana, had reported that no such occurrence of snatching of the bus had taken place. The application for recalling the seizure warrants was declined and repeated seizure warrants were issued from time to time. Ultimately, Inderjit Singh Walia, put in appearance in the Court on 24.10.2001 and notice under Section 446 Cr.P.C. was served upon him by then ACJM, Hoshiarpur. Vide order dated 03.02.2005, the revisionist, was directed to deposit the penalty of ₹4,00,000/-. The revisionist filed Criminal Revision No.15 of 2006, wherein the ld. Additional Sessions Judge (Adhoc) Fast Track Court, Hoshiarpur, remanded the matter to the ACJM, Hoshiarpur, for passing fresh order after complying with the observations made in the judgment dated

10.03.2012 passed in Criminal Revision No. 15 of 2006.

After remand of the case, the matter was again dealt with by ACJM and vide a detailed order dated 28.10.2013, it was observed that DDR No.11, dated 28.05.2001, Police Station Mehtiana got lodged by Lachman Singh at the instance of Sapurdar-Inderjit Singh Walia regarding the snatching of bus No.PB-07H-8585 against the employees of Hoshiarpur Express Transport Company was found to be false and ultimately, penalty of ₹4,00,000/- was imposed upon the Sapurdar-Inderjit Singh Walia vide aforesaid order.

Aggrieved against the said order of imposition of penalty, Inderjit Singh Walia preferred an appeal bearing Criminal Appeal No.51 of 20.11.2013 but that was dismissed vide impugned order dated 03.08.2016 by Additional Sessions Judge, Hoshiarpur.

Still dissatisfied with the orders passed by both the courts below, the petitioner approached this Court by way of instant petition.

While assailing the impugned orders passed by both the courts below, it has been ebulliently argued by learned counsel for the petitioner that the same are against the evidence available on file and settled canons of law. Mis-appreciation of evidence as well as legal proposition applicable to the facts and circumstances of the case in hand has resulted into miscarriage of justice. It stands amply proved on record that petitioner-Inderjit Singh Walia is not in possession of the bus in question. In fact, in compliance of order passed by the Court, Lachman Singh-driver was taking the bus No. PB-07H-8585 in Court for its production but en-route, the said bus was snatched by the opposite party i.e. Manjit Singh Lalli and others. In this connection, DDR No. 11, dated 28.05.2001 was registered at Police Station Mehtiana. However, the police

being under pressure of Manjit Singh Lalli and others i.e. opposite party did not take any action. Although, offence under Section 395 IPC was made out. The police has also wrongly concluded that no such occurrence has taken place as recorded in the above referred DDR and further that the allegations levelled by Lachman Singh with regard to the snatching of the bus were found to be false during inquiry by the police but any such report made by the police holding the contents of the DDR No.11, dated 28.05.2001 is not binding upon the Court and the Court is obliged to decide the matter independently on the basis of evidence led by the parties in support of their respective pleadings. The bus in question is still in the possession of opposite party and it was got insured on 11.06.2000 till 10.06.2003 and fitness/validity certificate was also got issued on 02.07.2013. All these documents are in the custody of opposite party and a direction can be given for the production thereof. Since, the bus in question was in the possession of opposite party, the petitioner was not able to produce the bus in question in view of the order passed by the Additional Chief Judicial Magistrate, Hoshiarpur. Thus, the imposition of penalty on the petitioner is not legally and factually justifiable.

Learned counsel for the petitioner further contends that no opportunity of being heard was afforded to the petitioner before passing impugned order dated 28.10.2013 whereby the penalty of Rs.4,00,000/- has been imposed upon him under Section 446 Cr.P.C. Even an application under Section 311 Cr.P.C. was also moved by the petitioner before the ACJM seeking permission to lead additional evidence to prove the factum of possession of the bus in question with opposite party i.e. Manjit Singh Lalli and others but that was also wrongly dismissed by the trial court on 13.09.2013.

While concluding his arguments, it has been submitted by learned counsel for the petitioner that since the petitioner is not in possession of the bus bearing No. PB-07H-8585, which was admittedly taken on Sapurdari by Inderjit Singh Walia, which was subsequently snatched by Manjit Singh Lalli and others. And further no opportunity of being heard was given to the petitioner. Thus, impugned orders are not sustainable in the eyes of law and are liable to be set aside by way of acceptance of instant petition.

After bestowing due consideration to the submissions made by learned counsel for the petitioner, appraisal of evidence and scrutinization of impugned orders passed by both the courts below, this Court is of the considered view that the impugned orders are absolutely in consonance with the evidence available on file and settled canons of law and these do not call for any interference by this Court.

Concededly, FIR No.196, dated 06.09.2000 was registered in respect of vehicular accident involving bus No.PB-07H-8585 and in the course of investigation, bus No.PB-07H-8585 was taken into possession by the police, which was subsequently taken on sapurdari by the petitioner on furnishing requisite surety bonds/indemnity bonds. The ld. trial court passed an order directing the Sapurdar-Inderjit Singh Walia(petitioner) to produce the bus in the Court for handing over the same to the opposite party but instead of producing the same in the Court, DDR No. 11, dated 28.05.2001 was registered in Police Station Mehtiana by concocting a false story that when the bus in question was en-route for its production in the Court, it was snatched by the opposite party Manjit Singh Lalli and others but that story concocted by the petitioner has already been found to be false. On the basis of the evidence adduced by the

parties before the trial court, a specific finding has been recorded by the ld. trial court that the bus in question is in the possession and custody of Inderjit Singh Walia-petitioner. The said finding/observation recorded by the ld. trial court has also been upheld by the lower appellate court vide its order dated 03.08.2016.

Though, during the course of arguments, it has been submitted by the ld. counsel for the petitioner that an application moved under Section 311 Cr.P.C. has been dismissed without any rhyme and reason by the ld. trial court but that contention also does not carry any legal weight, especially in view of the fact that when the matter was listed by way of an appeal before the Additional Sessions Judge, Hoshiarpur, the petitioner was afforded an opportunity to produce the document whereby it could be shown that the custody of the bus was with the opposite party but the petitioner sought time for the said purpose and at his request, matter was adjourned thrice but to the utter surprise, no document to fortify his contention could be produced by him and it was only thereafter, said appeal was finally disposed of on merits vide judgment dated 03.08.2016. Since, it has been fully established on record that the bus in question was released on sapurdari to the petitioner, who was obliged to produce the same in the Court as and when required by the Court, he was directed to produce the bus in question in the Court but he failed to produce the said bus in compliance of order passed by the trial court. Thus, the imposition of penalty by the trial court is legally and factually justified. The order passed by the trial court dated 28.10.2013 as well as by the appellate court dated 03.08.2016 upholding the order dated 28.10.2013 are well reasoned and are absolutely in consonance with the sound principles of law.

As an upshot of the aforesaid discussion, this court does not find any

merit in the instant petition. Accordingly, it stands dismissed whereby the impugned orders are upheld.

November 15, 2016
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No