

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2420-2009

Date of Decision: 13.09.2019

Mukhtiar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Ms. Ishma Randhawa, Advocate, for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

Harnaresh Singh Gill, J.

The petitioner along with one Balbir Singh was tried for committing the offence punishable under Section 392 read with Section 511 IPC. Vide judgment and order dated 22.03.2007, learned Sub Divisional Judicial Magistrate, Baba Bakala, while acquitting said Balbir Singh of the charge framed against him, held the petitioner guilty for the said offence and sentenced him to undergo RI for 2-1/2 years and to pay a fine of Rs.1000/- and, in default of payment of fine, to further undergo RI for two months.

Aggrieved there-against, the petitioner filed an appeal before the learned Sessions Judge, Amritsar. Vide judgment dated 4.8.2009, the learned Additional Sessions Judge, Amritsar, dismissed the appeal filed by the petitioner, thereby affirming the judgment and order passed by the learned trial

Magistrate. Still aggrieved, the petitioner has preferred the present revision petition.

As per the prosecution case, on 5.1.2001 at about 8.30 p.m., complainant-Gurcharan Singh along with his wife Surinder Rani and daughter, namely, Jaspreet Kaur, was present in his house. At that time, upon having heard knocking on the door, the complainant opened the gate. Two persons with yellow patkas on their head and clad in sheets entered the complainant's house. Out of them, one was clean shaven, whereas the other was having beard. One of them pointed the rifle without butt on the complainant and directed his family members to get together in one room. When the complainant while holding the rifle towards the roof of the house had raised an alarm, both the accused tried to run away after throwing the rifle on the spot. The person holding the rifle was identified as Mukhtiar Singh whereas the second accused was Balbir Singh. When the people of the vicinity gathered, both the accused fled from the spot leaving behind the rifle without butt and one silver colour Bajaj Chetak Scooter bearing Registration No. PB04/7757. ASI Surinder Singh removed the Magazine of Rifle 303 bearing No. 73786/A and unloaded the same. From the barrel of the rifle, one cartridge 303 and the Magazine containing 4 cartridges of 303 were taken out. ASI prepared the sketch of the rifle without Butt and Magazine. Besides, Scooter was also taken into possession.

After completion of investigation, challan was presented in the Court.

Charge under Section 392 read with Section 311 was framed against the petitioner. He denied the charge and claimed trial.

In order to prove its case, the prosecution had examined 10 witnesses, including complainant Gurcharan Singh, as PW1.

Statement of accused under Section 313 Cr.P.C was recorded, wherein while denying the allegations, the accused-petitioner pleaded innocence. In defence, he had examined two witnesses.

On the basis of the evidence led, the learned trial Court, has convicted and sentenced the accused-petitioner as noticed above. It was found that accused-petitioner had forcibly entered the house of the complainant and thereby pointed the rifle which he was carrying, upon the complainant. The defence of the accused-petitioner that he had been falsely implicated on account of the financial liability which the complainant owed him, did not find favour with the trial Court. The finding of guilt so recorded by the learned trial Court, was upheld by the learned Additional Sessions Judge, in appeal.

Learned counsel appearing for the petitioner contends that the petitioner was falsely implicated in the case in hand that both the Courts below have totally ignored the defence set up by the accused-petitioner. Both the Courts totally misread the defence set up by the petitioner that the complainant was to return some amount to the petitioner and

when the petitioner had demanded the said amount, he was falsely implicated in the case.

However, I do not find any merit in the arguments raised by the counsel for the petitioner. This Court in its revisionary jurisdiction is not re-appreciate the evidence, especially when, both the Courts have recorded their concurrent findings of guilt on the part of the accused-petitioner. It could not be shown that any evidence has been misread or misinterpreted. Once the factum of accused-petitioner having forcibly entered the house of the complainant along with a rifle and pointing the said rifle towards complainant stood proved on record, there remained nothing to dispute the finding of guilt recorded by the trial Court and upheld by the learned appellate Court.

Faced with such a situation, learned counsel appearing for the petitioner contends that out of the total sentence of 2-1/2 years, the petitioner has already undergone 7 months and 6 days. Thus, it is prayed that the sentence imposed upon the petitioner may be reduced to the period already undergone by him.

In the instant case, FIR had been registered on 6.1.2001. Thus, the petitioner has been facing the agony of trial for the last more than 18 years. Still further, a perusal of the custody certificate would show that the petitioner has already undergone 7 months and 6 days. Thus, in my opinion, no useful purpose would be served by sending the petitioner behind the bars once again to undergo the remaining period of

sentence. Instead, ends of justice would be suitably met if the sentence imposed upon the petitioner is reduced to the period already undergone.

In view of the above, while maintaining the conviction of the petitioner under Section 392 read with Section 511 IPC, the sentence imposed upon the petitioner is reduced to the period already undergone, but subject to payment of fine of Rs.5000/- over and above the amount of fine, already imposed by the learned trial Court. The said amount shall be deposited by the petitioner before the trial Court within a period of two months from today.

Revision Petition is disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

13.09.2019
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No