

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

CRA-D-531-DB of 2015(O&M)

Date of Decision : 29.03.2017

Anil Kumar

..... Appellant

Versus

State of Punjab and others

..... Respondent

**CORAM: HON'BLE MR. JUSTICE S.S.SARON
HON'BLE MR. JUSTICE DARSHAN SINGH**

Present : Mr.Rajiv Kataria, Advocate
for the appellant-complainant.

Ms. Amarjit Khurana, Addl. AG. Punjab.
for respondent no.1.

Mr.Davinder Lubana, Advocate
for accused-respondents no.2 to 8.

DARSHAN SINGH, J.

CM No. 29355 of 2016

This application has been filed under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C'- for short) for placing on record the copy of information given by the police authorities, SAS Nagar, Mohali under RTI Act as Annexure A-1.

Heard.

For the reasons mentioned in the application, the application stands allowed and the copy of information given by the police authorities, SAS Nagar, Mohali under RTI Act as Annexure A-1 is taken on record subject to just objections of the opposite party.

CRA-D-531-DB of 2015

The present appeal has been preferred by

appellant/complainant Anil Kumar against the judgment of acquittal dated 25.03.2015 passed by learned Additional Sessions Judge, S.A.S.Nagar, Mohali, vide which respondents no. 2 to 8 have been acquitted of the charges for the offences punishable under Sections 120-B, 364, 364-A, 386, 382, 394, 395, 459, 467, 471 and 506 of the Indian Penal Code, 1860 ('IPC'-for short).

2. During the pendency of the appeal, appellant moved application bearing CRM No. 5476 of 2016 under Section 311 read with Section 391 Cr.P.C for allowing the applicant-appellant to place on record the copy of the complaint dated 10.07.2006 in the additional evidence.

3. Appellant moved another application bearing CRM No. 10717 of 2017 under Section 378 (3) Cr.P.C for seeking leave to file the appeal against the judgment of acquittal dated 25.03.2015 passed by the learned Additional Sessions Judge, S.A.S. Nagar, Mohali.

4. The facts of the case in narrow compass can be summoned up as under:-

“That appellant-complainant Anil Kumar moved an application Ex.PA on 24.09.2007 to the Senior Superintendent of Police, Mohali alleging therein that he was running a business of property dealing under the name & style of White Sea Sites Pvt. Ltd. having its office at S.C.O No. 16, 17, 2nd floor, Sector-34 Chandigarh. That he and Dharminder Suri, the general manager of his company had gone to meet Gulab Singh at Anndata Steel Shop, located at Zirakpur Highway at about 5.00 p.m on 09.07.2006. After reaching there, they were talking to Gulab Singh. Then all of a sudden 12-14 persons abducted him and Dharminder Suri at gun point and took them in their car to village Behlana. Out of those 12-14 persons, he identified Darshan Singh (accused no.1), Paramjit Kaur Dhillon, Ajit Singh(accused no.5),

Navdeep Singh (accused no.2), Deepak (accused no.3), Vicky, Sukhbir (accused no.7) and Bhola @ Raja. They were also accompanied with 2-3 more persons to whom he can identify if they were produced before him. They gave beatings to the complainant after confining them at a house in village Behlana. They also broke open the glass of his car and took out his suitcase containing important documents such as original sale deed of house no.31, Badal Colony, Zirakpur, original sale deed of Shivalik Apartments, Kharar and ₹ 42,000/- in cash. Thereafter, they took the complainant and Dharminder Suri to Kothi no. 15, Sector 3, Chandigarh where they were kept in a car outside the said house. 3-4 persons out of them went inside that house. They came back along with certain documents pertaining to house no. 4153, Sector-68 Mohali and House no. 31, Badal colony, Zirakpur along with two blank letter heads of his company White Sea Sites Pvt. Ltd. and also the letter head of Blue Sea Sites Pvt. Ltd. (of which he was director till two months back). Accused-Ajit Singh threatened him at gun point and asked him to sign those papers on which it was written that he has received ₹ 1,30,00,000/- in cash on account of sale of house no.4153, Sector-68, Mohali. They also made him to sign another agreement pertaining to his house at Zirakpur. It was also mentioned in those documents that he has handed over the possession of the above said properties to them. Thereafter, they took him to his residence at house no. 4153, Sector-68, Mohali forcibly and under threat to kill him. They forced his wife to sign those documents. Thereafter, they took the appellant-complainant Anil Kumar and Dharminder Suri from his house and on reaching near Tribune Chowk at about 2.30 a.m. they stopped the Safari Vehicle and two cars. They handed over the keys of Safari to him and before releasing him, they threatened him that if he reported the matter to anybody else or to the police, they will kill him and his family members. After that he came to his house and got frightened

to report the matter to the police. But, in the morning on consultation with the friends and family members, he realized that if the matter is not reported to the police, the accused persons will grab his properties and they may try to forcibly take the possession of his house and his companies as well, as they had got the blank papers signed from him and he must be provided police protection immediately. Thus, he reported the matter to the police which was initially enquired into by DSP, Dera Bassi who gave his report that the matter may be sent to SSP, UT, Chandigarh as the occurrence has taken place in village Behlana, U.T.Chandigarh, but after enquiry UT, Chandigarh Police requested Senior Superintendent of Police, Mohali for taking action as per law since the occurrence had taken place at Zirakpur. Thereafter, the FIR Ex.PW5/A was registered and investigation was entrusted to PW-3 ASI Mam Raj. He recorded the statements of the witnesses. He visited the place of occurrence and prepared the site plans Ex.PW3/A, Ex.PW3/B, Ex.PW3/C and Ex.PW3/D. Thereafter, the investigation was carried out by ASI Jagroop Singh and then by ASI Balwan Singh and on completion of the formalities, the report under Section 173 Cr.P.C was presented against the respondents no.2 to 6. Thereafter, the supplementary report under Section 173 Cr.P.C was filed against respondents no. 7 to 11.”

5. Accused-respondents were charge sheeted for the offences punishable under Sections 120-B, 364, 364-A, 382, 386, 394, 395, 469, 467, 471 and 506 IPC by learned trial Court vide order dated 03.03.2015 to which all the accused pleaded not guilty and claimed trial.

6. In order to substantiate its case, the prosecution examined as many as eight witnesses.

7. When examined under Section 313 Cr.P.C, accused pleaded false implication. They also examined as many as five witnesses in their

defence.

8. On appreciation of evidence on record and the contentions raised by learned counsel for the parties, accused-respondents no. 2 to 8 were acquitted by the learned trial Court vide impugned judgment of acquittal dated 25.03.2015. The proceedings qua respondents no. 9 to 11 were stayed by this Court in CRM No. 18580 of 2013, CRM No.12108 of 2014 and CRM No. 9295 of 2014.

9. During the pendency of the appeal, appellant has moved application bearing CRM No. 10717 of 2017 for seeking leave to appeal against the impugned judgment of acquittal. He has also moved application bearing CRM No. 5476 of 2016 for additional evidence under Section 311 read with Section 391 Cr.P.C.

10. We have heard learned counsel for the parties and have meticulously examined the record of the case.

11. Mr. Rajiv Kataria, Advocate, learned counsel for the appellant-complainant initiating the arguments contended that respondents have committed the heinous crime. They had abducted appellant-complainant Anil Kumar along with Dharminder Suri at about 5.00 p.m on 09.07.2006. Thereafter, they were detained in a house at village Behlana. Accused took out the suit case of the complainant by breaking open the glass of his car and took away the original sale deed of house no. 31, Badal Colony, Zirakpur, original sale deed of Shivalik Apartments, Kharar and ₹ 42,000/- in cash. Thereafter, they took the appellant and Dharminder Suri to house no. 15, Sector-3, Chandigarh, where they were wrongfully confined in the car. The signatures of the appellant were obtained on certain blank stamp papers pertaining to house no. 4153, Sector-68,

Mohali and house no.31, Badal Colony, Zirakpur at the point of the gun. Thereafter, appellant along with Dharminder Suri was taken to house no. 4153, Sector-68, Mohali, the residence of the complainant and his wife Sonu was also forced to sign those documents. He contended that the version of the prosecution is fully supported from the statements of PW-1-Anil Kumar (complainant), PW-2-Sonu, the wife of the appellant, PW-4-Dharminder Suri, the victim and PW-6 Smt. Shiksha Devi, the mother of the complainant. He contended that there was no justification to disbelieve their consistent statements by the learned trial Court.

12. He further contended that there was no delay in reporting the matter to the police on the part of the appellant. He has moved the first application to the police on 10.07.2006. The copy thereof is attached with CRM No. 5476 of 2016. Thus, the complainant has reported the matter to the police only on the next date. Even, the statement of the complainant was recorded by DSP, Dera Bassi on 19.07.2006 i.e. just within ten days of the occurrence. Thus, he contended that the observations of the learned trial Court that there was delay of ten months is not attributable to the appellant. This delay has occurred due to the fact that earlier the Mohali Police has referred the matter to the Chandigarh Police alleging that the occurrence has taken place at Chandigarh. The Chandigarh Police returned the papers to Senior Superintendent of Police, Mohali for taking the action as per law as the occurrence had originated from Zirakpur for which the complainant-appellant cannot be held at fault.

13. He further contended that the learned trial Court has discarded the evidence of the prosecution on the basis of surmises and conjectures. There was no reason for the appellant-complainant to falsely

implicated the respondents. The case of the prosecution is based on the direct evidence. PW-1-complainant Anil Kumar and PW-4-Dharminder Suri are themselves the victims. Their testimonies carry great evidentiary value. Their statements are fully corroborated by PW-2-Sonu and PW-6-Smt. Shiksha Devi. Even, the documents Ex.PB and Ex.PC procured by the accused from the appellants were recovered from their possession. Thus, he contended that the judgment of acquittal suffers from material illegalities and charges against the respondents are established from the evidence evidence brought on record.

14. On the other hand, learned counsel for the respondents no. 2 to 8 contended that the accused-respondents were falsely implicated. No such occurrence has ever taken place. In-fact, there was property dispute between the parties. Even, during enquiry by DSP, Dera Bassi, he has given the findings that no such occurrence has taken place and it was only a property dispute. He further contended that if the accused have procured the documents under threat, the appellant-complainant must have filed the civil suit for cancellation thereof. But, no civil suit was filed by the appellant-complainant to challenge those documents. He further contended that even from the report of the hand-writing expert, it has been established that the signatures of the appellant on the documents Ex.PB and Ex.PC are in natural flow. If, the appellant would have been under threat or coercion at the time of signing the documents, there must have been some variations in the hand writing. He further contended that respondents no. 9 and 10 have filed the complaint before the Consumer Forum and the said Consumer Forum has decided the case in their favour.

These documents were held valid vide judgment dated 04.11.2010 (copy

Ex.D-17) and appellant-complainant was directed to refund the money deposited by respondents no. 9 and 10 with 6% interest. He further contended that as per the prosecution allegations, the complainant was given beating but no medical evidence has been brought on record. There is long delay in registration of the case. The complainant was involved in number of cheating cases. Gulab Singh in front of whose shop the occurrence is alleged to have taken place has not been examined. It is alleged that the occurrence has taken place at about 5.00/6.00 p.m. i.e. in the broad day light, but none of the witness of the locality has been produced. All the witnesses examined by the complainant are his close relatives and employee. Thus, he contended that there is no perversity in the judgment of acquittal passed by the learned Additional Sessions Judge, S.A.S.Nagar, Mohali.

15. We have duly considered the aforesaid contentions.

16. Before proceeding further let us first take up the application bearing CRM No. 5476 of 2016 filed by the appellant under Section 311 read with Section 391 Cr.P.C for allowing the appellant to place on file the copy of the complaint dated 10.07.2006 in the additional evidence. Learned counsel for the appellant has contended that on the next date of occurrence i.e. 10.07.2006, the appellant-complainant has moved the application to the Director General of Police, Punjab and Senior Superintendent of Police, Mohali, which was duly marked to the Senior Superintendent of Police, Mohali for enquiry and report. The copy of the application has been procured by the appellant under the provisions of the Right to Information Act. Copy of the said complaint is essential for the just decision of the case and to show that there was no delay on the part of

the appellant-complainant in lodging the report with the police.

17. Annexure A-1 attached with CRM No. 29355 of 2016 is a photostat copy of the application addressed by the appellant-complainant to DGP, Punjab and SSP, Mohali. This application does not bear any date in stamped endorsement under the signatures of the Addl. DGP/Law and Order, Punjab, Chandigarh. The photostat copy bears the stamp of Police Station, Zirakpur. Even, in that stamp no date of receipt of that application is mentioned. It is an admitted fact that in the application Ex.PA on the basis of which this case has been registered, it is nowhere mentioned that complainant had earlier moved an application on 10.07.2006 to DGP, Punjab and SSP, Mohali. The entire subject of the application Annexure A-1 is typed and only "DGP, Punjab" is hand written. The application Annexure A-1 is addressed to the DGP, Punjab. It is also not known as to how the same was marked for enquiry and report by the Addl. DGP/Law and Order, Punjab. This endorsement of the "Addl. DGP" is stamped one and even the space after "SSP" is lying blank and it does not convey to which SSP the said application was marked. Thus, in these circumstances, when the appellant-complainant has not been able to show on which date this application was moved by him to the police authorities, on which date the same was entrusted for enquiry and report, to which police officer the same was endorsed and reference of this application is also not given in the FIR. So, the said application does not appears to be essential for the just decision of the case and the application is hereby declined.

18. The present appeal has been preferred by the appellant-complainant against the judgment of acquittal. The law is well settled that in case of acquittal, there is double presumption in favour of the accused.

Firstly, the presumption of innocence is available to him under the fundamental principle of the criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent Court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial Court. It is further the settled principle of law that the Appellate Court can only interfere with the conclusion of acquittal arrived at by the trial Court if the said conclusion is palpably wrong or based on erroneous view of law or if such conclusion is allowed to stand it is likely to result in grave injustice. Merely, because the appellate Court on re-appreciation and re-evaluation of the evidence is inclined to take a different view interference with the judgment of acquittal is not justified. If the view taken by the trial Court is a possible view, the evenly balanced view of the evidence must not result in interference by the appellate Court in the judgment of the trial Court. If two reasonable conclusions are possible on the basis of evidence on record, the appellate Court should not disturb the findings of acquittal recorded by the learned trial Court. The powers under Section 378 Cr.P.C can only be exercised by the Appellate Court in order to prevent the failure or miscarriage of justice. To support the aforesaid view reference can be made to cases **A.P. Raju V. State of Orissa 1995 S.C.C (Criminal) 675, Murugan and Anr. Vs. State Rep. By Public Prosecutor Madras, Tamil Nadu & Anr. 2008 (4) RCR (Criminal) 906, Prem Singh Vs. State of Haryana (2011) 3 Supreme Court Cases (Criminal) 794, Anil Kumar Gupta Vs. State of Uttar Pradesh, (2011) 3 Supreme Court Cases (Criminal) 94, Sunil Kumar Sambhudayal Gupta (Dr.) and others Vs. State of Maharashtra,**

(2011) 2 Supreme Court cases (Criminal) 375, C.K. Dasegowda @ Ors. V. State of Karnataka 2014(3) R.C.R (Criminal) 696, Muralidhar @ Gidda & Anr. V. State of Karnataka 2014(2) R.C.R (Criminal) 507 and Basappa V. State of Karnataka 2014(2) R.C.R (Criminal) 144.

19. In case **Mrinal Das and others Vs. State of Tripura, (2011)3 SCC (Criminal) 810**, the Hon'ble Supreme Court has laid down that in an appeal against acquittal in the absence of perversity in the judgment and order the appellant court should not interfere. The order of acquittal is to be interfered with only when there are compelling and substantial reasons for doing so i.e. when the order is clearly unreasonable, the trial Court has ignored the evidence or misread the material evidence or has ignored the material documents.

20. Keeping in view of the aforesaid settled legal position, we have to examine the case in hand.

21. As per the case of the appellant-complainant the occurrence has taken place on 09.07.2006 at about 5.00/6.00 p.m. But, the present case has been registered on 26.09.2007 on the basis of the application Ex.PA moved by the complainant to the Senior Superintendent of Police, Mohali on 24.09.2007. So, there is long delay in the registration of the case. No doubt, from the documents brought on record in the defence evidence it comes out that the enquiry was conducted by the police in view of the complaint earlier moved by the complainant. Ex.D-1 is the copy of the report of the DSP, Sub-Division, Dera Bassi. The same is dated 05.08.2006. As per the said report, the occurrence was stated to have taken place in village Behlana, U.T. Chandigarh. So, the matter was sent to the SSP, Chandigarh for enquiry. SHO, Police Station Sector-31,

Chandigarh carried out the enquiry and it was held that the occurrence has taken place in Police Station Zirakpur and nothing has happened in the area of Police Station Sector-31, Chandigarh. So, the matter was sent to the SSP, Mohali for onward action which is evident from the enquiry report Ex.D-2. The same is dated 22.03.2007. But, even thereafter six months have passed in registration of the case.

22. As per the prosecution story, the appellant-complainant along with Dharminder Suri (PW-4) had gone to meet Gulab Singh at Anndata Steel Shop at Zirakpur. It is further mentioned that when they were talking to Gulab Singh, then the accused persons came and abducted the complainant and Dharminder Suri at the point of gun. So, Gulab Singh was the best witness to depose about the genesis of the occurrence. Though he was joined in investigation, but he has not been examined. The non-examination of Gulab Singh raises the strong adverse inference against the prosecution.

23. The occurrence is alleged to have taken place at day time in a busy locality at Zirakpur Highway. But, no witness of that locality has been produced to support the prosecution case.

24. It has been alleged that the complainant and Dharminder Suri were made to sit at gun point in the Safari vehicle of the complainant. It is nowhere explained as to who had driven the said vehicle from Zirakpur to village Behlana, U.T. Chandigarh. It is further alleged that from Behlana, the complainant and Dharminder Suri were taken to house no.15, Sector-3 Chandigarh and they were confined in the car outside that house. Meaning thereby, the complainant and Dharminder Suri were first taken by the accused from Zirakpur to Behlana and then from Behlana to Sector 3,

Chandigarh by traveling on the public roads. It is a fact of common knowledge that the police PCR's are located on public roads. But, at no point of time the complainant and Dharminder Suri raised any alarm. Appellant-complainant has alleged that at Behlana they were confined in a house, thereafter the accused broke open the glass of his car and took out his suit case which contained important documents. If the accused had abducted the appellant-complainant in his own vehicle as mentioned in the FIR Ex.PA, it means that the accused were occupying the said vehicle and there was no need for them to broke open the glass of the car to take out the suit case containing important documents. This version contradicts the basic prosecution story.

25. As per the prosecution allegations at Behlana the accused have taken over the original copy of the sale deed of house no.31, Badal Colony, Zirakpur and original sale deed of Shivalik Apartments, Kharar and ₹ 42,000/- in cash. It is further alleged that at house no.15, Sector-3, Chandigarh, the accused got signed the documents from the complainant pertaining to house no.4153, Sector-68, Mohali and House no.31, Badal Colony, Zirakpur and on some letter heads of his company. But, none of these documents were recovered from the possession of the accused during the investigation of the case.

26. The draft allotment letters Ex.PB and Ex.PC have also not been recovered from the possession of the accused. The draft allotment letter Ex.PB has been produced by one Maninder Singh, the relative of accused Navdeep Singh and the draft allotment letter Ex.PC was produced by Jaswant Singh, the brother of accused-Kuldeep Singh. There is no disclosure statement of any of accused on record leading to the recovery of

these documents. Said Maninder Singh and Jaswant Singh have not been cited as witnesses by the prosecution. In the absence of their testimonies even the manner of recovery of these documents is not established beyond shadow of reasonable doubt.

27. It was alleged that the complainant and Dharminder Suri was abducted on the point of gun. But, no weapon of offence has been recovered by the police. The prosecution has only produced the documents Ex.PW7/G and Ex.PW7/H to show that accused Ajit Singh @ Jit Singh and Darshan Singh were having the arms licenses. But, these documents will not advance the case of the prosecution in order to corroborate the prosecution allegations with respect to the abduction of the appellant-complainant and his employee Dharminder Suri at the point of the gun.

28. The prosecution has also not been able to show that the allotments letters Ex.PB and Ex.PC are the fabricated documents. The accused in their defence evidence have examined DW-5 Devendra Parsad, the Forensic Document Expert. He has proved his report Ex.DW5/1. He has examined the signatures of the appellant-complainant on all the pages of the allotment letters Ex.PB and Ex.PC and gave the definite opinion that there was consistency in printing of the body text of three pages of Ex.PB and Ex.PC. The said documents were normally executed and were devoid of any evidence to show that the signatures of the appellant-complainant on these documents were pre-existing on blank papers and text of the documents were added later on. He has further mentioned that the text of the document was first printed and then the same was signed by the concerned person. This report of the hand writing expert negates the prosecution version that the letter heads of the company of the

complainant were mis-utilized to fabricate the allotment letters.

29. The learned trial Court has rightly appreciated the evidence of the document expert. It is a fact of common knowledge that if a person is asked to sign the document under fear or threat at the point of pistol due to nervousness and tension, the signatures of the person concerned will not be in the natural flow and there must be some variations and deviations. But, in the instant case, even from the bare perusal of the signatures of the appellant-complainant on the documents Ex.PB and Ex.PC and the report of the hand-writing expert, it comes out that the signatures of the appellant-complainant on these documents were in natural flow.

30. Ex.D-17 is the copy of the judgment dated 04.11.2010 passed by the State Consumer Disputes Redressal Commission, Union Territory, Chandigarh, vide which the appeals filed by accused-Jasbir Singh and Kuldeep Singh against the order dated 08.12.2008 passed by the District Consumer Forum-I, Chandigarh were allowed. They had filed the complaints against the Shivalik Vihar Sites Pvt. Ltd, White Sea Sites Pvt. Ltd. and the appellant-complainant Anil Kumar being the Director of these companies on the basis of the allotment letters Ex.PB and Ex.PC. The State commission relying upon the aforesaid allotment letters returned the findings that accused Jasbir Singh and Kuldeep Singh have paid ₹ 11 lacs each towards the costs of the flats and the plea raised by the appellant-complainant that the said documents were got signed under force was negated. So, the allotment letters Ex.PB and Ex.PC were found to be valid by the State Commission.

31. As per the prosecution version, the complainant was given beating when he was confined in a house at Behlana. But, there is no

medical evidence to establish any injury on the person of the complainant.

32. As already mentioned, the story put-forward by the appellant-complainant is not natural. It is not plausible that two persons could have been kidnapped from the shop of their acquaintance in broad day light in such a manner and they would not have raised any hue and cry to attract the persons of locality. It is also not believable that they would have been carried to the residential localities in a city like Chandigarh without the activities of the accused being noticed by anybody. If, the appellant-complainant would have been made captive of the accused in this manner they must have raised alarm to attract the law enforcing agencies which are generally available on duty on the public roads. The entire prosecution case is based on the testimonies of close relatives of the complainant i.e. his wife-Sonu (PW-2), his mother- Smt. Shiksha Devi (PW-6) and his employee-Dharminder Suri (PW-4). There is no independent corroboration of any sort to their oral testimonies.

33. It is also an admitted fact that the complainant has not filed any civil suit to challenge the documents allegedly got signed forcibly by the accused from him. It also renders the version of the prosecution doubtful, because even the conviction of the accused-respondents would not have resulted in automatic cancellation of those documents.

34. In the enquiry reports Ex.D-3, Ex.D-4 and Ex.D-5, it was categorically mentioned that the incident regarding the abduction of the complainant on the point of pistol was not found to have taken place in the course of enquiry and it was a case of business dealings between complainant and accused-Darshan Singh. Thus, in view of all the aforementioned circumstances, we do not found any legal infirmity in the

findings recorded by the learned trial Court hat the version of the prosecution does not inspire confidence and the prosecution has failed to establish the charges beyond shadow of reasonable doubt.

35. Therefore, we do not found any perversity in the judgment of acquittal recorded by the learned trial Court. There are also no compelling and substantial reasons to interfere with the findings recorded by the learned trial Court. The conclusion arrived at by the learned trial Court cannot be stated to be unreasonable. The learned trial Court has rightly taken into consideration all the material brought on record in the right perspective.

36. Consequently, we do not found any ground to grant leave to appeal. The same is hereby declined.

37. Resultantly, the present appeal has no merits and the same is hereby dismissed.

(S.S.SARON)
JUDGE

(DARSHAN SINGH)
JUDGE

March 29, 2017

s.khan

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No