

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

CRR No.3204 of 2019 (O&M)

Date of decision : 21.12.2022

Pritam @ Poppy

....Petitioner

Versus

State of U.T., Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. A.P. Kaushal, Advocate
for the petitioner.

Mr. Rajiv Vij, Addl. Public Prosecutor for U.T., Chandigarh.

PANKAJ JAIN, J.

Present revision petition has been filed against the judgment dated 30th of October, 2019 passed by Additional Sessions Judge, Chandigarh whereby the appeal preferred by the petitioner against the judgment of conviction/order of sentence dated 17th of December, 2016 passed by the Judicial Magistrate 1st Class, Chandigarh stands dismissed.

2. As per the case of the prosecution on 3rd of February, 2014 police received a secret information to the effect that the petitioner was a vehicle thief and operating an inter-state gang in Haryana, Delhi, Chandigarh and other States. It was further informed that he was coming from Delhi to Chandigarh in a stolen Indigo car with false registration number and forged documents in search of a customer to sell the same. As per the prosecution, a *naka* was laid and the petitioner was apprehended at

about 3.00 PM in a car whose registration number and engine/chassis number were found to have been forged. The petitioner was put to trial. After analyzing the evidence threadbare, Trial Court found the petitioner guilty of offence punishable under Section 467/471 IPC and sentenced him as under :

Offence	Sentence	Fine	In default
467 IPC	Rigorous Imprisonment for 3 years	Rs.7,000/-	To further undergo Simple Imprisonment for 2 months
471 IPC	Simple Imprisonment for 1 year	Rs.3,000/-	To further undergo Simple Imprisonment for 1 month

3. Appeal preferred by the petitioner stands dismissed.
4. Ld. Counsel for the petitioner submits that there is no independent witness to corroborate the allegation of tampering/counterfeiting of the chassis/engine number *qua* the petitioner. So much so there is no independent witness *qua* the recovery effected from the petitioner w.r.t. vehicle in question and, thus, the findings recorded by the Courts below are liable to be set aside and the petitioner deserves to be acquitted from the charges of offence punishable under Section 467/471 IPC. Ld. Counsel for the petitioner further submits that if this Court finds that the findings *qua* guilt of the petitioner do not warrant interference, the petitioner is entitled for reduction in sentence as he has already undergone total period of 2 years, 3 months and 27 days out of the substantive sentence of 3 years awarded to him.

5. Per contra, Addl. Public Prosecutor has submitted that the prosecution has fully proved the case that the petitioner was guilty of being in possession of a stolen vehicle after forging the documents and engine/chassis number. Apart from this, he submits that the petitioner is a habitual offender having two more cases pending against him for offence punishable under Section 379 IPC and having faced trial in three other cases though he does not dispute that the petitioner has earned acquittal therein.

6. I have heard counsel for the parties and have gone through the records of the case.

7. In the considered opinion of this Court the argument raised by counsel for the petitioner w.r.t. non-joining of independent witnesses sans merit. Prosecution has successfully been able to prove that the petitioner was found to be in possession of forged and fabricated documents. The vehicle recovered from the petitioner was found to be fitted with counterfeited number plates and the actual registration number of the vehicle was changed from BR-05-F-6904 to HR-27-D-6682.

8. In these circumstances, no fault can be found w.r.t. findings recorded by the Courts below w.r.t guilt of the petitioner *qua* offence punishable under Section 467/471 IPC.

9. Exercise of revisional jurisdiction under Section 401 Cr.P.C. is much narrow as compared to appellate jurisdiction. As per settled law the revisional jurisdiction can be exercised by the High Court in the cases of legal infirmities and as per the series of the precedents some of the

illustrative categories are:

- i) where the Trial Court has wrongly shut out evidence which the party wish to produce.
- ii) where the admissible evidence brought on record by the defence has been wrongly brushed aside as inadmissible.
- iii) where the trial court had no jurisdiction to try the case and yet the accused stands convicted.
- iv) where the material evidence has been overlooked either by the Trial Court or the Appellate Court or the order has been passed by considering irrelevant evidence.
- v) where the conviction is based upon a view which is impossible and improbable.

10. Ld. Counsel for the petitioner has not been able to point out any circumstance which would warrant exercise of revisional jurisdiction in the findings recorded by the Courts below. Consequently, the findings recorded by the Courts below *qua* guilt of the petitioner are affirmed.

11. The second limb of argument raised by counsel for the petitioner w.r.t. reduction in sentence of the petitioner, merits acceptance. Similar prayer has been dealt with by the Supreme Court in **Nirmal Dass vs. State of Punjab, (2016) 13 SCC 201**, wherein it has been held that:-

“17) We have perused the evidence and the findings of the appellate Court and find that having regard to the totality of the

circumstances such as nature of offences committed and findings recorded by the appellate Court, the sentence awarded to the appellant can be reduced from "two years" to "one year". In other words, we consider it just and proper and in the interest of justice to reduce the sentence of the appellant to "one year" instead of “two years”.

12. As a sequel of the aforesaid discussion, keeping in view the fact that the petitioner has already undergone sentence of more than 2 years and 4 months out of the substantive sentence of 3 years and in view of the law laid down by the Apex Court in **Nirmal Dass's** case (supra), the sentence awarded to the petitioner is reduced to the actual sentence undergone by him and he is ordered to be released forthwith.

13. Pending application(s) if any, shall also stand disposed off.

December 21, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No