

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

Crl. Appeal S-620-SB of 2004
Date of Decision : February 23, 2017

Rajinder Kumar

.....Appellant

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Ms. Kiran Bala Jain, Advocate
for the appellant.

Dr. Deipa Singh, Addl. A.G., Punjab.

T.P.S. MANN, J. (Oral)

The appellant, alongwith Jaswant Singh, Bhupinder Singh @ Bhoopa, Mesha, Balkar and Rajan Sharma @ Sodhi, was tried for the offences under Sections 399/402/411 IPC. Vide judgment and order dated 21.2.2004, learned Additional Sessions Judge, Fast Track Court, Kapurthala acquitted the co-accused of the appellant of all the charges against them. The appellant was also acquitted of the charges under Sections 399/402 IPC. However, he was convicted under Section 411 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs. 500/- and in default of payment of fine, to suffer further undergo rigorous imprisonment for two months. The period of his detention during enquiry, investigation and trial was ordered to be

set off against the sentence awarded to him.

Aggrieved of his conviction and sentence, the appellant filed the present appeal, which stood admitted.

According to the prosecution, SI Inderjit Singh, who was present at Naka duty near Bus Stop, Miani received secret information that the four co-accused of the appellant after stealing the vehicles and while armed with weapons were making preparation to commit dacoity on some Dera in the area of village Dhaliwal Bet and if a Naka was set up, the commission of the crime could be prevented. Considering the information to be reliable, SI Inderjit Singh sent ruqa to the Police Station on the basis of which FIR No. 45 dated 21.5.2001, under Sections 379/411 IPC and Section 25 of the Arms Act was registered at Police Station Dhilwan, District Kapurthala. He then set up a Naka at Dhusi Bandh near village Dhaliwal Bet. ASI Attar Singh alongwith other police officials also joined him. During the Naka, the police party spotted one Maruti Car bearing No. CH-01-S-7864 followed by two scooters coming from the side of G.T. road. They were signalled to stop. The car was being driven by Bhupinder Singh-accused while Sonu and Rajan Sharma-accused were sitting in the same. One of the scooter was driven by Mesha while the other by Jaswant Singh. The accused could not produce any document of ownership of the car and the scooters and, accordingly, these vehicles were taken into police

possession under Section 102 Cr.P.C. The personal search of Jaswant Singh led to recovery of one country made pistol and two live cartridges. During interrogation, the accused suffered disclosure statements that they had taken a car bearing No. PB-08T-0775 towards Sultanpur Lodhi and on the way they had snatched the car and Rs. 1,100/- in cash from the driver of the said car at pistol point and subsequently sold it during the night to the appellant at Ambala City for a sum of Rs. 20,000/-. The said car was recovered from the possession of the appellant under Section 102 Cr.P.C. which was later on identified by its owner Raj Kumar Chadha and driver Kishor Chand. Amardip Kalra identified one scooter while Baldev Singh identified the other scooter whereas Jatinder Kumar identified the Maruti Car bearing registration No. CH-01-S-7864.

The trial Court had convicted only the appellant under Section 411 IPC and sentenced him, accordingly.

Hearing learned counsel for the parties and on going through the impugned judgment, this Court finds that PW1 Raj Kumar Chadha testified that he was the owner of car bearing registration No. PB-08T-0775. PW2 Kishor Chand had deposed that the said car was snatched on pistol point from him on 31.3.2001. There is testimony of PW5 SI Inderjit Singh, who deposed that the accused had disclosed about having sold the car in question to the appellant. PW8 HC Joginder Singh had

proved the recovery of this car from the appellant on 22.5.2001 vide memo. Ex. PW5/J. From the above evidence, it stood established that the car which was recovered from the possession of the appellant was earlier stolen. For that reason, no case is made out for any interference in the conviction of the appellant under Section 411 IPC.

Coming to the question of sentence, it may be noticed that the appellant is facing the agony of criminal prosecution for the last about sixteen years. When he was heard by the learned trial Court on the question of sentence, he had prayed for taking lenient view as he was a young person. Learned counsel for the appellant has submitted that apart from the present case, the appellant is neither involved nor convicted in any other case. Out of the sentence of two years imposed upon him, he has already undergone a period of about three months. Prayer has, accordingly, been made for taking a lenient view in the matter of his sentence of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that the appellant was found in possession of a car which had been stolen and he was not able to account for the same. He has, however, submitted that the sentence of imprisonment awarded to him is commensurate with the crime committed by him.

As per the custody certificate already brought on

record by the learned State counsel, the appellant has undergone an actual sentence of two months and fifteen days. He is not shown to be either involved or convicted in any other case.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the appellant behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice shall be suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him.

Resultantly, the conviction of the appellant under Section 411 IPC is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The fine of Rs. 500/- imposed upon him by the learned trial Court is, however, enhanced to Rs. 2,000/-. He shall deposit the amount of fine in the Court of learned Chief Judicial Magistrate, Kapurthala within three months from today, failing which he shall be required to undergo rigorous imprisonment for three months.

The appeal is, accordingly, disposed of.

February 23, 2017
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(T.P.S. MANN)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No