

CRR-4315 of 2015

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

CRR-4315 of 2015
Date of Decision: 18.03.2019

Harpal Singh alias Kalu and another

....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Vishal Aggarwal, Advocate, for the petitioners.
Mr. Harpreet Multani, AAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Through instant revision, petitioners have laid challenge to judgments of both the Courts below, holding them guilty and sentencing under Section 382 read with Section 34 IPC.

Briefly, in the evening of 12.01.2011, when after taking diesel in a plastic container for his truck, which had halted near Adda Kanwan on account of finishing of diesel, complainant Sucha Ram was waiting for lift at G.T. road, two persons on a “silver colour” without registration number motorcycle offered lift to the complainant and instead of dropping him near his truck, tried to take him away somewhere else. The pillion rider caught hold of his arms. In struggle, the diesel container fell down. After stopping their motorcycle, both assailants gave beating to the complainant. In the lights of vehicles, complainant identified both of them. They snatched purse of the complainant, containing ₹7,000/-, mobile phone and fled away. In struggle, purse of the petitioners containing one passport size photograph fell down, which was handed over to the police.

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On these broad allegations FIR No.08 dated 19.01.2011 was registered under Sections 382, 34 IPC at Police Station Sadar, Pathankot.

After holding trial, vide judgment of conviction and order of sentence dated 21.05.2015, petitioners were held guilty and sentenced to undergo rigorous imprisonment for three years and pay fine of ₹500/- each under Section 382 read with Section 34 IPC by the trial Court. In default of payment of fine to further undergo rigorous imprisonment for 30 days.

Being aggrieved, petitioners preferred appeal, wherein the Appellate Court reduced their sentence from three years to one and half year vide judgment dated 07.10.2015.

Learned counsel for the petitioner *inter alia* contends that both the Courts below have failed to appreciate that there was a delay of seven days in lodging the FIR. No independent witness was joined at the time of investigation. Though, as per complainant he had received injuries at the hands of the petitioners, but, he did not medically examine himself for the reasons best known to him, which required to draw adverse inference against the prosecution. Complainant could not produce any toll tax receipt showing his presence on the spot. Prosecution could not establish identity of the petitioners beyond doubt. As per prosecution, recovery of mobile phone of the complainant was effected from the petitioners, but no SIM of the same was produced during trial. Denomination of currency allegedly looted by the petitioners was also not disclosed by the complainant, while lodging the FIR. There was contradiction in the site plan and place of occurrence.

On the other hand, learned State counsel refuting above submissions, pleading legality and validity of the judgments of both the

Courts below, urged that all the prosecution witnesses supported the

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prosecution story. Identity of the petitioners was established beyond reasonable doubt, because complainant himself had identified them on the spot itself in the headlights of vehicles passing on the highway.

Having given thoughtful consideration to the rival submissions, this Court finds the instant revision completely devoid of any merit for the reasons to follow.

No question of law much less substantial has been raised in this revision.

This Court while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioners has not been able to show any such infirmities in the judgments of both the Courts below.

All the submissions made by learned counsel for the petitioners have already been dealt with in detail by both the Courts below. Therefore, their further discussion would be a repetition and wastage of precious time of the Court.

Moreso, the above submissions of learned counsel for the petitioners relate to insignificant aspect, which do not go to the root of the case. Complainant categorically identified the petitioners in Court as he had earlier recognised their faces in the headlights of the vehicles passing through the spot.

Petitioners in an isolated place robbed the complainant on false pretext of helping him by offering lift on their motorcycle, which is a very

heinous crime. Appellate Court has already reduced their sentence to half

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i.e. from three years to one and half year. Therefore, no scope is left to further reduce the sentence.

I have gone through impugned judgments of both the Courts below and find no illegality or perversity in the same.

Dismissed.

Copy of this order be sent to learned Chief Judicial Magistrate, Pathankot, for issuance of arrest warrants of the petitioners to undergo remaining part of sentence.

March 18, 2019
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No