

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

390

**CRR-4050-2013 (O&M)
Date of Decision: 26.09.2019**

Baljinder Singh

... Petitioner

Versus

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. P.S. Sekhon, Advocate for the petitioner.

Ms. Bhavna Gupta, Senior DAG, Punjab.

HARNARESH SINGH GILL, J.

Petitioner, Baljinder Singh along with one Amarjit Singh was tried for the offences under Sections 465, 467, 468, 471, 411 and 401 of the Indian Penal Code (for short 'IPC'). Vide judgment and order dated 29.11.2011, passed by Judicial Magistrate Ist Class, Moga, the petitioner was convicted for the offences under Sections 411, 468, 471 of IPC and sentenced to undergo RI for 2 years and to pay fine of Rs.2,000/- and in default of payment of fine further undergo imprisonment for 3 months for each of the aforesaid offences. All the sentences were ordered to run concurrently. However, Amarjit Singh was acquitted of the charges framed against him.

Aggrieved against the judgment and order passed by the trial Court, the petitioner filed an appeal before the learned Sessions Judge, Moga. Vide judgment dated 30.11.2013 the learned Sessions Judge, Moga, while partly allowing the appeal, acquitted the petitioner of the charges

under Sections 468, 471 IPC but maintained his conviction and sentence under Section 411 IPC.

Still aggrieved, the petitioner has filed the present revision petition.

As would emerge from the facts as noticed by the Courts below, in the instant case, the petitioner had been tried for the offence of selling the stolen vehicles in the market after preparing their forged documents. The police got registered the FIR on the basis of a secret information. So much so, the accused-petitioner, while in police custody had suffered a disclosure statement before SI Tehal Singh to the effect that he had kept concealed three Tata Sumo vehicles in the house of his relative-Harjinder Singh besides having kept concealed various other vehicles at the house of his another relative. The police had effected the recovery of the aforesaid vehicles pursuant to the disclosure statement made by the petitioner.

Learned trial Court, on the basis of evidence produced on record found the accused-petitioner guilty for various offences and sentenced him accordingly, as noticed above. However, Amarjit Singh was acquitted of the charges levelled against him for the reason that the prosecution had miserably failed to prove its case against him. Learned trial Court while acquitting the petitioner of the charges under Sections 468 and 471 IPC maintained his conviction under Section 411 IPC on the same set of findings as recorded by the learned trial Court.

Learned counsel appearing for the petitioner has vehemently argued that once the Appellate Court came to the conclusion that there was no evidence against the petitioner so as to implicate him for the offences under Sections 468, 471 IPC, he (petitioner) ought to have been acquitted of

the charge under Section 411 IPC as well on the same analogy.

However, I do not find any merit in the said argument raised by learned counsel for the petitioner. Learned Appellate Court has given cogent and convincing reasons for maintaining the conviction and sentence of the petitioner under Section 411 IPC clearly differentiating the role of the petitioner so as to entail punishment under Section 411 IPC. In para 12 of its judgment the learned Appellate Court has held as under:-

12. *From the perusal of testimony of PW1 and PW3 it is evident that on 21.4.2002, PW1 who was in-charge of CIA Staff Moga received secret information against the appellant and some other persons and consequently he prepared ruqa Ex.PA and sent the same to the police station and on the basis of said ruqa, FIR was registered in this case. From the perusal of testimony of PW1 and PW3 it is also evident that then the police party headed by PW1 raided the disclosed place and at that time appellant Baljinder Singh was found sitting in Tata Sumo bearing No.PB04-G-6200. That registration certificate of the said vehicle was recovered from its dashboard, as per which the said vehicle was initially registered in the name of Baldev Singh son of Nazar Singh and was later on transferred in the name of Ravel Singh son of Jagir Singh, resident of Sarhali. The said registration certificate is Ex.P1 which is also proved on the record by PW1. From the perusal of testimony of PW1 and PW3 it is evident that appellant Baljinder Singh failed to produce any document of his ownership regarding the said Tata Sumo and thus said Tata Sumo and its registration certificate were taken into possession by PW1 vide memo Ex.PB which was also attested by PW3. The rough site plan of the place of said recovery was also prepared which is Ex.PC. From the perusal of the record of trial court it is evident that*

said Tata Sumo was taken on superdari by its owner Ravel Singh from the court of Ilaqa Magistrate in year 2004, during investigation of this case. So, it is fully proved that one stolen Tata Sumo bearing registration No.PB-04-G-6200 was recovered from the possession of appellant Baljinder Singh in the area of Moga on 21.4.2002 by the police party headed by PW1."

In view of the above, I do not find any merit in the present revision petition so as to take a different view than what has been taken by the courts below as regard the conviction of the petitioner under Section 411 of IPC.

At this stage, learned counsel for the petitioner contends that in view of the fact that the petitioner has already undergone 1 year and 25 days out of his total substantive sentence of two years, therefore, the sentence imposed upon the petitioner may be reduced to the period already undergone by him.

Reliance has been placed by learned counsel for the petitioner on the judgments of co-ordinate Benches of this Court in CRR No. 2163 of 2018 decided on 10.10.2018 titled as ***Karaj Singh Vs. State of Punjab*** and CRR-2690 of 2016 decided on 25.09.2018 titled as ***Bintu Vs. State of Haryana***.

The said prayer made by learned counsel for the petitioner merits acceptance for the reasons that the petitioner has been facing the agony of trial for the last more than 17 years (FIR having been lodged on 21.04.2002) and that no useful purpose will be served by sending the petitioner behind the bars once again to undergo the remaining period of sentence.

In view of the above while maintaining the conviction of petitioner under Section 411 IPC, his sentence is reduced to the period

already undergone by him.

With the aforesaid order, the revision petition is disposed of.

26.09.2019
pooja saini

(HARNARESH SINGH GILL)
JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>