

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

CRR No.2106 of 2018 (O&M)
Date of Decision: July 02, 2018

Sube Singh and another

...Petitioners

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ram Bilas Gupta, Advocate
for the petitioners.

INDERJIT SINGH, J.

The present revision has been filed by the petitioners Sube Singh and Satbir against respondent State of Haryana, challenging the impugned judgment of conviction dated 14.02.2017 and order of sentence dated 16.02.2017 passed by learned Addl. Chief Judicial Magistrate, Jind, vide which the petitioners were convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹8000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month each under Section 419 read with Section 120-B IPC and also challenging the judgment dated 01.06.2018 passed by learned Addl. Sessions Judge, Jind, vide which appeal filed by petitioners was partly accepted and petitioner Sube Singh was convicted under Section 120-B read with Section 419 IPC whereas petitioner Satbir was convicted under

Section 419 read with Section 120-B IPC. Their sentence was also modified

and they were sentenced to undergo rigorous imprisonment for a period of one year instead of two years.

From the record, I find that the challan was presented against the petitioners in case FIR No.1 dated 01.01.2012 under Sections 420 and 120-B IPC, Police Station Alewa. The brief facts of the case as noted down in the judgment passed by learned ACJM, Jind, are as under:-

“2. The case in hand was registered on the basis of complaint made by Sudhir son of Diwan Singh, resident of village Alewa who submitted that he had applied for renewal of Arm Licence bearing No.DM-210. It was next maintained that during verification of the licence it was found that a case was registered against him in P.S. Alewa. Accordingly, he visited the Police Station and found that a case bearing FIR No.35 dated 12.2.2009 U/S 61 of Excise Act P.S. Alewa was registered against him and in said case Sube Singh son of Tek Chand (present accused no.1) was surety for the accused. It was further asserted that in fact no case was registered against the complainant. It was also stated that accused Sube and Rajesh were Contractors of liquor and accused Sube Singh had taken loan from him and an altercation had taken place between them on said account. Thus, it was submitted that accused Sube and Rajesh had got a false case registered against him in collusion with ASI Ram Niwas.

3. During investigation accused were arrested, specimen signatures and handwriting of accused were taken, specimen signature and handwriting of complainant was also taken and they were sent to FSL for comparison. After completion of necessary formalities of investigation, the accused were challaned and sent to the Court to stand trial for having committed the aforesaid offences.”

In support of its case, prosecution examined PW-1 SI Ram Niwas, who deposed that on 12.02.2009, he along with Constable Jai Parkash apprehended accused Satbir carrying a plastic bag. He disclosed his name as Sudhir s/o Diwan Singh. Eight bottles of liquor were found in his possession and FIR was registered. As per the allegations, on personal

search memo, accused Satbir signed as Sudhir and Sube Singh has also

signed the memo as a witness. PW-2 Om Parkash mainly deposed regarding recording of FIR in that case. PW-3 Krishan Kumar Dahiya, Assistant deposed that police had taken into possession document regarding payment of fine vide memo Ex.PW3/A, which was signed by him as a witness. He also proved the ruqa and recovery memo. As per the record, the fine was deposited in the name of Sudhir, who was produced by SI Ram Niwas and the matter was compounded. PW-4 DSP Virender Singh deposed regarding investigation of the present case. Prosecution also examined PW-5 DSP Virender Singh Sangwan, PW-6 SI (Retd.) Tek Chand, PW-7 EHC Jai Parkash, PW-8 Sudhir, complainant, PW-9 EHC Roshan Lal, PW-10 SI (Retd.) Jai Singh, PW-11 Rajesh and PW-12 MHC Gurdev.

At close of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. they denied the incriminating evidence against them and pleaded their innocence and false implication.

Learned ACJM, Jind, after appreciating the evidence, convicted and sentenced the petitioners vide impugned judgment of conviction dated 14.02.2017 and order of sentence dated 16.02.2017, as stated above. An appeal was filed by the petitioners and the same was partly allowed by learned Addl. Sessions Judge, Jind, vide judgment dated 01.06.2018, as stated above.

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

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

At the time of arguments, learned counsel for the petitioners argued that FSL report Ex.PX has been tendered but none has come into

witness box to prove that report. This argument of learned counsel for the petitioners has no merit as FSL report is a per se admissible under Section 293 Cr.P.C. Learned counsel for the petitioners further argued that petitioners have been falsely implicated. From the perusal of the record, I find that there is nothing to show that petitioners have been falsely implicated. The PWs have deposed consistently and there is nothing in their cross-examinations, which may make their statements unreliable. No material discrepancies or material contradictions have been pointed out.

As per FSL report, the signatures of Satbir and Sube Singh were compared and it has been found that in the Excise Act case, these are appended by the accused-petitioners. The prosecution has duly proved that when Satbir was apprehended under the Excise Act possessing eight bottles of liquor etc., then he impersonated himself as Sudhir and signed on the documents including Jamatalashi as Sudhir. Accused Sube Singh was the witness who wrongly identified Satbir as Sudhir, which shows his criminal conspiracy.

The perusal of the judgments passed by the Courts below show that findings have been given while appreciating the evidence in right perspective. In no way, these findings can be held as perverse or against the evidence or law. Nothing has been pointed out as to what illegality has been committed by the Courts below. 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. The present petitioners have been rightly convicted.

In view of the above discussion, I find that the prosecution has

duly proved its case by leading cogent evidence beyond reasonable doubt.

Therefore, the judgments of conviction passed by both the Courts below and order of sentence are correct, as per law and do not require any interference from this Court.

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

July 02, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No