

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

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CRR-3356-2016

Date of decision : 01.12.2016

Taljinder Singh

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr.P.S.Ahluwalia , Advocate
for the petitioner.

Mr. K.S.Pannu, DAG, Punjab.

AJAY TEWARI, J. (Oral)

This revision has been filed against the concurrent judgment of the courts below whereby the petitioner has been convicted and sentenced as under:

Sentence under Section	Imprisonment awarded	Fine	In default of payment of fine
Section 411 IPC	R.I. for two years.	Rs.1000/-	S.I. for one month.
Section 468 IPC	R.I. for two years.	Rs.1000/-	S.I. for one month.
Section 471 IPC	R.I. for two years.	Rs.1000/-	S.I. for one month.

Section 489 IPC	R.I. for one year.	Rs.500/-	S.I. for one month.
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Learned counsel for the petitioner has argued that on the last date of hearing he had made some submissions with regard to the invocation of Section 489 IPC which however did not find favour with me but notice of motion was issued qua the other averments. Now he has argued that in the charge sheet it was mentioned that the petitioner had stolen the motorcycle belonging to Harjinder Singh. However, the petitioner has been convicted of having been in possession of motorcycle belonging to Sandeep Kumar. Further, the Courts below had placed reliance on the deposition of one Suresh Kumar and Narendar Kumar to arrive on the conclusion of that motorcycle which was recovered from the petitioner actually belonged to Sandeep Kumar and thus it is apparent that the petitioner has been convicted for an altogether different offence for which neither he was charge-sheeted nor the same was put to him in statement under Section 313 Cr.P.C. More so, both the said witnesses were not even cross-examined by the defence.

Learned DAG has accepted these factual submissions.

Learned counsel for the petitioner has fairly stated that in these circumstances the petitioner cannot seek acquittal and the matter should have been referred back for retrial.

I find this to be an appropriate course of action consequently, the impugned judgments are set aside and the matter is remitted back to the Trial Court for fresh trial. Record be sent back, if received. The parties through counsel are directed to appear before Trial court on 23.01.2017. Needless to say that judgment and conviction having been set aside, the petitioner would be released forthwith and deemed to be on bail.

Petition stands disposed of in the above terms.

(AJAY TEWARI)
JUDGE

December 01 , 2016
anuradha

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No