

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 4103 of 2017 (O/M)
Date of decision : 9.11.2017

Surinder Kumar alias Sonu and another Revisionists

Versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. M.S. Rana, Advocate, for revisionists.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH J. (ORAL)

Both revisionists, namely, Surinder Kumar alias Sonu and Malkit Singh, have been convicted by the learned Special Railway Magistrate (Punjab), Jalandhar, under Section 3 of the Railway Property (Unlawful Possession) Act, vide judgment of conviction and order of sentence dated 18.2.2016, and were sentenced to undergo rigorous imprisonment for one year each and to pay fine of Rs. 1,000/- each, in default thereof, to further undergo rigorous imprisonment for one month each. Their appeal was dismissed by the learned Additional Sessions Judge, Jalandhar, vide judgment dated 24.10.2017.

Heard. File perused.

The allegations against revisionists are that they alongwith two others stopped a train carrying diesel by opening hose pipe and thereafter committed the theft of diesel from the tanker. The police, on coming to know that the stolen diesel is being taken away in a yellow tanker bearing registration No. PB-07-B-2486, started search for the said yellow tanker

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and ultimately on the same day, the said yellow tanker was spotted at village Lambra and was stopped. It was found that Surinder Kumar alias Sonu was driving the said yellow tanker and Malkit Singh was sitting on the conductor seat. Both revisionists could not produce any document for possession of the diesel. It was found that there was 4000 litre diesel in the second chamber and some more diesel in the third chamber of said yellow tanker. On checking of the railway wagon, about 4000 litre diesel was found to be less. The laboratory report confirmed that the diesel recovered from present revisionists is of the same specification which was found from Indian Oil Corporation, to which the diesel belongs.

The learned counsel for revisionists has argued that there is no eye witness and that the driver and guard of train have not stated that they had seen the revisionists committing the theft.

The train was stopped by opening the hose pipe and thereafter theft was committed at a remote place at night at 2:40 AM between Suchi Pind and Alwalpur. Therefore, no independent witness at the time of recovery could be expected. If the driver and guard of train have not supported the case, it is immaterial. The police immediately started search of yellow tanker, in which stolen diesel was suspected to be carried. The yellow tanker was spotted at village Lambra and was stopped. Since police was trailing the yellow tanker, it is not expected that they will first search for joining of an independent witness before stopping the yellow tanker. Once the recovery is effected, no independent witness is required to be joined. Before the lower Court, accused had not claimed that they had purchased the diesel from somebody, nor they produced any document. No defence evidence was led. There is no explanation as to how revisionists

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came in possession of such huge quantity of diesel. It being so, there is no illegality or infirmity in the findings recorded by both the Courts below. Keeping in view the manner of commission of crime, there is no ground to reduce the sentence as well. Hence, revision is dismissed.

(KULDIP SINGH)
JUDGE

9.11.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No