

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

CRR-1193-2020(O&M)

Date of Decision:-14.12.2023

Rajan.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. Karan Inder Singh, Advocate for
Mr. Ajay Ghangas, Advocate for the Petitioner.

Mr. Rajiv Goel, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioner-accused against the judgment dated 02.03.2020 passed by the Sessions Judge, Panipat whereby the judgment of conviction dated 29.04.2019 and order of sentence dated 30.04.2019 passed by the Principal Magistrate and Members, Juvenile Justice Board, Panipat has been upheld.

2. The brief facts of the case are that FIR No.680 dated 31.10.2018 under Sections 380, 457 and 511 IPC P.S. Quilla, Panipat came to be registered at the instance of the complainant Sakil PW-3 with the allegations that he and his brother Vakil PW-4 had caught two boys namely Mehtab son of Ehsaan and Rajan (petitioner) son of Sanjay while they were attempting to commit theft in their (complainant party's) shop.

3. After the investigation was concluded the report under Section 173(2) Cr.PC was submitted and on conclusion of the trial the Court of Principal Magistrate and Members, Juvenile Justice Board, Panipat sentenced the petitioner and his co-convict Mehtab as under:-

“5. After having heard the learned APP for the State and learned defence counsels on the point as to what order can be passed against them under Section 18(1) of Juvenile Justice (Care & Protection of Children)

Act, 2015, this Board is of the considered opinion that the ends of justice would be met, if the children-in-conflict with law Mehtab and Rajan are hereby directed to do community service in the General Hospital, Panipat for a period of six months starting from 6th of May, 2019 till 5th November, 2019 except Sunday from 9:00 A.M till 4:00 P.M. and also to get training for serving the patients therein under the guidance of an able trained person specified by CMO and are placed under supervision of Probation Officer, Panipat for a period of One year. Accordingly, children-in-conflict with law Mehtab and Rajan shall carry out the community service and shall take training in General Hospital, Panipat. Accordingly, children-in-conflict with law Mehtab and Rajan are ordered to report to the Chief Medical Officer, Panipat in Civil Hospital on 6th of May, 2019 for doing the community service i.e. to serve the humanity/elderly persons in the hospital and to take training qua caring of patients w.e.f. 6th of May, 2019 till 5th November, 2019 (except Sunday from 09.00 A.M. to 04.00 P.M. The Chief Medical Officer, Panipat is directed to mark their attendance regularly and to submit the report regarding the performance of community service by children-in-conflict with law Mehtab and Rajan, properly on fortnightly basis to this Board. A separate letter be sent to CMO, General hospital, Panipat regarding this. Letter be also sent to Probation Officer, Panipat to report qua act and conduct of Mehtab and Rajan during the supervision period, on monthly basis till April, 2020. It is also made clear to children-in-conflict with law that if there shall be any complaint against them during the period of six months of community service from the CMO or during the period of probation of One year from the Probation Officer, then they shall be further dealt with in accordance with the Juvenile Justice (Care and Protection) of Children Act, 2015.

6. The Programme Officer, ICDS, Panipat is directed to arrange individual counselling of the children-in-conflict with law Mehtab and Rajan. Letter in this regard be also issued to the quarter concerned.

7. It is further ordered that children-in-conflict with law Mehtab and Rajan shall not suffer any disqualification on account of the inquiry faced by them under the provisions of this act and the relevant record of the present inquiry shall be removed after the expiry of period of appeal or revision as per rules and after the expiry of period of community service/probation after receipt of the report of the C.M.O, Panipat and from the Probation Officer. File be consigned to record-room after due compliance."

4. The petitioner preferred an appeal before the Court of Sessions Judge, Panipat which also came to be dismissed vide judgment dated

02.03.2020 and para 18 of the judgment reads as under:-

“18. As a sequel to the above discussion, appeal fails and is hereby dismissed. The bail bond and surety bond of the appellant Rajan area cancelled. He be taken into protective custody and be sent to Special Home, Sonapat accordingly, as was directed by learned Principle Magistrate, Juvenile Justice Board, Panipat vide impugned order dated 20.09.2019. The record of learned Juvenile Justice Board, Panipat be sent back alongwith a copy of this judgment. Compliance of provisions of Section 353(1) Cr.PC has been made. After due compliance, appeal file be consigned to the record room.”

5. The present revision petition has been preferred against the aforementioned judgments of conviction.

6. The Counsel for the petitioner contends that the courts below have not given any cogent and convincing finding while convicting the petitioner. The evidence on record has been misread and the prosecution has failed to prove the offences against the petitioner. There were material contradictions and improvements in the statements of the prosecution witnesses which had not been considered in their proper perspective. The complainant PW-3 and his brother PW-4 Vakil Khan were brothers and therefore interested witnesses. Their depositions could not be accepted to be the gospel truth in the absence of any corroborative evidence. There was an inordinate delay in the registration of the FIR which was fatal to the case of the prosecution. He therefore contends that the judgments of conviction were liable to be set aside and the petitioner ought to be acquitted of the charges framed against him.

7. The Counsel for the State on the other hand contends that the charges against the petitioner and his co-convict stands established beyond reasonable doubt. PW-3 & PW-4 who were brothers had caught the accused red handed while they were attempting to commit theft in their shop. The other evidence on record was also in consonance with the depositions of PW-3 and PW-4. The delay of few hours in the registration of the FIR could not be said to be fatal to the prosecution case. In fact, absolutely no reason whatsoever has been provided for the false implication of the petitioner. He, therefore, contends that there was no merit in the present petition and the same was liable to be dismissed.

8. I have heard learned Counsel for the parties.

9. As per the prosecution case the petitioner and his co-convict

came to be apprehended while they were attempting to commit theft at the shop of PW-4 Vakil, the brother of the complainant PW-3 Shakil. Despite cross examination their testimonies could not be shattered. The other prosecution witnesses have also corroborated each other in material particulars and there is no significant discrepancy in their depositions that has been pointed out by the defence. The delay of a few hours in the registration of the FIR cannot be said to be fatal to the case of the prosecution. Further, no reason whatsoever has been provided for the false implication of the petitioner and his co-convict.

10. In view of the above, I find no reason to interfere with the well reasoned judgment of conviction recorded by the Principal Magistrate and Members, Juvenile Justice Board which has been upheld by Sessions Judge, Panipat. Resultantly, the revision petition stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

December 14, 2023
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>