

CRR No. 3543 of 2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No. 3543 of 2018

Date of Decision: 23.10.2018

Jai Bhagwan

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Balkar Singh, Advocate
for the petitioner.

SURINDER GUPTA, J.

This is revision against judgment of Courts below whereby petitioner was convicted for offence punishable under Section 392 read with Section 34 of Indian Penal Code and was sentenced to undergo rigorous imprisonment for three years and to pay a fine of ₹2000/-. In default of payment of fine, he was further directed to undergo imprisonment for six months.

2. As per case of prosecution, car of complainant-Varun Dube was hired by two persons at I.S.B.T. Delhi for going to Jhajjar and then from Jhajjar to Agra. Around 3 O'clock, when they reached on Beri-Dubaldhan road, both the accused i.e. petitioner (Jai Bhagwan) and his co-convict, namely, Narender @ Kala, asked the complainant to drive the car on the side of canal as they had to take another passenger. When he stopped the car, both the accused caught the complainant, tore his clothes, snatched his Nokia mobile phone bearing no. 93104-11426, keys of the car and escaped from the spot with his car and mobile phone. Petitioner-Jai Bhagwan was later arrested on 29.09.2013 while his co-accused, Narender @ Kala, was

arrested on 10.10.2013. The car and mobile phone of complainant were recovered on their disclosure statements.

3. On perusal of prosecution evidence, learned trial Court convicted and sentenced the petitioner and his co-convict for offence punishable under Section 392 read with Section 34 IPC. The petitioner and his co-accused filed appeal, which was dismissed by learned Additional Sessions Judge, Jhajjar.

4. Learned counsel for the petitioner has argued that learned trial Court while convicting and sentencing the petitioner has not taken note of the fact that police has not conducted any test identification parade of petitioner and statement of complainant finds no independent corroboration.

5. On perusal of judgments of Courts below, I find no merit in both the submissions of learned counsel for the petitioner as vehicle of the complainant was hired by the petitioner and his co-convict, Narender @ Kala. They had travelled with him from Delhi to Jhajjar and then from Jhajjar to Agra. It was on the way that they had snatched the mobile and car of the complainant after giving him beating and tearing his clothes. The complainant was with petitioner and his co-convict for a long time, as such, could easily identify them. He had identified them in Court, as such, non-conducting of test identification parade is immaterial. The incident had taken place while petitioner and his co-convict were on the way when the car was stopped, as such, there could not be any independent witness present at the spot. This is particularly so because petitioner and his co-convict could not take the risk of stopping the car at public place. Even otherwise, complainant had no motive, reason or enmity with petitioner so as to falsely implicate him in this case. Courts below have rightly relied on

statement of complainant while convicting the petitioner.

6. Keeping in view above facts, I find no merit in this revision and the same is dismissed.

October 23, 2018

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*