

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

**Criminal Revision No.1464 of 2016 (O & M)
Date of Decision:-25.05.2016**

Rajinder Singh @ Jinder and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

- 1. Whether reporters of local newspapers may be allowed to see judgment?*
- 2. To be referred to reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Present:- Mr. Sumeet Puri, Advocate
for the petitioners.

Mr. Gurinderjit Singh, Deputy A.G., Punjab.

HARI PAL VERMA J.

The petitioners have filed the present revision petition against the judgment dated 4.3.2016 passed by learned Additional Sessions Judge, Sangrur, whereby their appeal against the judgment of conviction and order of sentence dated 12.8.2014 passed by learned Additional Chief Judicial Magistrate, Sangrur was dismissed with the modification in the quantum of sentence.

Vide judgment dated 12.8.2014, the learned Magistrate held the petitioners guilty for offence punishable under Section 411 IPC and

convicted them. They were acquitted for offence under Section 379 IPC.

Vide separate order of even date they were sentenced as under :-

<i>Under Section</i>	<i>Name of Convict</i>	<i>Sentence</i>
411 IPC	Rajinder Singh	To undergo rigorous imprisonment for one year and to pay fine of Rs.1000/-. In default thereof, he shall further undergo rigorous imprisonment for one month.
411 IPC	Balwinder Singh	To undergo rigorous imprisonment for one year and to pay fine of Rs.1000/-. In default thereof, he shall further undergo rigorous imprisonment for one month.

Briefly stated that on 12.2.2012, when Head Constable Balvir Singh along with P.H.G. Sarban Singh, P.H.G. Pinjor Singh were present at Bus Stand Badrukhan on patrol duty, complainant Mukesh Kumar reported that he was having motor-cycle bearing No.PB-36D/3857 and the registration certificate of the said motor-cycle was also in his name. On 1.2.2012, he alongwith his wife had gone to Gurudwara Mastuana Sahib to pay obeisance and at about 3.30 PM they parked their motor-cycle at the main gate of the said Gurudrawa Sahib. However, when he came back, he found his motor-cycle was missing. He looked for the motor-cycle on his own, but to no effect. His motor-cycle had been stolen by some unknown person. On the same day, two other motor-cycles bearing Nos.PB13-2338 and PB13Y-8465 were also found to be stolen.

The police registered FIR against unknown person under Section 379 IPC and after preparing the site plan, statement of witnesses

under Section 161 Cr.P.C. were recorded. On 3.3.2012, the police party consisting HC Balvir Singh, HC Prem Singh and SPO Sinder Singh received the information that the petitioners are going to Sangrur to sell the stolen motor-cycle make Platina of black colour and if a raid is conducted, they could be apprehended red-handed with the motor-cycle. Head Constable Balvir Singh called Manpreet Singh to reach near Badrukhan and the police party erected barricade at the disclosed place. In the meanwhile, two persons came on motor-cycle. They were stopped and they disclosed their names as Rajinder Singh @ Jinder Singh and pillion rider told his name as Balwinder Singh alias Mintu. In the meantime, Manpreet Singh reached there and identified his motor-cycle. On interrogation, both the accused stated that they have stolen the motor-cycle from Gurudwara Mastuana Sahib and were going to Sangrur to sell the same.

The investigation was completed and final report as provided under Section 173 Cr.P.C. was presented against the petitioners. As required under Section 207 Cr.P.C., both the petitioners were supplied copies of challan and other documents free of costs.

Charges were framed against the petitioners for offence under Sections 379 and 411 IPC. Thereafter the prosecution has examined the following witnesses :-

Witness	Documents Proved
PW1 HC Prem Singh	Memo Ex.PA, disclosure statement Ex.PB, memo Ex.PC, memo qua identification of motor-cycle Ex.PD, arrest memo Ex.PE and Ex.PF, personal search memo Ex.PG and Ex.PH

Witness	Documents Proved
PW2 Mukesh Kumar, complainant	Statement Ex.PA and signatures on the same as Ex.PA/1
PW3 Hardeep Singh	Delivery challan Ex.PW3/A, temporary number receipt Ex.PW3/B
PW4 HC Balbir Singh	Statement Ex.PA, police proceeding Ex.PA/2, FIR Ex.PA/3, site plan Ex.PJ, memo Ex.PA, disclosure statement Ex.PB, memo Ex.PC, memo qua identification of motor-cycle Ex.PD, arrest memo Ex.PE and Ex.PF, personal search memo Ex.PG and Ex.PH. Site plans Ex.PK and Ex.PL, memos Ex.PM to Ex.PO, personal search memo Ex.PP to Ex.PR.
PW5 Manpreet Singh	Memo Ex.PA, R.C. Ex.MOI

The trial Court formulated the following points for determination:-

- “(1) Whether the accused had dishonestly retained the stolen property i.e. the motor-cycles in question fully knowing the same to be stolen and has also committed the theft of the motor-cycle of Hardeep Singh and as such have committed the offence punishable under Section 379, 411 of the IPC?
- “(2) Conclusion.”

The trial Court found that the prosecution has been able to prove the case beyond reasonable doubt and the petitioners have committed the offence punishable under Section 411 IPC, though they were acquitted of the offence under Section 379 IPC. The petitioners were found in possession of stolen motor-cycle owned by Manpreet Singh, Mukesh Kumar and Hardeep Singh. The prosecution was able to establish

that the motor-cycles recovered from the possession of the petitioners were stolen motor-cycles and no plausible explanation had been given by the petitioners for having the possession of the motor-cycles. Moreover, on the basis of disclosure statement Ex.PB, the motor-cycle was recovered from the house of petitioner Rajinder Singh. Thus, the learned Magistrate held the petitioners guilty.

The petitioners preferred the appeal against the judgment of conviction and order of sentence dated 12.8.2014 and the learned lower Appellate Court dismissed the appeal vide judgment dated 4.3.2016, however, with the modification of the quantum of sentence of the petitioners. The sentence awarded to the petitioners was reduced to a period of six months instead of one year for offence under Section 411 IPC. It is in the aforesaid circumstances, the petitioners have filed the present revision petition against the judgment passed by learned Additional Sessions Judge dated 4.3.2016.

At this stage, learned counsel for the petitioners instead of arguing the case on merits, confined his arguments only on the quantum of sentence. He has submitted that the petitioners are first time offenders and as against the awarded sentence of six months, they are in custody for the last about 2 months and 18 days and there is no other case against them. They are the only bread earners in their families. They are facing the prosecution since the year 2012 when the FIR was registered and the agony of a protracted trial for the last more than four years. Therefore, he prayed that lenient view may be taken and the sentence awarded to the

petitioners may be reduced to the period already undergone by them.

Learned State counsel has filed the custody certificate, which co-relates with the custody period suggested by learned counsel for the petitioners.

I have heard learned counsel for the parties and perused the impugned judgments.

Although the scope of interference by this Court in revisional jurisdiction is very limited, however, taking into consideration the fact that the petitioners are young persons and there is a possibility of their reformation, coupled with the fact that they are in custody for the last about 3 months excluding remission, the sentence awarded to the petitioners is reduced to the period already undergone by them. However, the total amount of fine is increased to Rs.5000/- each, to be paid by the petitioners. The petitioners be released forthwith if not required in any other case subject to payment of fine.

With the aforesaid modification, the present revision petition is dismissed.

May 25, 2016
Vijay Asija

(HARI PAL VERMA)
JUDGE