

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1488 of 2016 (O&M)
Date of Decision: April 22, 2016

Vivek Sabharwal @ Laddi and another

...Petitioners

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Manmeet Singh Rana, Advocate
 for the petitioners.

INDERJIT SINGH, J.

The present revision has been filed by the petitioners Vivek Sabharwal @ Laddi and Chetan Sabharwal @ Lalli against State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 24.09.2015 passed by learned Judicial Magistrate Ist Class, Jalandhar, vide which the petitioners were convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹500/- and in default of payment of fine, to undergo imprisonment for a period of twenty days each under Section 382/34 IPC and also challenging the judgment dated 21.03.2016 passed by learned Addl. Sessions Judge, Jalandhar, vide which appeal filed by petitioners was dismissed but their sentence was reduced and they were directed to undergo rigorous imprisonment for a period of six months instead of one year under

Section 382/34 IPC but the sentence of fine and in default sentence were kept same.

I have heard learned counsel for the petitioners and have gone through the record.

From the record, I find that the petitioners were challaned by the police in case FIR No.91 dated 06.06.2013 under Sections 382/34 IPC. The brief facts of the case as noted down by learned JMIC, Jalandhar in her judgment are under:-

“Brief facts of the prosecution case are that on 06.06.2013, ASI Sukhdev Singh alongwith his colleagues was present at Purani Sabzi Mandi Chowk wherein complainant Lavan @ Laddi came present before him and got recorded his statement to the effect that he is around 18 years of age and he studies at Doaba College and is doing B.Com. On 30.05.2013 at around 1.15 P.M, he alongwith his friend Anjali @ Sonam was sitting at Shakti Nagar Park. He further recorded that two hindu gentlemen who were of dark complexion came present before them and started threatening them and asked both of us to hand over to them whatever they had. He also recorded that one of the said accused snatched the mobile phone of Nokia company from his hand and the other person snatched the gold ear rings from the ears of Sonam. They thereafter, fled away from the spot. He also recorded that he can identify the accused if they appear before him. He also recorded that he kept on searching for the accused on his own but could not find them. Thereafter, the IO registered the FIR under section 382/34 IPC. The IO alongwith complainant Lavan reached at the place of occurrence and thereafter site plan of the place of occurrence was prepared. Investigation from the people present over there was conducted and at the spot one informer informed that the people who had snatched the mobile phone and ear rings from the complainant resides in Shakti Nagar area and if a raid is conducted at house no. 158, Shakti Nagar, then the alleged snatched articles can be recovered from the possession of the accused. Finding the information as credible, the said ASI alongwith his other colleagues and alongwith complainant reached at house no. 158, Shakti Nagar and conducted raid and two youth were found in the house and complainant Lavan disclosed to the police official that they were the persons

who had committed the occurrence in question. The said accused joined the investigation and were interrogated and the accused disclosed their names as Vivek Sabharwal and Chetan Sabharwal respectively. The search of the accused was got conducted and from the right pocket of trouser of Vivek Sabharwal, Nokia Mobile phone belonging to the complainant was got recovered and from the possession of Chetan Sabharwal, the gold ear rings of Anjali @ Sonam were recovered. The said articles were taken into police possession vide separate recovery memo. The complainant Lavan identified the articles. Accused were arrested in the present case. Thereafter, after completion of formalities, challan in the instant case against the accused under the provisions of section 382/34 of Indian Penal Code was presented before the court.”

I have gone through the judgments passed by the Courts below. The findings given by both the Courts below are concurrent regarding the conviction of the present petitioners. As per the evidence on record, mobile phone of Nokia and ear-rings have been snatched from the complainant Lavan @ Laddi and his friend Anjali @ Sonam. Anjali @ Sonam appeared in the witness box and has identified both the accused as well as ear-rings recovered from the accused-petitioners. Similarly, as per evidence, mobile phone was also recovered from the accused-petitioners. The findings have been given by the Courts below with reasonings while appreciating the evidence in right perspective. Nothing has been pointed out as to which material evidence has not been considered and which material evidence has been misread by the Courts below. There is also nothing on the record to show that the reasonings given by the Courts below are perverse i.e. against the evidence and law. In the revision petition, this Court is not to re-appreciate the evidence like Court of an

appeal. The delay in registering the FIR has been explained in the FIR itself. Furthermore, mobile phone and ear-rings which have been snatched by the accused-petitioners, have been recovered from them. There is no enmity or motive to falsely implicate the accused in this case.

In view of the above discussion, I find that the findings given by the Courts below are correct, as per law and do not require any interference from this Court. The sentence of the petitioners has already been reduced by lower Appellate Court and they are sentenced to undergo rigorous imprisonment for a period of six months instead of one year. Therefore, I do not find any ground to reduce the sentence further.

Learned counsel for the petitioners requested for releasing the petitioners on probation.

Keeping in view the serious nature of the offence and in view of the fact that now-a-days, such type of occurrences are frequent and create fear in the mind of people, I do not find it a fit case where the accused-petitioners should be released on probation.

Therefore, finding no merit in the present revision petition, the same is dismissed.

April 22, 2016
Vgulati

(INDERJIT SINGH)
JUDGE