

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

233

CRR-1635-2019 (O&M)
Date of decision: 10.05.2023

Jorawar Singh @ Jora

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Ajeet Pal Singh Pakka, Advocate
for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

AMAN CHAUDHARY. J.

1. The present revision petition has been preferred against the judgment of conviction and order of sentence dated 13.08.2018 passed by the learned Judicial Magistrate First Class, Bathinda, whereby petitioner has been convicted under Sections 411 and 473 IPC and the impugned judgment dated 04.05.2019 passed by learned Additional Sessions Judge, Bathinda, whereby appeal filed by the petitioner had also been dismissed.

2. Facts briefly put are that on 07.04.2012, a secret information was received. Finding the information reliable, ruqa was sent through HC Rajiv Kumar and FIR was got registered. Baljinder Singh son of Jang Singh was joined as a private witness. Accused Amarjit Singh, Mangal Singh and Jorawar Singh were arrested from the grain market, near Markfed Godown Road. Jorawar Singh was

found in possession of one splendor motorcycle bearing No.PB-31H-1750 and from Mangal Singh, one motorcycle bearing No.PB-31H-2771 was recovered. Amarjit Singh was found sitting on the rear seat of the motorcycle of Mangal Singh. From the motorcycle of Jorawar Singh, RC bearing No.PB-31H-1750 originally issued in the name of Sukhdev Singh was recovered, but no record of motorcycle bearing No.PB-31H-2771 was recovered. Both the motorcycles were taken into police possession vide separate recovery memos. Thereafter, accused Jorawar Singh during interrogation had made a disclosure statement of having kept concealed six motorcycles and one Activa scooter in his rented room situated at Udham Singh Nagar, Dabwali Road, Bathinda. Accused Mangal Singh made a disclosure statement of having concealed 7 motorcycles in a rented accommodation situated at Udham Singh Nagar, Bathinda. Accused Amarjit Singh made a disclosure statement of having kept concealed 7 motorcycles and one Activa in his house situated at Guru Ki Nagri, Bathinda. Pursuant to the disclosure statements made by them, the motorcycles and the Activa scooter were got recovered, which were taken into police possession through separate recovery memos. Accused Amarjit Singh got recovered 8 motorcycles including Activa bearing No.PB-08-5292, motorcycle No.PB19G-2025, PB30H-5510, PB31H-3303, PB13V-3417, PB31H-6678, PB47E-5706, PB47B-1170. Accused Jorawar Singh had got recovered six motorcycles and Activa bearing No.PB31H-2205, PB30D-1607, PB10DC-1456, PB-29J1687, PB10CT-3162, PB03-8436 and Honda Activa No.PB29E-1468. Accused Mangal Singh got recovered five motorcycles bearing No.PB18H-6372, PB03W-1479, PB30H-7902, PB31H-1410, PB44F-2304 and two without any number. All these motorcycles were taken in possession. On 08.05.2012, accused Amarjit Singh made a disclosure statement of having

concealed one white coloured Bolero in an isolated place and accused Mangal Singh made a statement of having concealed Indigo car in an isolated place. Pursuant to their disclosure statements, accused Amarjit Singh got recovered one Bolero vehicle without number and accused Mangal Singh got recovered Indigo car No.PB-3X-3276. Same were taken into police possession. Site plan of the place of recovery was prepared. It was found that the number of Indigo car was forged and the original registration number was PB-02BP-8808 and said vehicle was stolen property qua which, FIR No.238/2011 u/s 379 IPC, PS Civil Lines, Amritsar was registered on 12.06.2012. Accused Vijay Kumar Baghla was arrested on 13.06.2012. He made a disclosure statement of having concealed some counterfeit seals, registration copies and other material in his rented accommodation at LIG-488, Bhagu Road, Model Town, Bathinda, Phase-I. He got recovered five registration copies bearing No.PB29E-1468, PB-10DC-1456, PB03E-8673 PB23F-6699, PB03-8436 and 5 seals of different DTOs. Same were taken into police possession. The handwriting of Vijay Kumar Baghla for comparison by the handwriting expert was taken on 14.06.2012 and the same was sent to FSL, Mohali. After completion of investigation, challan was presented in the court under Sections 379, 411, 420, 465, 467, 468, 471, 473 IPC and the registration number affixed on the vehicles and the copies of the registration recovered were found to be forged.

3. Finding a prima facie case against the accused, charge under Sections 120B, 411, 467, 468, 471, 473 IPC was framed against the accused, to which they pleaded not guilty and claimed trial.

4. In order to prove its case, prosecution examined as many as 20 witnesses. Thereafter, evidence of prosecution was closed vide order dated

08.06.2018.

5. During the pendency of the case, accused Vijay Kumar Baghla absented himself and was declared as proclaimed offender vide order dated 26.10.2016.

6. Statements of accused under Section 313 Cr.P.C. were recorded and all the incriminating evidence appearing against them was put to them, to which they pleaded not guilty. Accused initially chose to lead evidence in their defence but they did not lead any evidence.

7. On the basis of evidence led, learned trial Court held accused guilty and convicted them under Sections 411, 473 IPC and acquitted them u/s 467, 468, 471 and 472 IPC vide judgment dated 13.08.2018.

8. Aggrieved by the said judgment of conviction and order of sentence passed by the learned Judicial Magistrate 1st Class, Bathinda, accused preferred an appeal before the Court of Sessions, which was dismissed by learned Additional Sessions Judge, Bathinda vide impugned judgment dated 04.05.2019.

9. Hence, the present revision petition.

10. Learned counsel for the petitioner submits that he does not challenge the conviction but would confine his prayer to the quantum of sentence only. He further submits that the petitioner is 29 years of age, is a first offender and has undergone 01 year and 18 days out of 2 years of sentence awarded to him. He therefore prays that the sentence be modified to the period already undergone, in view of the fact that he is a poor person and sole breadwinner of his family.

11. Opposing the prayer, learned State counsel submits that the learned Courts below, after appreciating every aspect of the matter, have rightly convicted and sentenced the petitioner, therefore, he prays for the dismissal of the present

petition.

12. Heard and perused the material on record.

13. The petitioner has given up challenge to the conviction and has prayed for reduction of his sentence to the period already undergone, in view of the mitigating circumstances. Still having perused the judgment of the trial Court, the evidence was thoroughly examined therein and it was found that the prosecution has proved its case beyond reasonable doubt against the petitioner by finding that the accused had dishonestly retained 6 motorcycles and one Activa Scooter having reason to believe to be a stolen property and found in possession of counterfeit RCs. The learned Additional Sessions Judge, also while dismissing the appeal filed by the accused-petitioner had observed that the accused themselves got recovered the motorcycles pursuant to their disclosure statements and they have failed to prove their legal possessions over those vehicles. Accordingly, both the Courts below after having scrutinized the evidence on record have rightly convicted the petitioner and there is no scope for interference in the concurrent findings recorded by both the Courts below. As such, the conviction of the petitioner is affirmed.

14. Regarding the prayer of the learned counsel for the petitioner that in view of the aforestated mitigating circumstances, the sentence of the petitioner may be reduced to the period already undergone, it is apposite to make a reference to the judgment of Hon'ble The Supreme Court of India in the case of **Haripada Das vs. State of W.B.** (1998) 9 SCC 678, wherein it was held as under:

“....considering the fact that the respondent had already undergone detention for some period and the case is pending for a pretty long time for which he had suffered both financial hardship and mental agony and also considering the fact that he had been released on bail as far back as on 17-1-1986, we feel

that the ends of justice will be met in the facts of the case if the sentence is reduced to the period already undergone....”

15. The observations as relevant to the present case, made by Hon'ble The Supreme Court in the case of **R.Soundarajan vs. Seed Inspector, Coimbatore and another**, 2006(4) RCR (Crl.) 645 read thus:-

"26. We have carefully perused the entire evidence and documents on record and heard the learned counsel for the parties at length. On consideration of the totality of the facts and circumstances of this case, particularly in view of the statement made by the learned counsel for the State, in our considered view, the ends of justice would be met, if the sentence of the appellants is reduced to the period already undergone by them. The appellants were released by this Court during pendency of these appeals and they are now not required to surrender. The fine as imposed by the trial Court, if not already paid, would be paid within four weeks from the date of this judgment."

16. It is settled proposition of law that each case is to be decided on its own peculiar facts and circumstances.

17. Considering the judgments as referred to hereinabove and the mitigating circumstances as brought out by the learned counsel in the present case, inasmuch as the petitioner is 29 years old; a poor person, sole breadwinner and a first time offender has faced the vagaries of trial for last 11 years, this Court finds that the ends of justice would be adequately met if the sentence of the petitioner is ordered to be reduced to the period already undergone by him i.e. 1 year and 18 days out of 2 years awarded to him.

18. Accordingly, while upholding the conviction of the petitioner in the criminal revision petition, the sentence is ordered to be reduced to the period already undergone by petitioner. Fine shall remain intact.

19. With the above modification in the order of sentence dated

13.08.2018 passed by Judicial Magistrate Ist Class, Bathinda, as noted above, the criminal revision petition is partly allowed.

(AMAN CHAUDHARY)
JUDGE

10.05.2023
S.Sharma(syr)

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No