

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

**CRR No.1135 of 2017 (O&M)
Date of Decision: May 09, 2017**

Gurjit Singh @ Goldy and another

...Petitioners

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Gopal Singh Nahel, Advocate
for the petitioners.

INDERJIT SINGH, J.

The present revision has been filed by the petitioners Gurjit Singh @ Goldy and Harpreet Singh @ Kala against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 22.04.2015 passed by learned Sub Divisional Judicial Magistrate, Sunam, vide which the petitioners were convicted and sentenced to undergo rigorous imprisonment for a period of six months each under Section 201 IPC and further to undergo rigorous imprisonment for a period of two years and nine months and to pay fine of ₹500/- and in default of payment of fine, to undergo rigorous imprisonment for a period of three months under Section 382 IPC and also challenging the judgment dated 06.03.2017 passed by learned Addl. Sessions Judge, Sangrur, vide which appeals filed by petitioners were dismissed. Both the sentences were

ordered to run concurrently. Co-accused Gurmail Singh was declared as

Proclaimed Offender.

From the record, I find that challan was presented against accused-petitioners in case FIR No.138 dated 29.05.2011 under Sections 382, 201 and 34 IPC. The brief facts of the case as noted down in the judgment passed by learned SDJM, Sunam, are as under:-

“The criminal justice system was set into motion on the statement of complainant Rishi Pal aged 38 years son of Raj Kumar resident of Bigardwal Road Sunam recorded on 29.05.2011 by ASI Sherwinder Singh. Complainant Rishi Pal submitted therein as under:-

that he was the Municipal Councilor of Ward No. 7, Sunam and on that day, i.e. 29.05.2011, he along with Bajrang Lal S/o Kashturi Lal R/o Indra Marg Sunam was returning after attending a party in a family function, by a Swift car bearing registration No. PB13-Y-1780, belonging to his brother Vijay Kumar; that it was about 1.00 AM, he dropped Bajrang Lal at his residence and he was heading towards his residence; that on Bigardwal Road, a black coloured car was parked on the side; that there was mud pasted on the back number plate of the said car and thereby, the registration number of the said car was not legible; that two young men were present there, out of whom, one was Hindu and the other had a cloth on his head; that they were wearing jeans and Tshirt and were aged about 25-26 years; that they both indicated him to stop and when he reached near them, the Hindu young man asked about the road leading towards Lehra; that thereafter, the said Hindu young man reached near him and caught hold of him from his collar and forcibly pulled him out of his car; that thereafter, the Sikh young man gave a blow with Kirpan/sword upon his right arm; that in the meanwhile, the said Hindu young man started his car and fled away towards Lehra; that the Sikh young man also boarded his car already parked there, with a driver sitting therein and fled away towards Lehra; that his mobile phone make Nokia E-63 with SIM No. 98766-26865 was also in the said car, which was snatched from him; that he could identify the snatchers of his car from their appearance.

2. After recording the above detailed statement, ruqa was sent to the police station, on the basis of which the present case FIR was registered. Statement of the witnesses were recorded. Site plan was prepared at the spot. Photographs of the spot were taken. During the investigation, complainant Rishi Pal got recorded his supplementary statement that the car, which was already parked on Bigardwal Road, was of Silver colour and not Blank and then, sketch of the suspects were prepared.

Thereafter, on 07.07.2011, during the investigation of another case bearing FIR No. 63 dated 23.06.2011 under Section 399/402/489 of IPC and 25/54/59 of Arms Act P.S. Ghaga, accused Gurjit Singh @ Goldy, Harpreet Singh @ Kala and Gurmail Singh confessed that they had snatched a Swift car bearing registration No. PB13-Y-1780 on Bigardwal Road on 29.05.2011 and accordingly, the said accused were nominated in the present case and were formally arrested after seeking their production warrants from the Court. The stolen car bearing registration No. PB13-Y-1780 was recovered from the possession of the accused Gurmail Singh in the case bearing FIR No. 80 dated 17.06.2011 under Section 379/411/420/467/468/471/120-B of IPC PS City Kharar and the same was taken into possession in the present case on 17.06.2011. During the investigation, Nokia E-63 mobile phone belonging to the complainant Rishi Pal and the Kirpan/sword, used at the time of the commission of offence could not be recovered. Rather during the investigation, it came out that accused had intentionally thrown the same away with the intention to destroy the evidence and thereby, the offence punishable under Section 201 of IPC was added. After completion of the investigation and other necessary formalities, challan against accused persons was presented in the court.”

Prosecution examined PW-1 Rishi Pal, PW-2 Bajrang Lal, PW-3 ASI Tarlochan Singh, PW-4 Sherwinder Singh, PW-5 Amarjit Singh, PW-6 Head Constable Sohan Lal, PW-7 ASI Kewal Singh, PW-8 Sham Lal Senior Assistant from the office of the DTO Sangrur and PW-9 ASI Jaspal Singh.

In the statement under Section 313 Cr.P.C, the accused only tendered certified copy of the judgment dated 13.01.2015 as Ex.D2 and closed the evidence.

Learned SDJM, Sunam, after appreciating the evidence, especially the statement of PW-1 Rishi Pal, which is supported and corroborated by investigation of the case and PW-2 Bajrang Lal, convicted and sentenced the petitioners as stated above. Appeals were filed by the

Sangrur, vide judgment dated 06.03.2017.

Aggrieved from the above-said judgments, present revision petition has been filed by the petitioners.

I have heard learned counsel for the petitioners and have gone through the record and lower Court record.

From the record, I find that complainant while appearing in the Court, identified the accused present in the Court. The perusal of statements of the PWs, especially PW-1 Rishi Pal and PW-2 Bajrang Lal shows that there is nothing in their cross-examination which may make their statements unreliable. PW-1 Rishi Pal has consistently deposed regarding the occurrence and PW-2 Bajrang Lal also supported the statement of PW-1. The car which was taken away by the accused has been recovered in the present case. No material discrepancies or improbabilities have been pointed out at the time of arguments. Both the Courts below have given concurrent findings regarding the guilt the accused.

This is a revision petition and this Court is not to re-appreciate the evidence like Court of an appeal. The findings have been given while appreciating the evidence in right perspective. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Courts below. Nothing has been pointed out as to how the findings given by the Courts below are perverse or against the evidence and law.

The statements of the witnesses, especially PW-1 are reliable. There is nothing to show any motive of PW-1 to falsely implicate the accused. Statement of PW-1 is duly supported by other PWs and investigation of the case. Therefore, I find that the petitioners have been

rightly convicted.

Learned counsel for the petitioners, in the alternative, prayed for reduction of the sentence imposed upon the petitioners. Keeping in view the nature and gravity of the offence that this case relates to highway robbery at night time, I do not find it a fit case where petitioners are entitled to benefit of reduction of the sentence. Adequate sentence has been awarded to the petitioners.

In view of the above discussion, I find that the impugned judgments passed by the Courts below are correct, as per evidence and law and do not require any interference from this Court.

Therefore, finding no merit in the present revision petition, the same is dismissed.

May 09, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No