

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2090-2023 (O&M)
Date of Decision: 06.11.2023

Sarabjit Kaur

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sukhandeep Singh, Advocate, for the petitioner.

JASGURPREET SINGH PURI, J.

1. The present is a revision petition filed challenging the judgment passed by the Additional Chief Judicial Magistrate, Amritsar dated 19.10.2019 whereby the petitioner was convicted under Sections 379 and 411 IPC and sentenced for a period of one year with fine. The aforesaid judgment was assailed by the petitioner before the learned Additional Sessions Judge, Amritsar. The learned Additional Sessions Judge, Amritsar upheld the conviction to the extent of Section 379 IPC, whereas the conviction under Section 411 IPC was set aside and the petitioner was ordered to be acquitted under Section 411 IPC.

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is innocent and was erroneously convicted by both the Courts below and submitted that the conviction in the present case was sustained on the basis of testimonies of the police officials in the absence of

any independent witness and without the corroboration of the independent witness, the conviction is bad in law. He submitted that the present FIR is a concocted story against the petitioner and the procedure followed was also against the provisions of law. He submitted that the subject matter of the allegation of theft in the present case was only Rs.300/- from the purse of the complainant and some other documents, whereas when the purse of the petitioner who is a lady was checked, an amount of Rs. 10,000/- was found which makes the story of the prosecution doubtful as to why the petitioner who is having such amount of money would commit a theft of Rs. 300/- and, therefore, the story of the prosecution suffers from infirmities due to which the petitioner is liable to be acquitted.

3. I have heard the learned counsel for the petitioner and also perused the record.

4. In the present case, FIR No. 194 dated 20.06.2017 was lodged at Police Station E-Division, Amritsar, under Sections 379 and 411 IPC. As per the prosecution, one ASI received an information from the complainant namely, Mohit Bansal, who came to him alongwith some other persons and handed over one woman who is the present petitioner and also got recorded his statement. He had stated that he had come to Sri Darbar Sahib for paying obeisance and there was a large crowd present in the line for paying obeisance at Sri Darbar Sahib and one woman was standing in the line behind him who was aged about 45/46 years and due to crowd, there was lot of pushing going on and taking advantage of the aforesaid position, the aforesaid woman standing behind him quietly stole his purse from the right pocket of his shirt. When the purse was being taken out by the woman, he

came to know about the same immediately and turned back and tried to catch hold of the woman and the woman who had stolen the purse tried to slip away but due to hue and cry raised by him, he along with other devotees were able to apprehend her and the occurrence had taken place at about 9.50 p.m. He also stated that his purse was of black colour containing three currency notes of Rs. 100/- each alongwith photocopy of his Aadhaar Card and two passport size photographs upon which his name was written in Hindi on the back side. The aforesaid woman who was apprehended by the other pilgrims had to be taken to the police station and the police party had met on the way. The petitioner was handed over to the police where she disclosed her name to be Sarabjit Kaur. She was searched by LC Navjot Kaur and on search, one black coloured gents purse was recovered from the undershirt of the petitioner. On checking of purse, three currency notes of Rs. 100/- each along with photocopy of Aadhaar Card of the complainant and two passport size photographs on the back of which name of the complainant Mohit Bansal was written in Hindi were got recovered which were also identified by the complainant belonging to him. The aforesaid LC Navjot Kaur appeared in the witness box as PW3. She stated that she was directed by the I.O to conduct the personal search of the petitioner and on search, one purse of black colour was got recovered from the undershirt of the petitioner/accused and similarly, one photocopy of Aadhaar Card of the complainant, three currency notes of Rs. 100/- each and two passport size photographs on the back of which the name of the complainant was written were recovered. The complainant also identified the petitioner. In defence the petitioner/accused did not examine any witness despite opportunities

given in this regard.

5. On appeal being filed, learned Additional Sessions Judge upheld the conviction and sentence under Section 379 IPC but set aside the conviction under Section 411 IPC in view of the fact that Section 411 IPC is not attracted since it was not a case of a receiving of stolen property but it was a case of theft only.

6. The petitioner was apprehended on the spot by the petitioner and the other pilgrims and was taken to the police and a lady police official conducted search on instructions from the I.O. Whatever description regarding the contents of the purse was stated by the complainant, the same was co-relating to the recovery. Categorically findings have been recorded by both the learned trial Judge and the learned Appellate Court in this regard. This Court is of the view that the scope of revision petition is very restricted. The learned counsel for the petitioner has not been able to show any infirmity or any illegality in the orders passed by the Courts below. The argument raised by the learned counsel for the petitioner that no independent witness was examined cannot be sustained in view of the fact that the testimony of police official who conducted search was credit worthy and considering the aforesaid facts and circumstances the mere fact that some independent witnesses did not step into the witness box could not have defeated the story of the prosecution. Another argument raised by the learned counsel for the petitioner that there were infirmities in the prosecution story is also not sustainable in view of the fact that no such infirmity has come forth whereas on the other hand, it was the case of the prosecution that the petitioner was caught on the spot when the complainant

and other pilgrims who handed over the petitioner to the police and on the spot search was made by a lady police official from where the documents and currency notes which were stated by the complainant were found to be matching. Rather the petitioner was not able to lead any evidence in defence.

7. Therefore, this Court is of the view that no ground is made out for interference in the revisional jurisdiction of this Court.

8. Consequently, the present petition is dismissed.

06.11.2023

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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