

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-4637-2016(O&M)
Date of decision:-21.11.2017

Ranjit Singh @ Rana
...Petitioner

Versus

State of Punjab
...Respondent

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

Present: Mr.Ramesh Sharma, Advocate
for the petitioner.

Ms.Samina Dhir, DAG, Punjab.

H.S. MADAAN, J.

Accused Ranjit Singh @ Rana along with Mehboob Ahmad
faced trial in the Court of learned Judicial Magistrate Ist Class, Batala in
FIR No.49 dated 28.4.2009 for the offences under Sections 379, 411, 420,
468, 471 IPC, registered with Police Station Qila Lal Singh and vide
judgment and order dated 18.9.2014, both of them were convicted and
sentenced as follows:

Offence Section	under	Sentenced awarded
Section 411 IPC		Rigorous imprisonment for a period of one year

	and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo rigorous imprisonment for a period of one month each.
Section 420 IPC	Rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo rigorous imprisonment for a period of one month each.
Section 468 IPC	Rigorous imprisonment for a period of two years and to pay a fine of Rs.2,000/- each and in default thereof, to further undergo rigorous imprisonment for a period of two months each.
Section 471 IPC	Rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo rigorous imprisonment for a period of one month each.

All the sentences were ordered to run concurrently.

Feeling aggrieved, accused – convicts had preferred appeals, however, both the appeals were dismissed by learned Additional Sessions Judge, Gurdaspur vide judgment dated 24.12.2015, as such, accused-convict – Ranjit Singh @ Rana has knocked at the door of this Court by way of filing the present revision petition. He prays that this petition be accepted, the impugned judgment of his conviction and order of sentence passed by Judicial Magistrate Ist Class, Batala and judgment in appeal passed by Additional Sessions Judge, Gurdaspur be set aside and he be acquitted of the charge framed against him.

Briefly stated, the facts of the case as per prosecution version are that criminal machinery in this case was set into motion by complainant Sub-Inspector Darshan Lal from Police Station Qila Lal Singh, who on 28.4.2009 was heading a police party from the said police station and were present at T-point turning of village Bhagowal in connection with patrolling, where he had received a secret information

that accused Ranjit Singh @ Rana son of Sohan Singh of Jat community, resident of village Nawan Pind Milkhiwal had been stealing vehicles, changing their original numbers, putting fake registration numbers on such stolen vehicles and then selling of the same and on 28.3.2009, he had stolen a Scorpio vehicle bearing registration No.DL-9-CM-0152, black in colour besides a Santro car having registration No.HR-16-F-8739, white in colour and if a raid was conducted, several other stolen vehicles could be recovered; that thereafter the said police party conducted a raid at the residential house of accused Ranjit Singh @ Rana; that a Scorpio vehicle bearing registration No.DL-9-CM-0152 black in colour and Santro car having registration No.HR-16-F-8739, white in colour were recovered from his possession; that both the vehicles were seized. Accused was arrested in this case. The Investigating Officer recorded statements of witnesses and carried out other necessary proceedings. Accused Ranjit Singh @ Rana while in police custody on being interrogated on 29.4.2009, suffered a disclosure statement that he had been stealing vehicles from Delhi and Haryana selling of the same to different persons and he could get those recovered but he failed to get any such vehicle recovered in pursuance of that disclosure statement. The registration certificates of Scorpio and Santro recovered from the possession of accused Ranjit Singh @ Rana were found to be forged and fabricated.

Accused Mehbood Ahmad son of Maqsood Ahmad, resident of Uttari Chamaran, Mohalla Judgman, Purkazi, Police Station Purkazi, District Muzaffarnagar (U.P.) had been arrested from a place near Dakash

Petrol Pump, U.P. on 14.9.2009 and a Bolero vehicle having registration No.HR-45-9609, white in colour along with photocopy of a duplicate registration certificate was recovered from his possession, which were seized. Offences under Sections 420, 468, 471 IPC were added in the FIR. 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, copies of documents relied upon therein were supplied to the accused free of costs as provided under Section 207 Cr.P.C.

Learned Judicial Magistrate Ist Class, Batala finding that charge for offence under Sections 411, 420, 468 and 471 IPC was disclosed against the accused, charge-sheeted them accordingly, to which, they pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

To bring home guilt to the accused, the prosecution examined as many as six witnesses i.e. Hari Krishan as PW1, Raj Kumar as PW2, ASI Balkar Singh as PW3, HC Harjinder Singh as PW4, Retired SI Darshan Lal as PW5 and Randhir Singh as PW6.

Thereafter, the prosecution evidence was closed by Court order.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against them were put to them but they denied the allegations contending that they are innocent and had been falsely involved in this case.

Accused did not lead any evidence in defence.

After hearing arguments, learned Judicial Magistrate Ist Class, Batala convicted and sentenced both the accused as mentioned supra and appeals preferred against the judgment of conviction and order of sentence passed by the Judicial Magistrate Ist Class, Batala were also decided against the accused by learned Additional Sessions Judge, Gurdaspur, which left petitioner – accused Ranjit Singh @ Rana aggrieved and he has filed the present revision petition.

Notice of the revision petition was issued to the State, which has put in appearance through counsel.

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

Of the evidence produced by the prosecution PW1 Hari Krishan, owner of the Bolero vehicle having registration No.RJ-07-UA-0772, white in colour deposed that on 11.7.2009, he along with his family members had gone to Haridwar in that vehicle, which was parked in front of Sadanand Ashram, however, on the next day, it was not found to be there and had rather been stolen; that he had reported theft of vehicle to police at Police Station Kharkhari and formal FIR No.346/09 for the offence under Section 379 IPC was registered. Later on, he received information from Police Station Qila Lal Singh, Police District Batala regarding recovery of Bolero vehicle. He went there along with documents and identified the Bolero vehicle to be the one belonging to him, which had been stolen. He stated that he had handed over copy of FIR along with all the documents of vehicle to the Investigating Officer,

which had been taken into possession vide recovery memo. He proved photocopy of registration certificate as Mark-A, copy of FIR a Mark-B, copy of ration card as Mark-C, copy of identity card as Mark-D, copy of insurance as Mark-E. That vehicle was released on superdari to him, which he had produced in the Court during the trial.

PW2 Raj Kumar brother of PW1 Hari Krishan corroborated that version of PW1.

PW3 ASI Balkar Singh, who was member of the police party headed by SI Darshan Lal, which had conducted raid at the residential house of accused Ranjit Singh @ Rana on 28.4.2009 deposed in that regard as well as recovery of Scorpio vehicle bearing registration No.DL-9L-M-0152 and Santro car bearing registration No.HR-16-F-8739 from him. He further deposed that on 11.5.2009 Randhir Singh son of Hukam Chand, resident of Jatola, District Sonipat, Haryana had come to police station and had identified his Scorpio vehicle having original No.HR-70-4722 handing over photocopy of registration certificate and voter list and application regarding theft of his vehicle to Investigating Officer, which had been taken into possession vide recovery memo Ex.PW3/E and Investigating Officer had prepared identification memo of Scorpio vehicle.

PW4 HC Harjinder Singh, an attesting witness of seizure memo vide which registration certificate of Scorpio and Santro car had been taken into possession on 29.4.2009 deposed in that regard proving such memo as Ex.PW4/A.

PW5 Sub-Inspector(Retd.) Darshan Lal, the Investigating

Officer of this case deposed regarding his having received secret information, sending ruqa to police station for registration of FIR, conducting raid at the house of Ranjit Singh @ Rana, recovery of Scorpio and Santro car from him, which had been taken into possession etc. He further deposed regarding arrest of such accused and on 11.5.2009, Randhir Singh owner of Scorpio vehicle coming to police station and identifying it to be belonging to him, which had been stolen and his producing various documents before him. He further added that he had moved an application to Licensing/Registration authority, Haryana and Chandigarh receiving report therefrom. He stated that Scorpio vehicle was taken on superdari by its owner.

Randhir Singh appearing as PW6 stated that his Scorpio vehicle had been stolen from Pachham Vihar, New Delhi, which had been recovered by police of Police Station Qila Lal Singh; that the original registration number of the said vehicle is HR-50-4722, whereas duplicate number plate had been affixed on the Scorpio vehicle. He stated that he had identified his Scorpio vehicle and had handed over documents to the Investigating Officer.

In this case accused Ranjit Singh @ Rana has been convicted for the offences under Sections 411, 420, 468 and 471 IPC. From the evidence adduced by the prosecution, it comes out that when his residential house was raided by the police party on receipt of secret information, two vehicles were found in his possession i.e. Scorpio and Santro car. Of course he could not account for possession of those vehicles. As regards the Scorpio vehicle, from the statement of PW6

Randhir Singh, it comes out that the vehicle belonged to him, which had been stolen from Pachham Vihar, New Delhi, the original registration number of the same being HR-50-4722. Thus it comes out that the vehicle belonged to Randhir Singh, which had been stolen. In that way, it was a stolen property. From the statements of PW3 ASI Balkar Singh, PW5 Sub-Inspector Darshan Lal (Retd.), it comes out that accused was found in possession of such stolen property. As already observed, accused Ranjit Singh could not account for possession of such stolen Scorpio vehicle. It is not his case that he is owner of the same. In that way, the offence under Section 411 of the Indian Penal Code of such accused Ranjit Singh of dishonestly receiving/retaining stolen property stands proved.

Under Section 114 of the Evidence Act, the presumption is that a person who is in possession of stolen property soon after the theft is either the thief or has received the property knowing it to be stolen, unless he can account for its possession. In the instant case, there is no direct evidence that accused Ranjit Singh @ Rana had committed theft of the Scorpio vehicle as well as Santro vehicle, however, as already observed, he has been unable to account for possession of such vehicles. As regards the Santro vehicle the prosecution has not been able to lead evidence that it was subject matter of some theft. No person has been examined, who might have stated that the Santro car belonged to him or that it had been stolen and that the recovered Santro car is the same, which had been subject matter of the theft. The accused obviously received/retained stolen Scorpio vehicle with an intention to cause wrongful gain to himself and

wrongful loss to the owner, therefore, his dishonest intention in receiving/retaining stolen property obviously comes out to be there. In that way, all the necessary ingredients of offence under Section 411 IPC are complete and the trial Court was justified in convicting and sentencing the accused for such offence.

Coming to conviction of accused under Section 420 IPC, which deals with cheating and dishonestly inducing delivery of property. The ingredients of this offence are antitheses of ingredients of offence under Section 411 IPC. Here it is not the case of the prosecution that accused – convict had induced owner of the Scorpio vehicle to deliver its custody to him. Certainly, it is not a case of making any other person alter or destroy the whole or any part of the valuable security. Essential ingredients of offence of cheating are playing deception and fraud with a person making him deliver any property to the accused wrongdoer. This is certainly not the case of prosecution here. Therefore, the conviction of accused Ranjit @ Rana for the offence under Section 420 IPC is not sustainable.

As regards conviction under Section 468 IPC, Section 468 deals with forgery for the purpose of cheating. It provides that whoever commits forgery, intending that the documents shall be used for the purpose of cheating shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable for fine.

Whereas, offence under Section 471 IPC deals with using as genuine a forged document.

In the instant case, accused by putting wrong registration number on the stolen vehicles obviously for the purpose of selling of the same to innocent persons meant to cheat them. Registration certificates were also forged to achieve that purpose. Therefore, the petitioner – accused was rightly convicted for the offences under Sections 468 and 471 IPC.

The Courts below after proper appraisal of evidence and correct interpretation of law have reached the conclusion that charge for the offences under Sections 411, 468 and 471 IPC against the accused Ranjit Singh @ Rana stood proved. I do not see any reasoning to disagree with the same.

At the end, learned counsel for the petitioner prayed that some relief be granted to the petitioner in sentence.

The petitioner-accused-convict is involved in three more criminal cases i.e. FIR No.148/2013, under Sections 379/411 IPC, Police Station City, Jalalabad, FIR No.132 dated 21.10.2013, under Sections 379 and 411 IPC, Police Station City, Jalalabad and FIR No.16 dated 13.2.2014, under Section NDPS Act, Police Station Shri Hargobindpur, which goes to show that he is a habitual criminal, no ground is made out for any reduction in his sentence.

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 for the offences under Sections 411, 468 and 471 IPC are upheld.

In that way, the revision is accepted partly inasmuch as

conviction and sentence of accused for the offence under Section 420 IPC is set aside, whereas the same are maintained as regards offences under Sections 411, 468 and 471 IPC.

Necessary information be sent to the quarter concerned.

21.11.2017

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No