

CRR-308-2009

2023:PHHC:082607

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

CRR-308-2009

Date of decision : 16.06.2023

Mahavir Singh

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Deepanshu Sharma, Advocate/ Legal Aid Counsel
for the petitioner

Mr. M S Nagra, AAG, Punjab

AMAN CHAUDHARY, J.

1. The present revision petition has been filed challenging the judgment dated 27.05.2008, passed by the learned Additional Sessions Judge, Ludhiana, dismissing the appeal against the judgment of conviction and order of sentence dated 26.08.2006, rendered by the learned Sub Divisional Judicial Magistrate, Samrala, vide which he had been convicted under Section 13A of the Public Gambling Act, 1867 and sentenced to pay fine of Rs.400/-, in default of payment of the same, to undergo rigorous imprisonment for 15 days.

2. Succinctly, the facts are that on 08.04.2003, when police party headed by HC Gurmail Singh was present at Gate Gani Khan Nabi Khan, a secret information was received that accused Mahavir Singh is luring the general public to play darra satta by purchasing lottery slips at Grain

Market, Mchhiwara. A ruqa was sent to the police station for registration of the case. After registration of the same, HC Satpal Singh and HC Baldev Singh dressed in civil approached the accused and purchased the ticket to stake the same with him, so that they could catch him. While handing over the currency note of Rs.10/-bearing No.40S071398 to the accused, HC Satpal Singh signaled the police party who nabbed him. On his personal search conducted, recovery of parch dara satta Ex.P4 bearing several numbers were effected. Currency notes worth Rs.510 alongwith other articles were taken into possession and he was arrested. After completion of investigation and presentation of final report under Section 173 Cr.P.C. the charge under Section 13A of the Act was framed against him, to which he pleaded not guilty and claimed trial.

3. The prosecution in order to bring home the guilt of the accused examined PW1 HC Satpal Singh and PW2 HC Baldev Singh. On closure of the prosecution evidence, statement of the accused-petitioner was recorded under Section 313 of the Cr.P.C. He denied all the incriminating circumstances that appeared against him in the prosecution case while pleading false implication. In defence, he examined DW1 Shesh Pal.

4. On evaluating the evidence on record, the trial Court convicted and sentenced the accused as noticed above.

5. Against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the learned Additional Sessions Judge, Ludhiana, which was dismissed vide judgment 27.05.2008, affirming judgment of the trial Court.

6. Aggrieved accused-petitioner, has preferred the present revision petition.

7. Learned counsel for the petitioner would submit that the learned Courts below have committed error while convicting the accused by ignoring the evidence on record. No independent witness was joined to corroborate the statements of the official witnesses. There are material discrepancies in the statements of PW1 and PW2 regarding the secret information, sending ruqa, case property and non-joining of the witnesses.

8. On the other hand, learned State counsel submitted that the learned trial Court on the basis of the evidence has rightly convicted the petitioner and the same has been affirmed by the learned appellate Court. There is no major discrepancy in the statements of the official witnesses so as to create a doubt regarding the alleged recovery.

9. Heard the learned counsel for the parties and perused the record with their able assistance.

10. It is apposite to refer to **Mandeep Singh vs. State of Punjab**, 2020 SCC OnLine P&H 4729 wherein it has been held that the revisional powers of this Court have very limited jurisdiction and can only be exercised (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally. However, learned counsel for the petitioner has not been able to show any such infirmities in the judgments of both the Courts below.

11. PW1 HC Satpal Singh, PW2 HC Baldev Singh and PW3 HC

Gurmail Singh have specifically deposed regarding recovery of the currency notes of Rs.510/- including the numbered note of Rs.10/- and parcha darra satta. The only witnesses who were the officials were cross-examined at length, but nothing favourable to the petitioner could be elicited from their deposition. Moreover, no evidence was produced by the petitioner regarding his false implication.

12. Hon'ble The Supreme Court in the case of **Girja Prasad (dead) by LRs. vs. State of M.P.**, (2007) 7 SCC 625, held that, "In our judgment, the above proposition does not lay down correct law on the point. It is well-settled that credibility of witness has to be tested on the touchstone of truthfulness and trustworthiness. It is quite possible that in a given case, a Court of Law may not base conviction solely on the evidence of Complainant or a Police Official but it is not the law that police witnesses should not be relied upon and their evidence cannot be accepted unless it is corroborated in material particulars by other independent evidence. The presumption that every person acts honestly applies as much in favour of a Police Official as any other person. No infirmity attaches to the testimony of Police Officials merely because they belong to Police Force. There is no rule of law which lays down that no conviction can be recorded on the testimony of Police Officials even if such evidence is otherwise reliable and trustworthy. The rule of prudence may require more careful scrutiny of their evidence. But, if the Court is convinced that what was stated by a witness has a ring of truth, conviction can be based on such evidence."

13. In **Narayan Chetanram Chaudhary & Anr. v. State of Maharashtra** (2000) 8 SCC 457, Hon'ble The Supreme Court while considering the minor contradictions in the testimony, has held that, "Only such omissions which amount to contradiction in material particulars can be used to discredit the testimony of the witness. The omission in the police statement by itself would not necessarily render the testimony of witness unreliable. When the version given by the witness in the court is different in material particulars from that disclosed in his earlier statements, the case of the prosecution becomes doubtful and not otherwise. Minor contradictions are bound to appear in the statements of truthful witnesses as memory sometimes plays false and the sense of observation differ from person to person. The omissions in the earlier statement if found to be of trivial details, as in the present case, the same would not cause any dent in the testimony of PW 2. Even if there is contradiction of statement of a witness on any material point, that is no ground to reject the whole of the testimony of such witness."

14. There is no legal proposition that evidence of police officials unless supported by independent evidence is unworthy of credence. Likewise, it cannot be discarded merely on the ground that they being a part of the investigation would be keen to see the success of the case. Thus, to disbelieve them only on this account is not the proper course of action, as the same presumption that a person acts honestly equally applies to them as well.

15. In view of the above discussion, this Court finds no illegality or perversity in the judgments of the Courts below, which call for intervention. As such, the present revision petition being devoid of merit is hereby dismissed.

16.06.2023
gsv

(AMAN CHAUDHARY)
JUDGE

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