

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

**Crl. Revision No.786 of 2017 (O&M)
Date of Decision: March 22, 2017**

Satbir @ Sata and another

.....PETITIONER(s).

VERSUS

State of Haryana

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. J.P. Sharma, Advocate
for the petitioner (s).

SURINDER GUPTA, J.

This is petition filed by petitioners Satbir @ Sata and Man Singh against the order and charge-sheet dated 04.02.2017 whereby the Petitioners were ordered to be charge-sheeted for the offence punishable under Section 379-B Indian Penal Code (for short-IPC) along with offences punishable under Sections 147, 332, 353 and 342 IPC.

2. Learned counsel for the petitioner submits that the petitioners have been charge-sheeted for the offence punishable under Section 379-B IPC on the allegation that they have snatched the mobile phones of Head Constable Kamal Singh and Constable Amit and while snatching the mobiles, they caused hurt and kept them in wrongful confinement.

3. The incident is alleged to be of 28.05.2016. While referring to the statement (Annexure P-1) of Naresh Kumar, Reader to Deputy Superintendent of Police, Rewari, learned counsel for the petitioner has

argued that mobile of Head Constable Kamal Singh and Constable Amit were handed over to Deputy Superintendent of Police by the residents of village Turkiawas on the intervening night of 27th and 28th of May, 2016 at about 1.30 a.m., which were taken into possession by the police. In fact, both the aforesaid police officials had gone to village Turkiawas under the influence of liquor and village Panchayat called police and handed over their custody. Their mobiles which were left behind were also handed over to Deputy Superintendent of Police by the village Panchayat.

4. It is not disputed that at the time of framing charge, the Court has to see as to whether prima facie case for framing of charge is made out. As per case of prosecution, Inspector Jai Singh along with his police party, was present at Abhay Singh Chowk, Rewari when he received a message from mobile phone of Constable Amit that he and Head Constable Kamal Singh have been confined at village Turkiawas and mobile phone of Head Constable Kamal Singh has been snatched. On receipt of information Inspector Jai Singh reached village Turkiawas and found that Bahadur Singh and his sons along with 50-60 other persons have confined Head Constable Kamal Singh and Constable Amit. After great efforts, both were got relieved and FIR No.76 dated 28.05.2016 was registered on the statement of Head Constable Kamal Singh, wherein he stated that he along with Constable Amit have visited village Turkiawas for arrest of Bahadur Singh son of Balram, Mahenderpal son of Bahadur Singh, Sagar son of Mohar Singh, Man Singh son of Balram, Jhamman son of Kishan Lal, Vikram son of Dhani Ram etc. in case bearing FIR No.67 dated 12.05.2016 registered at Police Station Sadar Rewari. They reached house of Bahadur

Singh and after calling him apprised him about the case registered against him, his sons and others. This frustrated Bahadur Singh and he caught Head Constable Kamal Singh from his neck and started giving him slaps and fist blows. His dress was also torn. He also called Neeraj, Mahenderpal Singh, Man Singh, Manish, Mohar Singh, Sagar, Satbir @ Sata, who also started beating Head Constable Kamal Singh. When Constable Amit intervened, they also had a scuffle with him and snatched his mobile phone having sim bearing No.9416710078. Constable Amit intimated Inspector Jai Singh from his mobile phone, which was also later on snatched by the accused persons.

5. The plea raised by learned counsel for the petitioners is a plea of defence which is to be seen by the trial Court on appraisal of evidence while deciding the criminal case. At this stage, testimony of Head Constable Kamal Singh cannot be disbelieved. Petitioner and other accused can raise their defence before trial Court and lead evidence. At this stage, there is nothing on file to show that Head Constable Kamal and Constable Amit were under the influence of liquor, when they visited village Turkiawas.

6. Police had recorded the statement of Head Constable Kamal and Constable Amit from which a prima facie case is made out that the mobiles of HC Kamal and Constable Amit were snatched by the petitioners and other co-accused and they were given beatings and also kept under confinement, which prima facie make out offence punishable under Section 379-B IPC. The mere fact that some villagers came to the Deputy Superintendent of Police, Rewari at 1.30 a.m. in the intervening night of 27th

and 28th of May, 2016 to return mobile phones, is no ground to reach the conclusion at this stage that version as given by complainant HC Kamal and Constable Amit is not correct. Returning of mobiles by the villagers to Deputy Superintendent of Police, Rewari may lead to several inferences and it is for the trial Court to see as to which inference based on evidence on record is to be drawn.

7. As a sequel of my above discussion, this petition has no merits.
Dismissed.

March 22, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***