

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-809-2023(O&M)

Date of Decision:-30.10.2023

Buta Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Hasrat Brar, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioner-accused against the judgment dated 07.02.2023 passed by the Sessions Judge, Ferozepur whereby the judgment of conviction and order of sentence dated 04.11.2022 passed by Judicial Magistrate Ist Class, Zira has been upheld.

2. The brief facts of the case are that while the police party was on patrolling duty, secret information was received that Pipal Singh, Buta Singh (petitioner), Shinda Singh and Kaka Singh were habitual of selling stolen motor cycles and were coming to Zira for selling one Royal Enfield motor cycle. If a *nakabandi* was set up they could be caught red handed. Based on the said information a *nakabandi* was set up and a motor cycle was seen coming. On being signalled to stop the motor cyclist tried to turn the motor cycle but it slipped. One person was apprehended by the police and three persons managed to escape. The apprehended person disclosed his name as

Buta Singh son of Kishan Singh and disclosed the names of other persons as Pippal Singh, Shinda Singh and Kaka Singh. The motor cycle was found to be a stolen one.

3. After the registration of the FIR, the report under Section 173(2) Cr.P.C. was presented in Court and on conclusion of the Trial, while the other accused were acquitted, the petitioner came to be convicted for having committed the offence under Section 411 IPC and sentenced as under:-

Offence Sections	under	Imprisonment
Section 411 IPC		SI for a period of One Year and Six Months

4. The petitioner-accused filed an appeal bearing Criminal Appeal No. 27 dated 14.11.2022. The said appeal came to be dismissed by the Court of Sessions Judge, Ferozepur by modifying the sentence of the petitioner from simple imprisonment of one year and six months to one year imprisonment vide Judgment dated 07.02.2023.

5. Against the said judgment, the petitioner-accused has preferred the instant revision petition against his conviction.

6. The Counsel for the petitioner states that petitioner has been falsely implicated in the present case without any cogent evidence on record. It did not stand to reason that four accused were travelling on one motor cycle. No independent witness was joined by the investigating agency despite the place of recovery being a thoroughfare. There were many discrepancies in the statements of the prosecution witnesses which had not been considered by the Trial Court and the lower Appellate Court. He therefore contends that the judgments of judgments of conviction were liable to be set aside.

7. The Counsel for the State has placed on record a custody certificate dated 29.10.2023 as per which petitioner has undergone a total custody period of 10 months and 07 days. He contends that the offence has been established beyond any reasonable doubt. The recovery of the stolen motor cycle came to be effected from the petitioner. The said motor cycle was identified by PW-2 Satwinder Singh who is the owner and PW-1 Bishan Singh, father-in-law of the PW-2. Merely because no independent prosecution witness had been examined cannot be said to be fatal to the prosecution case. He, therefore, contends that there was no reason to interfere with the well reasoned judgments of the Trial Court and the lower Appellate Court and the same were liable to be upheld.

8. I have heard learned Counsel for the parties at length.

9. Admittedly, PW-1 and PW-2 have categorically identified the motor cycle in question which came to be recovered from the petitioner. Once the recovery of the stolen motor cycle is found to have been effected from the petitioner, merely because no independent witness was joined at the time of search and seizure cannot be said to be fatal to the prosecution case.

10. In view of the above discussion, I find no reason to interfere with the well reasoned judgment of The Trial Court and the lower Appellate Court and therefore, the present petition stands dismissed.

11. Keeping in view the fact that the occurrence took place in 2016 and as many as 07 years have elapsed ever since, the sentence of the petitioner is reduced to the period already undergone by him.

12. The revision petition stand disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

October 30, 2023

Vinay