

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRR-357-2007 (O&M)

Date of Decision: *January 16, 2023*

Raghubir

... *Petitioner*

Versus

The State of Haryana

... *Respondent*

CORAM: **HON'BLE MR. JUSTICE VIVEK PURI**

Present: None for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Vivek Puri, J.

Present revision petition has been preferred against the judgments passed by the Courts below vide which the petitioner has been convicted under Section 13-A of the Public Gambling Act and sentenced to pay fine of Rs. 400/- and in default whereof to further undergo simple imprisonment for a period of ten days.

The petitioner was initially convicted and sentenced by the learned trial Court in terms of the judgment dated 19.05.2006. The appeal preferred by him was also dismissed in terms of the judgment dated 24.11.2006.

Briefly, the FIR has been registered against the petitioner on the score that he was indulging in gaming by

means of figures and numbers. A secret information was received against the petitioner by Inspector Bimla Devi, PW1. Head Constable Mahabir Singh, PW2 was nominated as a bogus punter. On the receipt of the signal from the bogus punter, the petitioner was apprehended and the incriminating articles were recovered.

None has appeared on behalf of the petitioner. The presence of the petitioner or his counsel could not be procured despite issuance of notice. Consequently, the record has been perused to examine the legality and validity of the judgments passed by the Courts below.

The perusal of the grounds of revision indicate that primarily the judgments have been challenged on the score that no independent witness was joined by the raiding party. The statements of the witnesses are discrepant on some aspects of the case. There is a discrepancy with regard to the time consumed in completing the writing work as emerging in the statements of the witnesses. The statement of PW1 Inspector Bimla Devi indicates that it took about one hour to complete the writing work, whereas, PW2 Head Constable Mahabir Singh has stated that it took about two hours to complete the writing work. PW1 Inspector Bimla Devi has also stated that the proceedings were conducted while sitting on the official vehicle, whereas PW2 Head Constable Mahabir Singh has stated that the same were

recorded while sitting on a chair and bench. It has been also alleged that PW1 Bimla Devi had deposed that the petitioner was at a distance of about 200 steps from the police party, whereas the other witness has given the distance to be 15/16 steps only. Besides, it has also been projected that the complainant was herself the investigating officer in the instance case.

Learned State counsel has contended that the version against the petitioner has been duly narrated by PW1 Inspector Bimla Devi. Her deposition has corroborated by the deposition of PW2 Head Constable Mahabir Singh and the documents proved on record. There cannot be any bar to base the conviction on the basis of the statements of the official witnesses and the discrepancies are insignificant. The judgments of conviction have been correctly recorded by the Courts below and adequate sentence has been imposed.

During the course of the proceedings in the trial Court, the prosecution had examined two witnesses. Both the witnesses have deposed in a fairly and satisfactory material on all the material aspects of the matter and have also proved on record the material documents pointing towards the guilt of the petitioner.

The case of the prosecution cannot be discarded on the score that no independent witness has joined at the time of recovery. The deposition of the official witness cannot

be viewed with distrust or suspicion merely because of their official status unless and until there are cogent grounds therefor. There is no provision of law which requires the presence of the independent witness at the time of search of a suspect. Moreover, in the event much time has been consumed in making an effort to join the public witness, it might have frustrated the purpose of the raid.

The discrepancies as pointed out in the petition are inconsequential and minor in nature. It is significant to note that the occurrence took place on 09.06.2003 and the statements of the witnesses have been recorded after a lapse of period of about three years on 25.03.2006. A few minor discrepancies are bound to appear in the statements of the witnesses due to lapse of time. A person is not expected to remember even the minute facts with mathematical certainty after a lapse of time. However, both the witnesses have deposed in a fairly and satisfactory manner on all the material and significant aspects of the instant case. Consequently, the discrepancies as pointed out are inconsequential in nature and do not in any manner effect the merits of the case.

Lastly, it may be mentioned here that there is nothing to indicate unfairness or bias in the mind of the PW1 Inspector Bimla Devi, who had conducted the investigation against the petitioner. There is nothing to

indicate that she was in any manner biased or prejudiced against the petitioner, which might have prompted her to falsely implicate him in the instant case.

In these set of circumstances, no illegality or irregularity is made out in the judgments passed by the Courts below, finding no merit in the revision and the same being devoid of merit, is dismissed.

January 16, 2023
vk

(Vivek Puri)
Judge

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