

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 278

Criminal Revision No.1221 of 2015 (O & M)

Date of Decision: February 01, 2016

Joga Singh

..... PETITIONER

VERSUS

State of Punjab

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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PRESENT: - Mr. Sukhbir Singh, Advocate, for the petitioner.

Mr. Arjinder Singh Sidhu, Assistant Advocate
General, Punjab.

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Jaspal Singh, J

Crl. Misc. No.11200 of 2015

This is an application under Section 397(1) read with
Section 401 and 482 Cr.P.C. praying for grant of bail/suspension
of sentence imposed upon the applicant – petitioner, during
pendency of the revision petition.

On request of learned counsel for the parties, let the main revision petition itself be taken up for final hearing and disposal.

Application stands disposed of accordingly.

Crl. Revision No.1221 of 2015

The instant revision petition has been preferred by Joga Singh against judgment dated March 17, 2015 passed by the Additional Sessions Judge, Gurdaspur, whereby judgment of sentence & order of conviction dated April 29, 2014 passed by the Judicial Magistrate Ist Class, Batala, has been upheld.

Vide judgment/ order dated April 29, 2014, the petitioner has been convicted and sentenced, under Section 61(1)(c) of the Punjab Excise Act, 1914 (for short, Act), to undergo RI for two years alongwith fine of ₹ 2,000/- and in default of payment of fine, to further undergo RI for 30 days, in case FIR No.60 dated June 16, 2010, Police Station, Rangar Nangal, Tehsil Batala, District Gurdaspur.

As per the prosecution, on June 16, 2010, ASI Darshan Singh alongwith other police officials, was going from Police Station, Sekhwan towards village Natt, Purian Khurd and Sekhwant etc. in connection patrol duty on private vehicles for checking of bad elements. When the police party reached little ahead from village Purian Khurd, ASI Darshan Singh received a

secret information that Joga Singh son of Jarnail Singh, Caste Jat, resident of village Sekhwan can be caught while selling and distilling illicit liquor in his house. On the said information, he sent a ruqa Ex.P1 to police station through Constable PHG Bodh Raj, on the basis of which, instant FIR Ex.P2 was registered against the accused – petitioner. Before conducting the raid, efforts were made to join some respectable persons from the village but nobody became ready. Thereafter, police party raided the house of accused where he was found feeding fire in the earth and distilling illicit liquor. He was apprehended. On enquiry, he disclosed his name as Joga Singh son of Jarnail Singh. The components of working still comprising one drum containing 25 kgs of lahan, receiver tin plastic having illicit liquor, out of which, 180 ml was taken as sample and remaining, on measurement, came to 4 bottles which was again put in the same can, alongwith other articles, some pieces of wood, two half burnt pieces of wood, one shukala, one chapni, three pieces of wood, one pipe plastic, one bucket, one plastic dabba and one dabba tin were recovered. Drum containing 25 kgs of lahan, the sample nip and plastic can having illicit liquor were sealed with seal impression ‘DS’ of ASI Darshan Singh and all the aforesaid components were taken into possession vide recovery memo. Statements of witnesses were recovered. Site plan was prepared. On return to police station, case property was

deposited with MHC. After completion of all the necessary formalities of investigation, challan against the accused was presented in the court of jurisdictional Magistrate.

On appearance, the copies of report under Section 173(2) Cr.P.C. alongwith documents were supplied to the accused. Finding prima facie case punishable under Section 61(1)(c) of the Act, accused was charge-sheeted, to which, he pleaded not guilty and claimed trial.

In order to prove its case, prosecution led its evidence and examined five witnesses. After closure of prosecution evidence, incriminating circumstances appearing against the accused were put to him in statement under Section 313 Cr.P.C. in which he pleaded his innocence and false implication. No witness in defence was examined.

After hearing learned counsel for the parties and on appraisal of evidence, accused was convicted and sentenced vide judgment/order dated April 29, 2014 as detailed above. Appeal preferred by him against the aforesaid judgment/order was dismissed by the first appellate court vide judgment dated March 17, 2015 upholding his conviction and sentence.

Notice of motion was issued only qua quantum of sentence vide order dated April 7, 2015, meaning thereby, conviction of RI for two years under Section 61(1)(c) of the Act

was not challenged by the petitioner and on going through the record, the same has been upheld.

As far as quantum of sentence is concerned, learned counsel for the petitioner has submitted that petitioner is about 49 years old and has one daughter. He is the sole bread winner of the family. He is first offender. There is no other case of similar nature pending against him. He never misused the concession of bail during trial. He has already undergone a period of more than ten months and 18 days, out of the substantive sentence of two years. Accordingly, learned counsel for the petitioner prays that sentence imposed upon the petitioner be reduced to the period already undergone.

This Court has given an anxious thought to the submissions made by learned counsel and has gone through the record available on file.

The revision petition qua sentence & conviction has already been upheld and findings of both the courts below have been affirmed, however, keeping in view the fact that accused – petitioner is first offender; there is no other case of similar nature pending against him; he is the sole bread winner of the family; and by taking a lenient view this court of the considered view that the sentence of two years imposed upon the accused – petitioner is ordered to be reduced to one year.

The petition stands dismissed with the afore-stated modification in the period of sentence.

A copy of this order may be sent to the concerned authorities for further necessary action.

February 01, 2016

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**(Jaspal Singh)
Judge**