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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
10/11/2018 15:21
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CRR-1186-2007 (O/M)
Date of decision : 30.11.2018

Swaran Singh Petitioner (s)

Versus

State of Punjab Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rohan Mittal, Advocate, (Legal Aid Counsel),
for petitioner.

Mr. Karanbir Singh, AAG Punjab.

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KULDIP SINGH, J.

This revision petition has been filed against judgment dated 3.7.2007, passed by learned Additional Sessions Judge, (Adhoc), Fast Track Court, Amritsar, affirming judgment of conviction and order of sentence dated 24.2.2006, passed by learned Sub Divisional Judicial Magistrate, Ajnala, vide which present petitioner was convicted under Section 61 (1) (c) of Punjab Excise Act, 1914, and was sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs. 5,000/-, in default thereof, to further undergo rigorous imprisonment for three months.

Prosecution story, in short, is that ASI Sukhjinder Singh (PW3), while on patrol duty at Main Chowk, Ajnala, with his fellow officials, received secret information that accused Swaran Singh was distilling illicit liquor by working a still in his house. Accordingly, police party conducted raid at house of accused. At the time of raid, accused was found distilling illicit liquor on by working a still in courtyard of his house. He was apprehended at the spot. 30 kilograms of lahan was found in one drumi. 750 mls. distilling illicit liquor was also found. 180 mls. liquor was

separated as sample. Lahan was sealed by Excise Inspector, namely, Baldev Singh.

During trial, Excise Inspector Baldev Singh (EI) as well as Investigating Officer ASI Sukhjinder Singh (PW3) and recovery witness Head Constable Narinder Singh (PW2) were examined. The trial Court believed evidence of prosecution.

The findings were upheld in appeal.

I have heard learned counsel for parties and have also carefully gone through file as well as lower Court file.

The learned counsel for petitioner has argued that in this case, there are some discrepancies in the statements of witnesses. According to recovery witness Head Constable Narinder Singh (PW2), only one call was given and police entered house of accused, whereas Investigating Officer ASI Sukhjinder Singh (PW3) stated that door of house of accused was closed and locked and when it was knocked, thereafter police party entered house of accused. The witnesses also discrepant in their statements whether door of house of accused is towards South or West. The witnesses also discrepant in their statements whether capacity of drumi was 30 kilograms or 50 kilograms. The witnesses also discrepant in their statements whether case property was sealed with seal 'GS' or 'SS'. The witnesses also discrepant whether accused was feeding fire at the time of raid or he made no statement.

I am of the view that such discrepancies are bound to occur when witnesses are cross examined after lapse of time, particularly when deal with several cases of similar nature in intervening period. These discrepancies do not go to root of case. The information was received that accused was distilling illicit liquor by working a still. Therefore, house of

accused was raided, without losing further time. Such like case is unlikely to be planted by showing working still in a house. Since police had no time, therefore, compliance of Section 100 (4) Cr.P.C. could not be made and police has valid reason for same.

The learned counsel for petitioner has stated that Head Constable Narinder Singh was unable to answer certain questions as to whether boundary wall of house was kacha or pacca and whether any other family member of accused was present in house or not.

I am of the view that for same reason, such discrepancies are likely to occur and witnesses are likely to forget minute details. There are concurrent findings of two Courts below. There is no ground to interfere in the same. The sentence given to petitioner is minimum provided for offence. No ground to interfere in sentence as well. Therefore, revision is dismissed. Accused be rearrested and sent to jail to undergo remaining part of sentence.

(KULDIP SINGH)
JUDGE

30.11.2018
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No