

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-170-2019 (O & M)

Date of decision: 15.02.2023

Jatinder Singh

..... Petitioner

V/s

State of Punjab and ors.

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Anand Jeevan Singh, Advocate,
for the petitioner.

Ms. Navreet Kaur Barnala, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been preferred against the judgment dated 01.10.2018 passed by the Additional Sessions Judge, Amritsar, whereby the appeal filed against the judgment dated 29.01.2018 passed by the Sub Divisional Judicial Magistrate, Ajnala, acquitting the accused-respondents No.1 to 3, has been dismissed.

2. The brief facts of the case are that on 09.02.2012, ASI Balwinder Singh along with other police officials, in connection with patrolling and checking of bad elements, was present at main chowk, Ajnala, where Jatinder Singh @ Vicky, complainant, got recorded his statement before ASI Balwinder Singh to the effect that he was a resident of No.10, Ajnala and was running a Readymade shop in the name of Love Garments at Chogawan Road, Ajnala for the last 20 years. He used to purchase readymade goods in whole sale from Rajindera Garments, Guru Nanak Market, Near Bus Stand, Amritsar and Baveek Appearer Firm, Shivala Colony, Amritsar and Jeans Pants for men, Sweater etc. from Active Clothing Mohali. He had employed

last 7 years and Rajinder Kumar who was working in his shop for the last five years as a salesmen. He had checked the stock of his shop and found that some garments were missing and these garments had been stolen by the accused Rakesh Kumar and Rajinder Kumar and they were selling these stolen garments to Bunty, who was running a garments shop at Ramdas. Action was sought to be initiated against them and his goods recovered. On the basis of said statement of the complainant, the FIR was registered against the accused. The accused were formally arrested. Thereafter, further investigation was initiated. Statements of witnesses were recorded and on completion of further investigation, challan against the accused was prepared and presented to the Court.

3. Finding a prima-facie case under Sections 381, 411 and 408 IPC against the accused, they were charge sheeted accordingly, to which they pleaded not guilty and claimed trial.

4. In order to substantiate its case against the accused, the prosecution examined PW1 Jatinder Kumar, complainant, PW2-Ashwani Kumar, eye witness, PW-3 HC Baldev Raj, PW-4 ASI Balwinder Singh, PW-5 Ajay Mahajan and remaining evidence of the prosecution was closed by order of the Court dated 25.01.2018.

5. On closure of the prosecution evidence, statements of the accused under Section 313 Cr.P.C. were recorded, in which all the incriminating evidence appearing against the accused from the prosecution evidence was put to them. They pleaded false implication and their innocence but they did not wish to lead any defence evidence.

6. Based on the evidence led, the respondents/accused No.2 to 4 came to be acquitted vide judgment dated 29.01.2018 passed by the Court of

7. The complainant-petitioner preferred an appeal against the aforementioned judgment which also came to be dismissed vide judgment dated 01.10.2018 passed by the Additional Sessions Judge, Amritsar.

The aforementioned judgments are under challenge in the present petition.

8. The learned counsel for the petitioner-complainant contends that the recovery of the stolen articles was duly effected from the private respondents. The accused had examined 05 witnesses, namely, PW-1/Jatinder Kumar (complainant), PW-2 Ashwani Kumar (eye witness), PW-4/ASI Balwinder Singh (I.O.) and the recovery witnesses PW-3/HC Baldev Raj and PW-5 Ajay Mahajan. The said witnesses duly established the recovery of the stolen articles as also the fact that the complainant was the owner thereof. These facts have not been properly appreciated by the Courts below. He further contends that some words in the cross-examination of the witnesses have been read out of context of giving the benefit of doubt to the accused. It is, thus, his contention that the judgments of acquittal of the Trial Court dated 29.01.2018 as well as the Appellate Court dated 01.10.2018 be set aside and the respondents No.2 to 4 be convicted for having committed the offence for which they have been charged.

9. I have heard the learned counsel for the petitioner.

10. PW-1 Jatinder Kumar (complainant) was not able to prove that the alleged stolen articles recovered from the accused were in fact purchased by him against a valid bill. He admitted in his cross-examination that so far as the accused Mandeep Singh is concerned, he had not committed any theft and no recovery of any stolen article has been effected from him. He also

admitted that the case property had not been sealed with the seal of the concerned police station.

PW-2 Ashwani Kumar (eye witness) admitted that no stock register was maintained at the shop for sale and purchase. Therefore, it could not be said that the recovered good were stolen by the respondent-accused from the shop.

Similarly, PW-3/HC Baldev Raj and PW-4 ASI Balwinder Singh (I.O.) stated that the private witnesses had not mentioned that they saw the accused committing theft. No proof of any ownership of goods purportedly stolen from the shop was furnished by the complainant. There was also no evidence that the case property had ever been deposited with the MHC, Police Station, Ajnala. In fact, there was no evidence that the complainant-Jatinder Kumar was the owner of the shop in question.

11 Apparently, in the present case, the prosecution has completely failed to prove the ownership and theft of readymade articles allegedly recovered from the accused Rajinder Kumar @ Raju (respondent No.2) and Rakesh Kumar (respondent No.3) who were working at the shop of the complainant.

12. In view of the aforementioned discussion, I find no reason to interfere in the well-reasoned judgments of the Court below. The present petition is therefore dismissed.

(JASJIT SINGH BEDI)
JUDGE

February 15, 2023
sukhpreet

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