

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

CRR No.3188 of 2016 (O&M)
Date of Decision: September 05, 2016

Gurinder Singh and another

...Petitioners

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sunny Deep Joneja, Advocate
for the petitioners.

INDERJIT SINGH, J.

The present revision has been filed by the petitioners Gurinder Singh and Harpreet Singh @ Gola against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 12.09.2014 passed by learned Judicial Magistrate Ist Class, Nabha, vide which the petitioners along with other co-accused were convicted and sentenced to undergo rigorous imprisonment for a period of three years and to pay fine of ₹1000/- and in default of payment, to undergo rigorous imprisonment for a period of two months each under Section 382 read with Section 34 IPC and also challenging the judgment dated 05.08.2016 passed by learned Addl. Sessions Judge, Patiala, vide which appeal filed by petitioners was dismissed.

From the record, I find that the challan was presented against

petitioners along with co-accused Vattanbir Singh in case FIR No.82 dated

10.09.2013 under Section 382 read with Section 34 IPC. The brief facts of the case as noted down in the judgment passed by learned JMIC, Nabha, are as under:-

“2. Allegations in brief against the accused as leveled by the prosecution are that on 10.9.2013 complainant Bittal Kumar made a complaint to the police against three unknown persons. As per the complainant, complainant Bittal Kumar is resident of Sandhu Colony Bhadson and is working in the shop of Mohinder Pal alias Babbi, a Goldsmith. On 10.9.2013 he was going from Bhadson to Patiala on his motor cycle Pulser bearing No.PB-11AT-5758 black colour, engine No.00298 chasis No.71099 mark Bajaj, Model 2010, 135 CC. He was going to Patiala for taking medicines. At about 1.15 p.m. when he reached near the motor of Kartar Combines, then three persons were already standing there along with their motor cycle (Hero Honda), who stopped the complainant and they asked the complainant to give his mobile phone which was refused by the complainant. One of those three persons took out the keys of the motor cycle of the complainant. Complainant asked him to return the same, but they asked the complainant to sit on the pillion seat and they will drive the motor cycle. Complainant refused to do so, upon which they threatened the complainant to treat him/teach him a lesson. Complainant got scared and after leaving his motor cycle on the spot, he ran away. The accused persons also went away from the spot along with both the motor cycles, one of the complainant and one of their own. They went towards Patiala after snatching the motor cycle of the complainant. The complainant narrated the occurrence to Babbi on telephone, who reached to the complainant to village Raimal Majri on a motor cycle. Then both of them started searching for the motor cycle of the complainant. Out of the three accused persons one was wearing reddish T-shirt and short (Nikkar) and a parna of light colour was also worn by him. The second accused was wearing blue jeans and green T-shirt and the third accused was wearing pants shirt. The age of these accused was between 20 to 25 years. Complainant can identify the accused persons, if they are brought before him. On this complaint present case was registered. Investigation was carried out. During investigation spot map was prepared, statements of witnesses were recorded. During investigation it was found that one of the accused persons namely Vattanbir Singh son of Saudagar Singh has been arrested in a case FIR No.162 dated 7.10.2013 under Sections 399, 402 IPC by IO Parmaal Singh P.S.Sirhind and he had recovered a motor cycle No. PB-11AT-5758 from him. Thereupon IO of the present case ASI Nazar Singh visited Police Station Sirhind and obtained the photocopy of the FIR of said case and recovery memo of motor cycle prepared in

said case and thereafter IO ASI Nazar Singh obtained the production warrants of accused Vattanbir Singh for 12.11.2013 and upon his production, accused Vattanbir Singh was arrested on 12.11.2013 with the permission of the Court and the case property i.e. motor cycle was taken into police possession in this case vide separate memo from MHC Amrik Singh of P.S.Sirhind, District Fatehgarh Sahib and the another motor cycle Hero Honda Passion bearing No.PB-23D-5747 used by the accused persons in the occurrence was taken into police possession vide separate memo on being produced by its owner Harpal Singh. Accused Vattanbir Singh was identified by the complainant. During his interrogation in police custody, accused Vattanbir Singh disclosed the names and addresses of his other two associates and thereupon two other accused persons namely Gurinder Singh and Harpreet Singh alias Gola were arrested on 10.12.2013. Complainant also identified both of them. Statements of witnesses were recorded. The RCs of both the vehicles were got verified from the concerned offices. On completion of investigation, the challan was prepared and presented in the court.”

Learned JMIC, Nabha, 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, Patiala, vide judgment dated 05.08.2016.

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

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

At the time of arguments, learned counsel for the petitioners has not argued anything to show that the findings given by the Courts below are perverse or against the evidence. Nothing has been pointed out as to how the findings given by the Courts below are illegal. 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.

Both the petitioners are nominated in this case on the disclosure

statement of the co-accused Vattanbir Singh, who has not filed the revision petition. In the present case, the prosecution examined as many as 12 witnesses. The complainant was examined as PW-1 and he supported and corroborated the prosecution version. He also identified his own motorcycle which was snatched by the accused persons from him. Then prosecution examined PW-2 Mohinderpal alias Babbi, whom complainant called at about 1.30 p.m and narrated him about the occurrence that three persons snatched his motor cycle. Thereafter this witness reached the spot where the complainant was standing in a nervous condition. They also tried to search the motor cycle of the complainant, but same could not be found and then the matter was reported to the police. PW-4 Harpal Singh deposed that Vattanbir Singh co-accused, who is his neighbour, took his motor cycle bearing No.PB-23D-5747 from his house on the ground that his son is ill and he has to go to Doctor. This motorcycle was used by the accused persons in the crime.

The prosecution also examined police officials, Clerk from the DTO office etc. These witnesses further supported and corroborated the prosecution version. The motorcycle has been recovered from co-accused Vattanbir Singh.

Learned JMIC, Nabha while appreciating the evidence in right perspective, convicted and sentenced the accused persons. The appeal filed by the petitioners has rightly been dismissed by learned Addl. Sessions Judge, Patiala. The findings given by both the Courts below are concurrent and based on reasonings.

In view of the above discussion, I find that the impugned

judgments passed by the Courts below are correct, as per law and do not

require any interference from this Court. Further, keeping in view the fact that Highway robbery was committed by the present petitioners, no ground is made out for reduction of the sentence also.

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

September 05, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No