

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

**CRR No.2484 of 2016 (O&M)
Date of Decision: August 02, 2016**

Baldev Singh @ Bhinda and another

...Petitioners

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sandeep Arora, Advocate
for the petitioners.

INDERJIT SINGH, J.

The present revision has been filed by the petitioners Baldev Singh @ Bhinda and Sukhdev Singh @ Kala under Section 401 Cr.P.C. against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 05.10.2015 passed by learned Sub Divisional Judicial Magistrate, Nakodar, vide which the petitioners were convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹5,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of two months each under Section 382 IPC and also challenging the judgment dated 28.04.2016 passed by learned Addl. Sessions Judge, Jalandhar, vide which appeal filed by petitioners was dismissed. Both the sentences were ordered to run concurrently.

From the record, I find that challan was presented against

Baldev Singh @ Bhinda and Sukhdev Singh @ Kala in case FIR No.32 dated 27.04.2010 under Sections 382 and 34 IPC. The brief facts of the case as noted down in the judgment passed by learned SDJM, Nakodar, are as under:-

“The case of the prosecution as it emerges out of the final report submitted by it to the Court under Section 173 Cr.P.C. is that on 27.04.2010, ASI Harjit Singh alongwith HC Charanjit Singh, HC Balwinder Singh, PHG Satnam Singh was present at Village Sidhupur in connection with patrolling duty, where complainant Kulwant singh son of Tarsem Singh, resident of Village Kang Kalan PS Lohian got his statement recorded with ASI Harjit Singh to the effect that he is agriculturist by profession. On 27.04.2010, he alongwith his father Tarsem Singh after withdrawing an amount of Rs.5Lac from PNB and after keeping the same in the Diggi of his scooter bearing No.PB-67-4645 was going to his village. He was driving the scooter and his father was sitting on the pillion seat of the scooter. At about 12.45 p.m. when they reached near the bridge of bein of Nawan Pind Khalewal, then three unknown urturbaned persons of the age of 24/25 years, one of whom was having round face and fair complexion and height 5'-6" and all three of them were wearing T-shirts and Pajamas, came on a motorcycle from behind and struck the same into side of his scooter and they stopped their motorcycle in front of them and one of them by tapping his dubb asked them to give whatever they have otherwise they will kill them. He stopped his scooter and took out the polythene containing money from the front diggi(box) of the scooter and the polythene got torn while taking out and he(complainant) ran with the said polythene bag and three bundles containing currency notes of Rs.500/-, each amounting to Rs.1,50,000/-, fell on the ground and the above said three unknown persons snatched the said bundles and went away on motorcycle towards Lohian side and he can identify them if they come before him. Upon this statement of complainant, a ruqa was sent to the police station through PHG Satnam Singh for registration of case, on the basis of which FIR in question was registered. The investigation of the case was initiated. On 22.09.2010, in case bearing FIR No.99 dated 21.09.2010 under Sections 399, 402 of IPC, PS Lohian, the accused Baldev Singh alias Bhinda, Sukhdev Singh alias Kala and Jaspal alias Rammu made disclosure statements with ASI Harjit Singh to the effect that on 27.04.2010, they in connivance with each other at about 12.45 p.m. near the bridge Nawan Pind Khalewal, PS Lohian snatched Rs.1,50,000/- from the possession of two persons going on a scooter. The currency notes were having denomination of Rs.500/- and Rs.50,000/- each came to their

share. On the basis of the disclosure statements, ASI Harjit Singh arrested all the three accused in this case on 22.09.2010. Thereafter as per his disclosure statement, accused Baldev Singh got recovered Rs.4000/-, accused Sukhdev Singh alias Kala got recovered Rs.3500/- and accused Jaspal alias Ramu got recovered Rs.2100/- and they disclosed that they have spent the remaining amount. The said amount recovered was taken in police possession vide separate recovery memos. Statements of witnesses were recorded. On completion of investigation and other formalities connected therewith, the challan against the accused was prepared and presented in the Court for trial.”

Learned SDJM, Nakodar, after appreciating the evidence, convicted and sentenced the petitioners as stated above. An appeal was filed by the petitioners and the same was dismissed by learned Addl. Sessions Judge, Jalandhar, vide judgment dated 28.04.2016.

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

At the time of arguments, learned counsel for the petitioners argued that petitioners are not named in the FIR. They have been falsely implicated in this case. In the alternative, learned counsel for the petitioners, prayed for reduction of sentence imposed upon the petitioners.

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

From the perusal of the record, I find that this is a revision petition. In the revision petition, this Court is not to re-appreciate the evidence like Court of an appeal. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Courts below. Nothing has been pointed out as to how the findings given by the Courts below are perverse i.e. against the evidence. The perusal of the judgments passed by the Courts below shows

that findings have been given as per evidence.

PW-1 Tarsem Singh and PW-2 Kulwant Singh, complainant, have consistently deposed as per prosecution version. The case is further supported and corroborated by the investigation of the case.

The perusal of the judgments shows that findings given by the Courts below are correct, as per evidence and law and no illegality has been committed. There is nothing on the record that findings given by learned Courts below are against the evidence. Both the Courts below have given finding of fact against the accused-petitioners by appreciating the evidence in right perspective. The petitioners have been rightly convicted by the Courts below.

As regarding reduction of sentence, I find that the sentence awarded by the trial Court, in no way, can be held as excessive. In view of the nature and gravity of the offence, the adequate sentence has been awarded. No interference is required in the sentence awarded by learned Courts below.

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

August 02, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No