

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

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**CRR No. 3828 of 2018
Date of Decision: 7.2.2019**

Narender @ Kala**.....Petitioner****v.****State of Haryana****.....Respondent****CORAM HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present:- Mr. Rakesh Dhiman, Advocate, for the petitioner

RAMENDRA JAIN, J.

Petitioner Narender @ Kala has laid challenge to the judgment of the First Appellate Court dated 9.8.2018, affirming the judgment of conviction and order of sentence of the learned trial Court dated 4/5.8.2017, whereby the petitioner was held guilty under Section 392 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.2000/-. In default thereof, further imprisonment for 6 months.

Learned counsel for the petitioner contends that FIR was lodged against unknown persons. No identification parade was ever got conducted. Therefore, identification of the petitioner for the first time in the Court is meaningless inasmuch his identity throughout was disputed. No independent witness was examined by the prosecution to corroborate the statements of the complainant and official witnesses. Even the Investigating Officer did not come forward to depose against the petitioner or in favour of the complainant.

After giving thoughtful consideration to the above submissions of learned counsel for the petitioners, this Court is of the view that the present revision is devoid of any merit for the reasons to follow :-

(i) The alleged robbed car and mobile phone were recovered from the petitioner by the police. This fact, in itself, corroborates the prosecution story that the petitioner had committed the crime,

(ii) Non-examination of Investigating Officer is not fatal, inasmuch as his role always comes into play after commission of crime. In no circumstance, he is an eye witness to the occurrence, if not present at the spot at the time of commission of crime. Therefore, statement of Investigating Officer is always formal in nature to disclose about the steps, which he had taken during investigation.

(iii) According to the prosecution, no question of law, much less substantial has been raised in this petition.

(iv) This Court, while exercising, revisional powers, has very limited jurisdiction which can only be exercised only on the following three counts:-

- (1) Whether the Courts below have exercised their powers beyond their jurisdiction;
- (2) or the same has been exercised illegally; and
- (3) have not exercised their powers diligently.

Learned counsel for the petitioner has not been able to point out any of the above infirmities in the judgments of both the Courts below.

Both the Courts below have recorded concurrent finding against the petitioner. Points raised before this Court have already been dealt with, in detail, by both the Courts below. Therefore, their further dealing with by this Court for the third time shall only be a repetition, wasting precious time of the Court.

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

On a VT message from Control Room, Jhajjar regarding snatching of Indigo car bearing registration no.DL-1YC-4633, driven by two unknown persons, the police PCR no.4 rushed to the spot, where complainant PW-7 Varun Dubey was present. He disclosed that in the morning of that day his aforesaid car, being run by him as a taxi, was hired by two unknown persons from Jhajjar to Agra. At about 3:00 p.m., when they were passing through Village Beri to Dubaldhan, on direction of the assailants, he drove his taxi upon the pavement of rivulet on the pretext of taking one person. Thereafter, both the assailants nabbed him, tore off his clothes and snatched his mobile; de-camped him from his vehicle and took it away.

Such type of road robberies have increased manifold in the recent past. Therefore, identity of the petitioners, for the first time in the Court, is completely meaningful and worth reliance inasmuch as he was traveling in the taxi of the complainant for a considerable long distance and had scuffled with him for robing him. In such situation, identification of the petitioner by the complainant cannot be doubted at all from any angle.

In view of the above, the present petition stands dismissed.

At this stage, learned counsel for the petitioner contends that in the matter of sentence, leniency may be taken. However, in view of the discussion made above and considering the seriousness of the crime committed by the petitioner, he does not deserve any leniency.

Dismissed.

(RAMENDRA JAIN)
JUDGE

7.2.2019

Ashwani

Speaking/Reasoned
Reportable

Yes/No
Yes/No