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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-2914-17 [O&M]
Date of Decision:- November 15, 2017

Amritpal Singh alias Pala and another
.....Petitioners

Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. SPS Sidhu, Advocate,
for the petitioners.

Ms. Jaspreet Kaur, AAG, Punjab,
for the respondent State.

SHEKHER DHAWAN, J.

Present revision petition is against the judgment of conviction and order of sentence dated 16.03.2015 passed by Judicial Magistrate Ist Class, Abohar whereby the revisionists were convicted and sentenced as under:-

Under Section	Sentence	In default
U/s 465 IPC	to undergo Rigorous Imprisonment for a period of Two years each and to pay a fine of Rs. 1000/- each.	to further undergo Rigorous Imprisonment for a period of two months.
U/s 472 IPC	to undergo Rigorous Imprisonment for a period of Three years each and to pay a fine of Rs. 2000/- each.	to further undergo Rigorous Imprisonment for a period of three months.

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2. The appeal filed by the revisionists was dismissed by Additional Sessions Judge, Fazilka vide judgment dated 08.08.2017.

3. Learned counsel for the petitioners *inter-alia* contended that initially the FIR was registered under Sections 420, 465, and 472 IPC and Section 25 of the Arms Act. On the basis of trial, the accused were acquitted of the offences punishable under Section 420 IPC and 25 of Arms Act. However, the petitioners, namely, Amritpal Singh alias Pala and Angrej Singh alias Sahib were convicted under Sections 465 and 472 IPC and sentenced thereunder.

4. Learned counsel for the petitioners also contended that the allegations against the petitioners as regards to Sections 465 and 472 IPC are that they had affixed fake number plate bearing Registration No. PB-15-B-5507 on a Maruti Car whereas the original registration number of the car was PB-15-B-0404. Learned trial Judge held the petitioners guilty and convicted them for the said offences for using forged number plate though the forged number plate was never produced before the Court. There was no material before the Court below to come to the finding that in fact, the number plate was forged one.

5. Contention was also raised that before learned trial Judge only one independent witness, namely, Kewal Krishan alias Kannu was examined whereas the remaining witnesses were official witnesses. The said independent witness had not supported the prosecution case and was declared hostile witness. Learned Magistrate acquitted the accused persons for the offence punishable under Section 420 IPC and Section 25 of the Act, while returning the finding that the prosecution version was not

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believable on that account. If the testimony of prosecution witnesses was not relied upon, the result of the trial should have been in acquittal especially when the only independent witness, namely, Kewal Krishan did not support the prosecution case. But all these points have been completely ignored by learned trial Judge and similarly by learned Additional Sessions Judge while deciding the first appeal and if the said orders are allowed to continue, that shall be mis-carriage of justice and the same be set-aside.

6. Learned State counsel while arguing on these points contended that both the Courts below have recorded the finding that forged number plate was used on the car and the conviction has been recorded under Sections 465 and 472 IPC and there is no ground to set-aside the said findings. Legally, there is no bar that conviction cannot be recorded on the basis of testimony of official witnesses and while placing reliance upon the statements of official witnesses, learned trial Judge has rightly held the petitioners guilty and convicted and sentenced them and the first Appellate Court affirmed the said findings. There is no illegality in the judgment of conviction and order of sentence and the findings recorded by learned first Appellate Court and the present revision petition be dismissed.

7. Having considered the facts, material and evidence available on the file, this Court is of the view that originally, FIR was registered under Sections 420, 465, and 472 IPC and Section 25 of the Arms Act. During the trial, prosecution examined PW-1 Maggar Singh, Senior Assistant Office of Deputy Commissioner, Ferozepur, who proved gun

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license (Ex. P-1/A); PW-2 Pawan Kumar, Reader, Naib Tehsildar, who produced record relating to R.C with registration No. PB-15B-5507 and PB-15B-0404; PW-3 Kewal Krishan alias Kannu, an independent witness who resiled from his statement; PW-4 ASI Nishan Singh is formal witness, who recorded the FIR. PW-5 HC Girish Kumar is witness before whom petitioner Angrej got recorded his disclosure statement and also got recovered one *Kirch*; PW-6 ASI Satwant Singh, Investigating Officer of the case, who had deposed regarding disclosure statement and recovery and about forged number plate. PW-7 ASI Gurmeet Singh made statement on the lines of statement of PW-6. Against the above discussion of prosecution witnesses, the defence version is plea of denial.

8. As per the evidence available on the file, PW-1, PW-4 and PW-5 are the witnesses, who deposed about the recovery of weapon and disclosure statement so made by accused persons, but their testimony has not been believed by the Court below. That way, they were not of much help to the prosecution. PW-3, Kewal Krishan, an independent witness has not supported the prosecution case. Thereafter, we are left with testimony of PW-2, Pawan Kumar and PW-6 and PW-7, who had deposed about recovery of weapon and about forged number plate. Since their testimony has also been disbelieved by the Courts below wholly, it is quite unsafe to record a judgment of conviction on the basis of their statements. This fact assumes much more importance especially in the light of the fact that forged number plate, which is the very basis of offence punishable under Sections 465 and 472 IPC, have not seen the light of the day. The same were not produced during the trial.

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9. Learned trial Judge as well as learned first Appellate Court have completely ignored this fact while recording the judgment of conviction and as such, the judgment of conviction and order of sentence recorded by learned trial Judge and findings recorded by learned first Appellate Court cannot be considered to be legal one and are liable to be set-aside. So ordered.
10. Resultantly, the present revision petition is accepted and the impugned judgment of conviction and order of sentence dated 16.03.2015 passed by Judicial Magistrate Ist Class, Abohar and order dated 08.08.2017 passed by Additional Sessions Judge, Fazilka are set-aside and the present petitioners are acquitted of the charge in this case. They be set at liberty forthwith, if not required in any other case.
11. The present revision petition stands allowed in the above terms.

November 15, 2017
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Speaking/Reasoned
Reportable

(SHEKHER DHAWAN)
JUDGE

Yes
Yes