

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Revision No. 2517 of 2014 (O&M)
Date of Decision: 24.5.2019**

Jagsir Singh @ Jagga and another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sumeet S. Brar, Advocate
for the petitioners.

Mr. S.S.Cheema, AAG, Punjab.

HARNARESH SINGH GILL, J

The present petition has arisen out of the judgment dated 7.5.2014 passed by Additional Sessions Judge, Bathinda, vide which the appeal filed by the petitioners, challenging the judgment of conviction and order of sentence dated 1.11.2011, passed by Sub Divisional Judicial Magistrate, Talwandi Sabo in case FIR No. 130 dated 8.9.2010 under Sections 454 and 380 of the Indian Penal Code, 1860 ('IPC' for short), registered at Police Station Talwandi Sabo, was dismissed, but with the reduction in sentence.

As per the prosecution story, on 8.9.2010, on receipt of a telephonic information from Jagdev Singh Chowkidar, Judicial Court Complex, Talwandi Sabo, HC Gurpal Singh reached the spot where Jagdev Singh Chowkidar, Sonu and Ramesh Kumar Chowkidars were present.

with Maruti car bearing No. PB-03-T-3185 and a motorcycle bearing No. PB-31-D-4030. It was alleged that on 8.9.2010 at 5.00 P.M., when the employees of the Court had left after work, Jagdev Singh Chowkidar along with Sonu Chowkidar were moving in the Court complex and when they reached near B-Block, they found the RO system along with stabilizer, installed in the B-Block, being carried away by accused-petitioners Navdeep Singh and Jagsir Singh. On their questioning, the said persons kept the articles in the Maruti car bearing No. PB-03-T-3185. Out of them, one person sat in the car and the other tried to run on the motorcycle, bearing No. PB-31-D-4030. Upon raising alarm, Ramesh Kumar Chowkidar also came there. The person sitting on the motorcycle tried to run away and when he felt that he was trapped, he threw his motorcycle and ran away. The person sitting in the car was apprehended. He disclosed his name as Jagsir Singh @ Jagga and also disclosed the name of the other person, who ran away from the spot as Navdeep Singh @ Joti. They handed over Jagsir Singh along with R.O. system, stabilizer, Maruti car and the motor-cycle to the police. Petitioner No. 2 Navdeep Singh @ Joti who managed to run away from the spot, surrendered in the Court on 12.10.2010.

After completion of investigation and necessary formalities, challan was presented against the petitioners and charges were framed against the petitioners under Sections 454 and 411 IPC to which petitioners pleaded not guilty and claimed trial.

In order to prove its case, the prosecution had examined four witnesses, including complainant-Jagdev Singh as PW-1, eye witness Sonu as PW-2 and the investigating officer HC Gupral Singh as PW-3.

In the statements recorded under Section 313 Cr.P.C., the

petitioners-accused denied the charges and pleaded false implication.

After taking into consideration the evidence on record and hearing the learned counsel for the parties, the trial Court vide judgement and order dated 1.11.2011 convicted the petitioners under Sections 454 and 411 IPC and sentenced them as under:-

<i>Name of convict</i>	<i>Under Section</i>	<i>Sentence</i>
<i>Navdeep Singh Jagsir Singh</i>	<i>454 IPC</i>	<i>RI three years each and fine of Rs. 1000/- each and in default of payment of fine, RI for one month each.</i>
	<i>411 IPC</i>	<i>RI for one year</i>

Aggrieved of the said judgment and order, the petitioners preferred an appeal before the Sessions Judge, Bathinda. Vide judgment dated 7.5.2014, the learned Additional Sessions Judge, Bathinda, dismissed the appeal filed by the petitioners but with reduction in sentence from rigorous imprisonment for three years to that of two years.

Still aggrieved, the petitioners have preferred the present revision petition.

I have heard learned counsel for the parties and have also gone through the record of the Courts below, with their able assistance.

Learned counsel for the petitioners has argued that the occurrence took place in the year 2010 and the petitioners have been facing the agony of trial for the last nine years. The appeal was decided on 7.5.2014 and now the revision petition has been pending since the year 2014. The sword of conviction has been hanging over the heads of the petitioners during this period. The speedy trial is an essential right of an individual, who is involved in any offence. The prosecution has been delayed and if at this stage, for the offence alleged to have been committed

in the year 2010, the petitioners are sent behind the bars, it will have an adverse affect, not only on them but upon their families as well. It is further submitted by the learned counsel for the petitioners that the petitioners have not indulged themselves in any other illegal activity after their conviction and now they are leading a disciplined life. By stating all these facts, he has prayed that sentence of the petitioners be set aside. Reliance was placed on the decision of this Court rendered in the case of ***Ram Chander versus The State of Haryana 2003 (2) AICLR 982.***

This prayer has vehemently been opposed by the learned counsel for the State. He has stated that the guilt of the petitioners stands proved on record and punishment is in proportion to the offence committed by them and prayed that the petition be dismissed and conviction and sentence be upheld.

This Court is of the opinion that purpose of criminal law is to bring discipline, peace and harmony in the society and also to give an opportunity to an erring individual to reform himself. It is apparent from the arguments and the records that sword of conviction has been hanging over the heads of the petitioners for the last more than nine years. May be with the passage of time, they have reformed themselves and now are living a peaceful life and if at this stage, they are ordered to undergo the sentence awarded to them, it will rather have an adverse affect. Thus, the petitioners deserve leniency at the hands of this Court.

In the present case, the petitioners were convicted and sentenced by the trial Court, vide judgment and order dated 1.11.2011. The appeal preferred by them was dismissed by the Sessions Court on 7.5.2014 and as noticed above, the sentenced awarded to them was reduced to two

years, out of which, the petitioners have already undergone more than 05 months of actual sentence. There is no other case pending or decided against them. There is no report of misuse of concession of bail by them either.

Thus, taking into consideration the above facts and circumstances, I do not find that any useful purpose would be served in sending the petitioners to jail at this point of time for undergoing the remaining period of sentence. Though ordinarily in an anti-social offence under the IPC, this Court should take a strict view of such matter yet taking into consideration that the petitioners have not committed any such offence and have been living a disciplined life during the period their sentence was suspended, sentence of the petitioners is liable to be reduced to period already undergone by them.

Thus, the cogent and trustworthy evidence produced by prosecution and well reasoned judgments of the Courts below, the findings recorded by the Courts below, convicting and sentencing the petitioners, do not call for any interference and the same are accordingly affirmed.

However, keeping in view the fact that the petitioners have already undergone more than 5 months of actual sentence, I feel that ends of justice would be suitably met, if the sentence awarded to the petitioners is reduced to the period already undergone by them subject to payment of fine of Rs. 20,000/- i.e. 10,000/- each.

Accordingly, the conviction of the petitioners under Section 454 and 411 IPC is maintained. However, sentence qua imprisonment of the petitioners, is reduced to the period already undergone by them. The petitioners are directed to deposit Rs. 20,000/- with the Chief Judicial Magistrate concerned within a period of one month from the date of the

receipt of certified copy of this order. The fine so deposited by the petitioners shall then be deposited with the District Legal Service Authority, Bathinda. It is, however, made clear that if the fine is not deposited by the petitioners, as directed, the revision petition shall stand dismissed.

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

(HARNARESH SINGH GILL)
JUDGE

May 24, 2019
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No