

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

**Criminal Revision 2024 of 2010
Date of Decision : April 23, 2016**

Nizzar @ Nizza and others	Versus	Petitioners
State of Haryana		 Respondent

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

Present : Mr. Bikram Chaudhary, Advocate

Mr. Dhruv Dayal, Deputy A.G., Haryana.

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

The petitioners were tried for committing offences under Sections 3 and 4 read with Section 8 of the Punjab Prohibition of Cow Slaughter Act, 1955 (hereinafter to be referred as 'the Act') on the allegations that they were found in possession of 150 kgs of meat besides one axe and one iron knife when Head Constable Om Kumar along with his fellow officials raided the house of petitioner Nizzar on 9.12.2002. Vide judgment and order dated 12/14.1.2010, learned Judicial Magistrate 1st Class, Faridabad held them guilty under Section 3 read with Section 8 of the Act and sentenced them to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.3,000/- each and in default of payment of fine to undergo further simple imprisonment for a period of one month.

Aggrieved of their conviction and sentence, the petitioners preferred an appeal but remained unsuccessful as the same was dismissed by learned Additional Sessions Judge, Faridabad on 14.7.2010. Hence, the present revision, in which, they are presently on bail.

The case of the prosecution as noticed by the learned lower appellate Court and mentioned in para 3 of its judgment is as under:-

“ It is revealed that on 9.12.2002, ASI Om Kumar (PW2) of police post Dhauj along with other police officials was conducting patrolling in the area. He was present at bus stand Dhauj, when he received secret information that Nizzar, his son Sakir and one Nasru were indulging in cow slaughtering in the house of Nizzar and in case raid is conducted, they could be apprehended along with meat. Receiving this information, ASI Om Kumar with other officials reached near the house of Nizzar. He peeped inside from above the wall and noticed that three people were putting meat pieces in sacks. Police team headed by ASI Om Kumar reached the spot. At the sight of police party, one of the persons fled away by scaling the rear wall. Two other persons were found in

possession of about 150 kgs of meat besides hoofs with white skin intact. One axe and iron knife was also recovered. Those persons disclosed their names as Nizzar and Nasru; whereas the person, who had escaped, was identified by them as Sakir. The meat, axe and knife were taken into possession vide memo Ex.PW1/A, which was also attested by Constable Rishi Pal (PW1) and Constable Bishan Singh (PW4). Tehrir (Ex.PW2/A) was prepared and sent to the police station for registration of the FIR. Rough site plan of the place of occurrence was prepared. The meat was got examined from Veterinary Surgeon, who opined that the meat and leg pieces were of cow specie. All necessary formalities of investigation were completed and then the challan was submitted in the Court of learned JMJC, Faridabad.”

Learned counsel for the petitioners has submitted that while effecting the recovery of the meat, the police did not associate any independent witness. It is also submitted that the meat recovered was not weighed and its weight was mentioned by approximation. It is also submitted that the meat was not got examined from the chemical examiner. Further, the meat recovered was not converted into a parcel though only a memo in

that regard was prepared. It is further submitted that in any case the sentences of imprisonment awarded to the petitioners are on the higher side.

Learned State counsel has vehemently opposed the prayer by submitting that the prosecution has led sufficient evidence from which it could be said that the petitioners had committed the offence under Section 3 of the Act and, therefore, they have been penalized under Section 8 of the Act.

Having heard learned counsel for the parties, this Court finds that merely because no independent witness had been associated by the raiding party is no ground to doubt the prosecution case. The defence has not been able to bring on record any material, from which, it could be indicated that the police was inimical towards the petitioners. Even otherwise, it has come on record that an attempt was made to join independent witnesses but no one agreed to the same.

From the report Ex.PW3/A prepared by Dr. R.N.Sharma, who was examined by the prosecution as PW3, it stands established that the recovered meat pieces and hoofs were of cow. Merely because, the recovered meat was not properly weighed is no ground to extend any benefit to the petitioners. Accordingly, no case is made out for any interference in their conviction.

As regards the quantum of sentence, it may be noticed that the petitioners are facing the agony of criminal prosecution for the last more than thirteen years. They are stated to be the sole bread winners of their respective families. They are on bail pursuant to the order dated 9.9.2010 passed by this Court. There is no material on the record that they have ever misused the concession. As per the custody certificates produced by the learned State counsel, they have undergone actual period of more than two months and five days. From the custody certificates, it is also made out that none of them is involved in any other case.

Taking into consideration the totality of the circumstances, this Court is of the considered view that no useful purpose will be served by sending the petitioners behind the bars once again in order to undergo their remaining sentences of imprisonment. Ends of justice would be amply met, if their substantive sentences of imprisonment are reduced to the one already undergone by them.

Resultantly, the conviction of the petitioners under Section 3 read with Section 8 of the Punjab Prohibition of Cow Slaughter Act, 1955 is upheld. However, their substantive sentences of imprisonment are reduced to the one already undergone by them. The fine of Rs.3,000/- imposed upon each of

the petitioners is enhanced to Rs.5,000/-. In default of payment of enhanced amount of fine, the defaulting petitioners shall undergo simple imprisonment for one month.

The revision is, accordingly, disposed of.

April 23, 2016
amit rana

(T.P.S. MANN)
JUDGE