

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

CRR-2596-2014

Date of decision:-4.9.2017

Rajender

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sandeep Gahlawat, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J.

This revision petition is directed against the judgment dated 17.3.2012 passed by Sub-Divisional Judicial Magistrate, Siwani Camp at Bhiwani vide which he had convicted accused Rajender for the offences under Sections 411/471/34 IPC and order dated 22.3.2012 vide which said accused was sentenced to undergo rigorous imprisonment for a period of 1 ½ years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for one month for the offence under Section 411/34 IPC and to undergo rigorous imprisonment for a period of 1 ½ years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for one month for the offence under Section 471/34 IPC, both the sentences were ordered to run concurrently, as well as judgment dated 31.7.2014 passed by Additional

Sessions Judge, Bhiwani vide which the said judgment was affirmed and appeal filed by the accused – convict was dismissed.

The accused-convict – Rajender, who is petitioner before this Court prays that the revision be accepted, the impugned judgment of his conviction and order of sentence by Sub-Divisional Judicial Magistrate Siwani Camp at Bhiwani and judgment in appeal by Additional Sessions Judge, Bhiwani be set aside and he be acquitted of the charge framed against him.

Briefly stated, the prosecution story is that on 29.4.2006, ASI Bhagwan along with other police officials from Police Station Sadar, Charkhi Dadri was present at Basia Bhawan, Bhiwani where the said ASI received secret information that accused Jaipal and Rajender (petitioner before this Court) had been indulging in selling stolen cars and that on the said day, they were having a stolen Scorpio vehicle having fake registration No.HR29N-5654 with original number being DL-5CB-8350 and that said vehicle has been stolen from Delhi; that they had brought the vehicle from Sailender and Azad Singh, residents of Palwal with intention to sell that of to some person; that the scorpio vehicle was parked in front of Paramhans Travels situated at Hansi Road of which Jaipal was proprietor and said Jaipal along with Rajender were sitting in that shop and if a immediate raid conducted, then they could be caught red handed with stolen vehicle. The police party accordingly conducted a raid at the disclosed place and found scorpio vehicle bearing No.HR29N-5654 of cherry colour parked in front of Paramhans Travels. Jaipal and Rajender were sitting in the shop. They were apprehended and

interrogated. Jaipal showed the keys of the vehicle to the police party claiming its ownership. When he was asked to produce the document relating to that, then Rajender gave registration certificate bearing No.HR29N-5654 which was in the name of Manoj son of Sh.Anant Ram, House No.R-48 village Sidola, Faridabad. The Investigating Officer made inquiry from Delhi Crime Branch (vehicle theft) on telephone and was informed that the said vehicle was stolen on 13.3.2006 regarding which FIR No.86 dated 13.3.2006 for the offence under Section 379 IPC had been registered at Police Station Bhajanpura, Delhi. The fake registration certificate was also having the same chassis and engine number. Therefore, fake registration certificate and vehicle were taken into possession. Ruqa was sent to the police station for registration of the case on the basis of which formal FIR was registered. The Investigating Officer carried out spot inspection, prepared various documents, recorded statements of witnesses and on return to the police station deposited the case property with MHC and put the accused in lock-up.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan in the Court of Area Magistrate, he supplied copies of documents relied upon in the challan to the accused free of costs as provided under Section 207 Cr.P.C.

Learned trial Magistrate finding that charge for offences under Sections 411/420/467/468/471 IPC was disclosed against the accused, charge-sheeted the accused for the said offences, to which, they pleaded not guilty and claimed trial. The case was then fixed for evidence

of prosecution.

It is pertinent to mention here that during the pendency of the case, accused Jaipal absented himself and was declared proclaimed offender vide order dated 14.10.2011.

To bring home guilt to the accused, the prosecution examined as many as six witnesses, namely, Bhree Bhagwan SI as PW1, Bharat Singh (Retd.Inspector) as PW2, ASI Partap Singh as PW3, ASI Bhim Singh as PW4, Jawahar Lal as PW5 and Constable Arun as PW6.

Thereafter, the prosecution evidence was closed by Court order dated 24.2.2012.

Statement of accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against him were put to him but he denied the allegations contending that he is innocent and had been falsely involved in this case.

Accused did not lead any evidence in his defence.

After hearing arguments, learned Sub-Divisional Judicial Magistrate Siwani Camp at Bhiwani convicted and sentenced the accused as mentioned supra, the appeal preferred against the judgment of conviction and order of sentence passed by the Sub-Divisional Judicial Magistrate, Siwani Camp at Bhiwani was also decided against the accused by learned Additional Sessions Judge, Bhiwani, which left petitioner – accused Rajender aggrieved and he has filed the present revision petition.

The revision petition came up for hearing on 6.1.2015 when it was admitted regarding quantum of sentence only which means the

Court did not find any merit in the revision petition as regards the conviction part.

I have heard learned counsel for the petitioner-accused-convict and learned Assistant Advocate General for the State of Haryana besides going through the record.

Learned counsel for the revision petitioner stated that he does not challenge the judgment of conviction of the petitioner but has got submissions to make on the point of quantum of sentence.

Learned counsel for the revision petitioner has argued that petitioner is a married man of 46 years having children; that he had served in Army; that he does not have any criminal past and that he has already undergone more than one year of imprisonment in this case, therefore, he be treated with leniency.

On the other hand, learned State counsel submitted that keeping in view the nature of crime, in which the petitioner/accused had indulged, he deserves to be given deterrent punishment and no reduction in the sentence is called for.

I find that the crime committed by the accused i.e. indulging in theft of the vehicles, putting fake registration numbers thereon and then selling of the vehicles in the open market is something which needs to be viewed firmly and requires to be dealt with sternly. I find that there is no scope for reduction of sentence and if the sentence is reduced that would send a wrong signal in the society that one can commit a heinous crime and could easily get away with the same with a minor punishment.

In view of the above, I find no illegality or infirmity in the

judgments passed by the Courts below, as regards the conviction and sentence part, those are upheld and revision is found to be without any merit and is dismissed accordingly.

4.9.2017

Brij

(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**