

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

Crl. Revision No.4776 of 2015 (O&M)
Date of decision: January 15, 2016

Darshan Singh @ Baba Ghutku ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Arnav Sood, Advocate for the petitioner.
Mr. Ankur Jain, AAG, Punjab.

Rajan Gupta, J.

Petitioner Darshan Singh alias Baba Ghutku had been convicted by the Judicial Magistrate 1st Class, Sunam, under section 379 IPC and was sentenced to undergo RI for one year and to pay a fine of Rs.500/-. petitioner preferred appeal against the judgment of his conviction/sentence, which was dismissed by the Sessions Judge, Sangrur, vide judgment 5.8.2015.

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

Learned counsel for the petitioner 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 petitioner is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case. He has filed custody certificate, according to which petitioner has undergone sentence of 08 months and 15 days including remission.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On on 7.4.2013, complainant Makhan Singh met Head Constable Jagdev Singh, who was present alongwith his police party at the drain bridge of canal minor and got his statement recorded to the effect that on the previous night, they parked their combine-harvestor at the middle stop of village Rogla and for guarding the same, Kewal Singh Foreman slept there. In the morning, Kewal Singh came to the house for refreshment. Complainant left for the place where said machine was parked. At about 5.30 A.M., when he reached there, he saw that a person was carrying bag in his hand and fled away towards their fields. He was identified as Darshan Singh alias Baba Ghutku son of Raghu Singh of village Rogla. He was chased but could not be apprehended. Complainant found that tool-box of the combine was lying open and one big jack and four bearings, valuing Rs.4000/- were missing. On this statement, FIR was registered. After completion of investigation, challan against the accused was presented in the trial

court.

Finding prima facie case under Sections 379 and 411 IPC, charge was framed against the accused/petitioner, to which he pleaded not guilty and claimed trial.

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

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

On the basis of the evidence on record, the learned trial court held the petitioner guilty of the charge under section 379 IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the Sessions Judge, Sangrur, vide order dated 5.8.2015.

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 petitioner guilty of the charge framed against him. 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 petitioner is, thus, affirmed.

Even counsel for the petitioner, 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 petitioner is a poor persons and main bread winner of his family and not previous convict. 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.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to the period already undergone by him. However, fine imposed shall remain intact.

Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

(RAJAN GUPTA)
JUDGE

January 15, 2016
'Rajpal'