

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

109

CRR-1142 of 2021 (O&M)
Date of Decision : 06.10.2021

Pargat Singh

...Petitioner

Versus

State of Punjab

...Respondent

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. G.S. Kaura, Advocate for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

Harsimran Singh Sethi, J. (Oral)

The present criminal revision petition has been filed against the order dated 06.12.2018 passed by the Judicial Magistrate 1st Class, Malerkotla, by which, the petitioner was convicted for six months in FIR No.40 dated 14.04.2017 registered under Sections 61/1/14 of Punjab Excise Act at Police Station City Amargarh as well as order dated 16.09.2021 passed by the Additional Sessions Judge, Sangrur, whereby, the appeal preferred by the petitioner against the judgment of conviction, has been rejected.

Learned counsel for the petitioner argues that while taking the sample and getting it examined, the due process required under the law was not followed as the examination of the sample was delayed without any justification and the said act has caused prejudice to the petitioner. Learned counsel for the petitioner further argues that the number of the vehicle, from

which the recovery was made, was also not correctly described and, therefore the order passed by the trial Court convicting the petitioner as well as the order passed by the lower Appellate Court affirming the same, are liable to be set aside.

I have heard learned counsel for the petitioner.

The plea of the petitioner with regard to non-following of due process while getting the sample examined, has already been considered by the Courts below, wherein, a finding has been recorded that the sample so taken was never tampered with in any manner so as to cause prejudice to the petitioner and the delay in sending the sample for examination itself is no ground to discard the report. Even during the arguments, learned counsel for the petitioner has conceded that sample was not tampered with but, raised the argument that the sample was required to be sent for examination immediately. The prejudice caused to the petitioner, if any on the said account has not been brought to the notice of this Court hence, in the absence of any prejudice caused to the petitioner on account of sample not being sent for examination immediately, no ground for interference by this Court is made out on the said argument.

Second argument which is being raised by the learned counsel for the petitioner is that the vehicle number which was PB-23-V-5500 was mentioned as PB-23-B-5500. The said argument has already been noticed by both the Courts below and the finding has been recorded that the same was a typographical mistake, which will not affect the act committed by the petitioner in any manner, so as to give him the benefit of the said typographical error. Nothing has been pointed out to this Court that vehicle in question was not involved in the incident or the same was not the clerical

mistake.

The last argument raised by the learned counsel for the petitioner is that the petitioner being a first offender be granted the benefit of probation.

Once, the recovery which has been done from the petitioner is on the heavy side, no ground is made out to grant the said prayer of the petitioner. In the facts and circumstances of the case, sentence is proportionate and need no interference by this Court in this revision petition.

Keeping in view the above, no ground for interference in the impugned orders by this Court is made out.

Dismissed.

CRMs-33201, 33202 & 33203-2021

Keeping in view the order passed in the main criminal revision petition, the present applications stand dismissed.

October 6, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No