

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

CRR No.1632 of 2016 (O&M)
Date of Decision: August 04, 2016

Harjinder Singh @ Jinder

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Ms.Amrit Grewal, Advocate
for the petitioner.

Mr.Varun Sharma, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Harjinder Singh @ Jinder under Section 401 Cr.P.C. against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 17.12.2014 passed by learned Judicial Magistrate Ist Class, Nabha, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period of two years and to pay a fine of ₹1000/- and in default of payment of fine, to undergo simple imprisonment for a period of one month under Sections 458, 380 and 325 read with Section 34 IPC (in each Sections) along with other co-accused and also challenging the judgment dated 06.01.2016 passed by learned Addl. Sessions Judge, Patiala, vide which appeal filed by petitioner was dismissed.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence.

Notice of motion was issued only qua quantum of sentence.

Learned State counsel appeared and contested the petition.

From the record, I find that the challan was presented against petitioner in case FIR No.69 dated 05.09.2012. The brief facts of the case as noted down in the judgment passed by learned JMIC, Nabha, are as under:-

“2. The story of the prosecution is that on 5.9.2012 a telephonic message was received in Police Post Dandrala Dhindsa from Police Station Bhadson that Mohinder Singh son of Hazura Singh has been admitted in Civil Hospital, Bhadson with the history of having received injuries. On this information police party visited the Civil Hospital, Bhadson and statement of Mohinder Singh was recorded as per which he is an agriculturist. They are five brothers. He is unmarried. His two brothers are elder to him and two are younger to him. He resides with his brother Karnail Singh. Their land was situated in village Sonti. He along with his brother Karnail Singh sold their land situated in village Sonti about 1½ years back and purchased 7½ acres of land along with house in village Malewal in the name of complainant's brother Karnail Singh. They are cultivating this land themselves and have sown paddy crop therein. He himself takes care of the crop in this land. Their tractor is also got parked in the residence situated in this land. About 3/4 days back, his nephew Balwinder Singh took said tractor Farmtrac-60 to village Sonti and parked his Alto car in the aforesaid house of complainant. Then at about 11 p.m. four persons aged about 25 to 27 years came to the complainant on the terrace of his house and awaked the complainant, who was sleeping there and asked him to hand over the keys of the tractor whereupon complainant replied that tractor had already been taken to the village. Then those four persons gave beatings to the complainant and took the complainant down stairs and asked the complainant to hand over the keys of the shutter, upon which he handed over the keys of the shutter and accused persons took away with them the aforesaid Alto car black in colour. Complainant can identify those four persons, if they are produced before him. In

the morning the complainant narrated whole of the incident to one Harvinder Singh, who informed the nephew of the complainant telephonically. Then complainant's nephew Balwinder Singh and his brother Karnail Singh came at the spot and got the complainant admitted in Civil Hospital, Bhadson. On this complaint present case was registered. On 15.6.2013 complainant was informed by Investigating Officer that their stolen car has been recovered by P.S.Sadar, Raikot, District Ludhiana and the police of Police Station Sadar, Raikot has informed the complainant about said recovery. Thereupon Investigating Officer of the present case ASI Mohan Singh visited Police Station Raikot and obtained the copies of FIR bearing No.38 of 6.4.2013 under Sections 399, 402 IPC and 25/54/59 of Arms Act, recovery memo of Alto car black in colour along with other papers from the Investigating Officer of said case FIR and on 22.6.2013 he obtained the production warrant of accused Paramjit Singh from the Court and on 28.6.2013 accused Paramjit Singh alias Pamma was arrested in this present case and during his interrogation accused Harjinder Singh alias Jinder son of Malkit Singh, Lakhvir Singh alias Kala son of Makhan Singh and Amritpal Singh son of Tara Singh were nominated in the present case and on 30.6.2013 accused Harjinder Singh alias Jinder was arrested and steel/iron pipe used by accused Paramjit Singh alias Pamma in the occurrence, steel/iron Kapa used by accused Harjinder Singh in the occurrence were got recovered and the stolen Alto car bearing Engine No.4636194 Chasis No.186671 was taken into police possession on the identification of the complainant from P.S.Sadar, Raikot. Steel/iron bar/saria used by accused Lakhvir Singh alias Kala was recovered from him after his arrest on 28.8.2013. Accused Amritpal Singh could not be arrested and proceeding for declaring him proclaimed offender/person had been initiated. Medical treatment record of complainant Mohinder Singh was obtained from private hospital Krishna Hospital, Peer Khana Road, Khanna and Doctor has opined injuries Nos.4 and 8 on the person of the complainant as fracture and at the time of getting the declaration regarding the nature of injuries Dr.Sabdeep Kaur, CHC Bhadson had made reference for obtaining the opinion of Board of Doctors. On completion of investigation, the challan was prepared and presented in the court.”

Learned JMIC, Nabha after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Patiala vide judgment dated 06.01.2016.

Aggrieved from the above-said judgments, present revision petition has been filed.

Learned counsel for the petitioner argued that petitioner is first offender, poor person, only bread earner of the family and he is suffering from the criminal proceedings since 2012 and he has already undergone actual sentence of about 1 year 4 months and 14 days including remission.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is suffering from long protracted criminal proceedings since 2012 i.e. for the last about four years and is first offender, only bread earner of the family and he has already undergone actual of sentence of 1 year 4 months and 14 days including remission of 28 days out of the total sentence, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him. However, the sentence of fine and in default thereof under each Section, will remain the same.

Therefore, the present revision petition stands partly allowed.

Petitioner Harjinder Singh @ Jinder, who is in custody, be released forthwith if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

August 04, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No