

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-153-2016 (O&M)
Date of decision: 04.04.2019

Sukhdev Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Manu Loona, Advocate
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this revision petition is for setting aside the judgment of conviction dated 07.04.2015, vide which the petitioner was convicted by the trial Court under Section 61(1)(a) of the Punjab Excise Act, 1914 (for short 'Act of 1914') and order of sentence of even date, vide which he was sentenced to undergo R.I. for a period of six months with a fine of Rs.1,000/-, in default of payment of fine, to further undergo R.I. for two months as well as the judgment dated 03.11.2015 passed by the lower appellate Court, vide which, while upholding the judgment of conviction passed by the trial Court, the sentence awarded to the petitioner was reduced to three months R.I.

Brief facts of the case are that on 05.06.2013, ASI Bhagwan Singh

along with other police officials were present in private vehicle in the area of Bus Stand, Mandi Ladhuka in connection with patrolling and checking duty, where he received a secret information that accused-Sukhdev Singh is habitual of distilling and selling illicit liquor and even on that day, he was selling the same at his house and in case raid is conducted, heavy quantity of illicit liquor or lahan can be recovered. Believing the information to be correct, a ruqa i.e. memo was sent to the police station for registration of a case. Thereafter, ASI Bhagwan Singh along with other police officials conducted a raid at the disclosed place, where the accused, on seeing the police party, fled away from the spot. The Investigating Officer, before conducting search, tried to join independent witnesses, but nobody met. On search, a plastic cane was recovered, which contained illicit liquor. ASI Bhagwan Singh, Investigating Officer took a sample of 180 ml and the remaining liquor on being measured came out to be nine bottles of illicit liquor weighing 750 ml each. The said illicit liquor was repoured in the same plastic cane after measurement. The sample nip and the plastic cane were sealed by ASI Bhagwan Singh with his seal having impression 'BS'. The specimen impression of seal was also prepared separately and seal, after use, was handed over to Head Constable Kulbir Singh and the case property was taken into possession vide separate recovery memo attested by the witnesses. Further investigation was conducted on the spot and statements of the witnesses were recorded and site plan of place of recovery was prepared. On receiving the report of Chemical Examiner and after completion of other formalities of investigation, the challan was presented before the trial Court.

The prosecution, in its evidence, examined PW1 ASI Bhagwan Singh-Investigating Officer, PW2 Head Kulbir Singh, PW3 Head Constable Darshan Singh, PW4 Constable Amar Singh and PW5 Head Constable Gurmail Singh. Thereafter, statement of the accused under Section 313 Cr.P.C. was recorded and the incriminating evidence was put to him. The accused-petitioner denied all the allegations levelled against him and pleaded his innocence. However, the accused did not lead any evidence in his defence.

Thereafter, the trial Court, vide judgment of conviction and order of sentence dated 07.04.2015, convicted the appellant and sentenced him to undergo R.I. for a period of six months and in the appeal filed by the petitioner before the lower appellate Court, while upholding the judgment of conviction passed by the trial Court, the appellate Court reduced his sentence to a period of three months R.I.

Learned counsel for the appellant has not challenged the findings regarding conviction of the appellant, as recorded by both the Courts below and has submitted that since the appellant has undergone 01 month and 26 days of actual sentence, out of three months R.I. awarded by the lower appellate Court, his sentence be reduced to the period already undergone. It is further submitted that the petitioner is sole bread-earner for his family; he is not involved in any other case and he has not repeated such offence.

Learned State counsel, on the basis of custody certificate, has not disputed the factual position.

In view of the above, present revision petition is partly allowed and while upholding the judgment of conviction, sentence of 03 months R.I.

awarded to the petitioner by the lower appellate Court, is reduced to the period undergone by him.

Since sentence of the petitioner has already been suspended, his bail/surety bonds shall stand discharged.

04.04.2019
vishnu

[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No