

**IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH.**

CRR No.4725 of 2015 (O&M)
Date of decision: March 31, 2016

Ravi Kumar & another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Ms. Himani Kapila, Advocate for the petitioners.
Ms. Rajni Gupta, Addl. Advocate General, Punjab.

Rajan Gupta, J. (oral)

Petitioners Ravi Kumar and Rahul alias Nand alias Sukhdev Singh had been convicted by the Addl. Chief Judicial Magistrate, Gurdaspur, under section 380 IPC. They were sentenced to undergo rigorous imprisonment for two years.

The petitioners preferred appeal against the judgment of their conviction/sentence, which was dismissed by Additional Sessions Judge (A), Gurdaspur, vide judgment dated 25.08.2015.

Feeling aggrieved against the judgments of both the courts below, the petitioners have approached this court through the instant Criminal Revision.

Learned counsel for the petitioners at the outset states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. He states that

he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioners is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

During intervening night of 20/21.06.2012, complainant Bhajan Singh, who was Watchman in Senior Secondary School, Sidhwan, District Gurdaspur, after locking all gates of the school was sitting inside the school. At about 3.00 A.M., while checking he had seen two unidentified persons standing behind the room of Edusat Laboratory inside the school gate. When he called them, they threw some articles and ran away. Complainant raised alarm for seeking help to catch them. On hearing the same, one Amrik Singh son of Kartar Singh of village Sidhwan came at the spot, but said two persons escaped on their motor cycles. On checking, it was found that accused tried to steal two LCDs, one of Samsung Company and other of LG Company installed near gate of the school after making hole in back side wall of the Lab. The LCD Mark LG was found cracked. Complainant after leaving Amrik Singh near the LCDs, went to inform the police. His statement was recorded by the police. On his statement, FIR was registered by the police. On 23.6.2012, accused Ravi Kumar was arrested and his motorcycle was taken into possession. On 11.8.2012

accused Rahul was also arrested. Both of them were identified by Amrik Singh. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under Sections 457, 380, 427, 411 IPC, charge was framed against the accused/petitioners, to which they pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as six witnesses.

The statements of the accused under Section 313 Cr.P.C. were recorded, wherein all the incriminating evidence available on record was put to them. They refuted the incriminating circumstances and pleaded false implication. They did not examine any witness in their defence.

On the basis of the evidence on record, the learned trial court held the petitioners guilty of the charge framed against them and sentenced them as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge (A), Gurdaspur on 25.08.2015.

On a perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioners guilty of the charge framed against them. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioners is, thus, affirmed.

Even counsel for the petitioners, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the petitioners are a poor persons and main bread winner of their family. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel has placed on record affidavit dated 8.3.2016 of Davinder Kumar Sidhu, Superintendent, Central Jail, Gurdaspur, according to which the petitioner Rahul alias Nand alias Sukhdev Singh has undergone custody of more than eight months till date.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioners shall be reduced to one year. However, fine imposed shall remain intact.

Except with the modification in the quantum of sentence and fine, as indicated hereinabove, the appeal stands dismissed.

(RAJAN GUPTA)
JUDGE

March 31, 2016
'Rajpal'