

2025:PHHC:118348



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRR-36-2008 (O&M)

Date of decision: September 02, 2025

RANDHIR

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

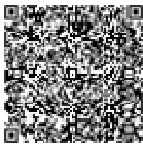
Present: Ms. Simerpreet Sekhon, Advocate (*Amicus Curiae*)
for the petitioner.

Mr. G.S. Chhina, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant revision petition is directed against the judgment of conviction dated 16.09.2005/17.09.2005 passed by learned Chief Judicial Magistrate, Narnaul, whereby the revisionist Randhir was convicted under Sections 356/457/380 read with Section 511 of Indian Penal Code, 1860, as well as the judgment dated 13.07.2007 passed by learned Additional Sessions Judge, Narnaul, upholding the conviction but modifying the order of sentence to run concurrently.

2. The prosecution case, in brief, is that in the intervening night of 13.11.1999 and 14.11.1999 at about 11:30 p.m., the accused/revisionist entered the house of complainant Roshan Lal by scaling the wall. At that time, Savitri, wife of the younger brother of the complainant, was asleep in the house wearing a pair of earrings. The accused attempted to snatch the earrings from her ears, upon which she raised an alarm. On hearing her cries, the mother of the complainant and children awoke. The accused tried to



escape by climbing onto the roof of the house but was apprehended on the spot by the complainant and other villagers.

3. It was further alleged that some cash was also found missing. On the basis of this occurrence, FIR No.144 dated 14.11.1999 under Section 457/356/511 IPC was registered at Police Station Ateli. After completion of investigation, challan was presented and charges were framed.

4. The learned trial Court, on appreciation of evidence, convicted the accused and sentenced him to undergo simple imprisonment as follows:-

Offence(s) under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
356 of the IPC	SI for 4 months	-	-
457 of the IPC	SI for 2 years	₹2,000/-	SI for 20 days
379 r/w 511 of the IPC	SI for 4 months	-	-

5. In appeal, the learned Additional Sessions Judge, Narnaul, while affirming the conviction, directed that the substantive sentences awarded shall run concurrently.

6. Learned *Amicus Curiae* appearing for the revisionist has assailed both the impugned judgments primarily on the following grounds:-

(i) That the prosecution failed to examine the material witnesses, namely Roshan Lal (complainant) and Murti Devi (eyewitness). Their non-examination, it is urged, is fatal to the case of the prosecution.



(ii) That the testimonies of PW4 Lal Singh and PW5 Savitri suffer from serious infirmities. While PW4 Lal Singh claimed to have identified the accused during examination-in-chief, in cross-examination, he admitted that the accused had fled from the place of occurrence prior to his arrival.

(iii) That the prosecution failed to discharge the initial burden of proving that the accused actually committed lurking house trespass as required under Section 457 IPC, and in absence of reliable evidence, the conviction cannot be sustained.

7. *Per contra*, learned State counsel, has supported the concurrent findings of conviction recorded by both the Courts below by arguing that PW1 Constable Om Prakash promptly recorded DDR No.4 on 14.11.1999, on receipt of telephonic information, thereby lending credence to the case of the prosecution. Further, the ocular testimony of PW4 Lal Singh and PW5 Savitri is consistent, cogent and trustworthy. Both have categorically deposed regarding the accused entering the house at 11:30 p.m. on the fateful day and attempting to snatch earrings from Savitri.

8. Still further, it has been urged that there was no motive for the complainant for falsely implicating the accused. Furthermore, it has been asserted that both the learned trial Court and the Lower Appellate Court rightly held that the prosecution had successfully proved its case beyond reasonable doubt. Therefore, no interference was warranted in the revisional jurisdiction of this Court.



9. I have heard learned counsel for the parties and perused the relevant material placed on record.

10. The contention that non-examination of Roshan Lal and Murti Devi is fatal to the case of the prosecution, cannot be accepted in the peculiar facts of the present case. The law is well-settled that non-examination of every cited witness is not *per se* fatal, so long as the testimony of other examined witnesses inspires confidence and proves prosecution case beyond doubt.

11. In the present case, PW5 Savitri, who is the victim of the occurrence, has categorically deposed that the accused entered the house on the intervening night of 13.11.1999 and 14.11.1999, and attempted to snatch her earrings. Her testimony stands firm in material particulars and has withstood the test of cross-examination. PW4 Lal Singh has also supported the case of the prosecution regarding the presence and apprehension of the accused at the spot.

12. The slight discrepancy, as pointed out by the learned *Amicus Curiae*, in the testimony of PW4 Lal Singh regarding the sequence of apprehension of the accused, does not materially affect the substratum of the case of the prosecution. The core fact remains consistent – that the accused entered the house unlawfully during night hours and attempted to rob the victim of her ornaments.



13. The evidence of PW5 Savitri is duly corroborated by PW2 ASI Om Prakash (Investigating Officer), who reached the spot, and recorded the statements of all the concerned promptly. No enmity or ill-will has been shown between the accused and the complainant party, which could lead to a false implication.

14. Thus, on a holistic appraisal, this Court finds no reason to disbelieve the prosecution version. The learned trial Court as well as the Lower Appellate Court had recorded concurrent findings that the accused committed lurking house trespass and attempted to snatch the earrings of Savitri, thereby attracting the provisions of Sections 356, 457, 379 read with Section 511 IPC.

15. In view of the foregoing discussion, this Court finds no infirmity, illegality or perversity in the concurrent findings recorded by the Courts below, which are upheld.

16. A prayer has, therefore, been made for taking a lenient view as during this entire period, the petitioner has faced the ordeal of protracted criminal proceedings. It is also not disputed that he has not been involved in any other criminal case either prior to or after the occurrence, and has maintained good conduct. The petitioner has already undergone more than eight months of incarceration.

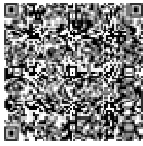


17. Having regard to the aforesaid circumstances, including the long passage of time since the incident, the clean antecedents of the petitioner, which stand reflected in his custody certificate, produced before this Court by the learned State counsel, and the period of imprisonment already undergone, this Court is of the considered opinion that the ends of justice would be adequately met by reducing the substantive sentence to the period already undergone while enhancing the quantum of fine.

18. Accordingly, while upholding the conviction of the petitioner, the substantive sentence of two years rigorous imprisonment awarded to him is hereby reduced to the period already undergone.

19. However, the fine imposed upon the petitioner is enhanced from ₹2,000/- to ₹5,000/- under Section 457 of the IPC. The enhanced fine shall be deposited in the Punjab Chief Minister Relief Fund, A/c No.001934001000589, IFSC-TPSC0000019, Punjab State Cooperative Bank, within a period of two months from today.

20. It is made clear that in the event of failure on the part of the petitioner to deposit the enhanced fine before the learned trial/successor Court within a period of two months from today, the benefit of reduction of sentence shall not accrue to him, and he shall be required to undergo the remaining part of the sentence awarded by the Courts below.



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21. With the aforesaid modifications, the revision petition stands disposed of.

September 02, 2025
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*