

2023:PHHC:050534

**In the High Court for the States of Punjab and Haryana at
Chandigarh**

CRR-338-2023 (O&M)

Date of Decision: April 12, 2023

Parvinder Singh and another

... Petitioners

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Sandeep Saini, Advocate,
for Mr. Davneet Sangwan, Advocate,
for the petitioners.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Vivek Puri, J.

Custody certificates of the petitioners filed in Court today,
are taken on record.

The petitioners have been arraigned as accused in the case
bearing FIR No. 65, dated 02.04.2014, under Section 379 of the Indian
Penal Code (for short 'IPC'), registered at Police Station Radaur, District
Yamuna Nagar.

The petitioners were convicted under Section 411 IPC by the
Court of learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri
in terms of the judgment dated 01.02.2018 and sentenced to undergo
simple imprisonment for a period of one year in terms of order dated
07.02.2018.

The petitioners had preferred an appeal against the aforesaid judgment of conviction and order of sentence. However, the appeal has been dismissed by the Court of learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, vide judgment dated 30.11.2022.

The present revision has been preferred by the petitioners assailing the aforesaid judgments vide which the petitioners have been convicted and sentenced and furthermore, the appeal has been dismissed.

Briefly, the facts as put forth by the prosecution are to the effect that on 02.04.2014 at about 06.15 AM, the motorcycle bearing registration No. HR02-T-7631, Chassis No. MBLHA10EJ89K04877, Engine No. HA10EA89K 09275, was parked by Trilochan Singh, complainant, at Radaur Bus Stand, Near Juice Corner and the same was stolen.

On completion of the investigation, the challan was presented against the petitioners. A prima facie case under Section 411 IPC was made out against the petitioners. The contents of the charge were read over and explained to them to which they pleaded not guilty and claimed trial.

To substantiate its case, the prosecution has examined 08 witnesses.

In their statements recorded under Section 313 of the Code of Criminal Procedure, the petitioners have denied the correctness of incriminating evidence appearing against them and have pleaded false implication. The accused have only produced documents in the defence evidence.

In terms of the judgment of conviction dated 01.02.2018 and order of sentence dated 07.02.2018, the petitioners were convicted and sentenced as aforesaid by the learned trial Court. The appeal against the said judgment has also been dismissed.

I have heard learned counsel for the parties and perused the record.

At the very outset, learned counsel for the petitioners has submitted that he does not dispute the findings of conviction recorded against the petitioners and only seeks leniency in the matter of sentence.

I have gone through the judgments passed by the Courts below and also the record of the learned trial Court.

In the instant case, the petitioners were apprehended on 02.08.2014 and the motorcycle was recovered as per the provisions of Section 102 of the Code of Criminal Procedure. The petitioners had made the disclosure statement acknowledging the fact of commission of theft of the motorcycle and in pursuance thereof, the motorcycle was taken into possession in the instant case also. ASI Gurbax Singh, PW2, has carried out the investigation of the case and has testified with regard to the disclosure statement of the petitioners and the recovery of the motorcycle in the instant case. His deposition also stands corroborated from the depositions of Sanjeev Kumar, PW4 and ASI Jaswant, PW5. The stolen property has also been identified by the complainant. The stolen property i.e. the motorcycle, has been recovered from the possession of the petitioners and they have failed to justify its possession.

In these set of circumstances, the findings of conviction have been correctly recorded and the same do not call for any interference by this Court.

As far as the question with regard to the quantum of sentence is concerned, it may be mentioned here that the petitioners no. 1 and 2 are stated to be aged about 32 years and 28 years respectively. The custody certificates do not indicate that they are involved in any other case. Furthermore, it has been pointed out that the petitioners have undergone imprisonment for a period of 05 months and 14 days. As such, the ends of justice will meet, if the sentence of imprisonment as imposed upon the petitioners is reduced to the imprisonment for the period already undergone.

In these set of circumstances, the findings of the Courts below with regard to the conviction of the petitioners are upheld and the sentence of imprisonment imposed upon them is reduced to the period already undergone.

With these observations, present revision petition stands disposed of.

April 12, 2023
vk

(Vivek Puri)
Judge

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