



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

202

**CRR No.2586 of 2009 (O&M)
Date of Decision:09.12.2025**

Ex. Head Constable Rajinder Singh and another

.....Petitioners

Versus

State of UT Chandigarh

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. K.G.Chaudhary, Advocate for the petitioner.

Mr. Manish Bansal, Public Prosecutor
for U.T Chandigarh.

SURYA PARTAP SINGH, J. (Oral):

For the commission of offence punishable under Section 68 of the Excise Act, the FIR No.49 dated 30.01.2003 was lodged in Police Station Sector -11, Chandigarh. Once the FIR was lodged, the investigation was taken up by the police, and as an outcome of abovesaid investigation, the petitioners were sent to the Court of learned Judicial Magistrate First Class Chandigarh, hereinafter being referred to as 'trial Court', to face trial for the above mentioned offence.

2. The petitioners participated in the above mentioned trial, which by virtue of judgment dated 14.01.2006 culminated into their conviction. Thus, by virtue of order on quantum of sentence, on same day, the petitioners were awarded following sentence:-

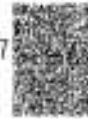


Sr. No.	Under Section	Sentence/Imprisonment
1.	68 of Excise Act	The accused were released on probation under the Probation of Offender’s Act on their furnishing personal probation bonds in the sum of Rs.10,000/- each with an undertaking to be of good behaviour and to come to attend the court to receive sentence as and when called upon to do so during the period of one year. Bonds furnished which are accepted and attested. The accused are further burdened with costs of Rs.500/- each. Costs paid.

3. Aggrieved of the abovementioned judgment of conviction and order of sentence of even date, passed by the learned trial Court, the abovesaid two accused preferred a joint appeal in the Court of Sessions. The appeal preferred by the above said convicts was dealt with by the learned Additional Sessions Judge, Chandigarh, hereinafter being referred to as ‘Appellate Court’. The learned Appellate Court, by virtue of judgment dated 27.02.2009, dismissed the above mentioned appeal.

4. Feeling aggrieved of the judgment of conviction and order of sentence dated 14.01.2006, passed by the learned trial Court, and the judgment dated 27.02.2009, passed by the learned Appellate Court, the present revision petition has been preferred by the petitioners.

5. In nut-shell, the facts emerging from record are that the FIR of this case came into being at the instance of ‘DSP Om Parkash’, who had reported that on 30.01.2003 a wireless message was received in police post PGI, whereby it was informed that officials posted on PCR van had consumed



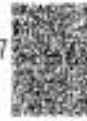
liquor and that on duty they were under the influence of liquor. It is the case of the prosecution that in response to above mentioned message a police team headed by 'S.I. Sukhdev Singh' went to the spot where 'DSP Om Parkash' moved a complaint disclosing therein that during night checking he found that Head Constable 'Rajinder Singh' and Constable 'Harvant Singh' (petitioners herein) were under the influence of liquor and that one glass emanating the smell of liquor and one bottle containing 180 ML of liquor, make 'contessa', were recovered from the vehicle.

6. It is the case of the prosecution that in view of abovementioned complaint formal FIR in this case was lodged, and the investigation taken up. As per prosecution, during the course of investigation, the necessary formalities such as preparing of site plan, seizure of bottles, arrest of accused etc. were performed, and on completion of usual formalities of investigation, the final report under Section 173 Cr.P.C. was filed which led to commencement of trial. In order to arrive at a conclusion in the trial the learned trial Court had framed following points of determination in the present case:-

- i) Whether the accused on 30.01.2003 in the area near PGI Chowki in PCR were found consuming liquor at a public place.
- ii) Whether the prosecution has been able to prove its case against the accused beyond the shadow of reasonable doubt.

7. Heard.

8. With regard to verdict of conviction it has been contended on



behalf of petitioners that the impugned judgment of conviction and order of sentence deserve to be set aside, being the outcome of non-application of judicial mind. According to learned counsel for the petitioners, the learned trial Court, vis-à-vis the learned Appellate Court, have failed to appreciate the fact that the necessary ingredients meant for the commission of offence under Sections 68 of Excise Act were not established by the prosecution, upto the standard required under the law, and that the evidence adduced by the prosecution was inconsistent, unreliable and contradictory to the extent that it was not good enough to inspire confidence.

9. As per learned counsel for the petitioners, merely, on the basis of conjectures and surmises, as well as assumptions and presumptions, the learned trial Court held the petitioners guilty and that despite the fact that the deficiencies in prosecution case were pointed out, the abovementioned judgment of learned trial Court has been upheld by the learned Appellate Court.

10. It has also been contended by learned counsel for the petitioners that in the present case the judgment passed by the learned Appellate Court, too, is not sustainable in view of the fact that the learned Appellate Court dismissed the appeal filed by the petitioners, by holding that the evidence adduced by the prosecution was not good enough to be believed. As per learned counsel for the petitioners *firstly*, the story set-out by the prosecution was illogical and unnatural and *secondly*, the supporting evidence was



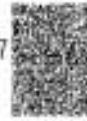
contradictory and unreliable. According to learned counsel for the petitioners there was no independent witness to support the prosecution case, and that otherwise also for the alleged act of the petitioners, only the departmental action could have been taken.

11. Per contra, the learned State Counsel has argued that the petitioners have been found guilty for the commission of offence punishable under Section 68 of Excise Act by two Courts, and that there is no scope for interference in the findings recorded by the two Courts below. According to learned State Counsel, the petitioners were released on probation under the Probation of Offender's Act and that the abovesaid punishment already is on lower side. As per learned State Counsel, the instant revision petition has no merit and deserves dismissal.

12. The record has been perused carefully.

13. I have given my due consideration to the facts and circumstances of the case and the relevant law. As far as the evidence adduced by the prosecution, to prove the above above mentioned charge is concerned *firstly*, the prosecution had to prove that petitioners were on duty, and *secondly*, that they were consuming liquor at a public place.

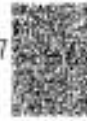
14. In order to prove above mentioned components, the star witness of the prosecution was DSP 'Om Parkash', who was examined as PW-4. The PW-4 had duly supported and corroborated the prosecution version by deposing that on 30.01.2003 when he checked the petitioners he found them



under the influence of liquor. The PW-4 was subjected to sustained and probing cross-examination, but despite thorough cross-examination nothing significant was extracted from the mouth of PW-4 which could have impeached the credibility of his testimony. To provide support and corroboration to the testimony of PW-4, Head Constable 'Gurdev Singh' was examined by the prosecution, as PW-5. The PW-5 being an official witness, on the basis of duty roster had deposed that on 30.01.2003 the petitioners namely 'Rajinder Singh' and 'Harvant Singh' were deputed on PCR Vehicle No.CH-01-G-0156. The copy of duty roster was proved by the prosecution as Ex.PW-2/F and the seizure memo, for taking the above mentioned roster into custody, as Ex.PW-2/H.

15. Another police official Head Constable Yagyawant Singh, examined as PW-2, had testified that in the intervening night of 29/30 January, 2003 the location of Ambulance-Aid/PCR Gypsy, bearing No.CH-01G-0156, at 10.04 P.M. and 12.01 AM, was at PGI Chowk. By deposing the above mentioned fact in his examination-in-chief, the PW-2 had corroborated the prosecution case qua the fact that at the time of occurrence the vehicle on which petitioners were deputed was present at a public place in discharge of official duty.

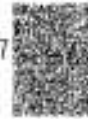
16. The medical evidence, too, was adduced by the prosecution which comprised of 'Dr. Deepak Sharma', he was examined as PW-7. The PW-7 had deposed that the petitioners were produced before him for medical



examination, and that on medical examination he found that both the petitioners were under the influence of liquor, and that with regard to above mentioned examination, he had prepared two reports. The reports were proved by the PW-7 as Ex.PW-7/A and Ex.PW-7/B.

17. With regard to credibility of above mentioned witness it has been observed by the learned Appellate Court that both the above named witness had not collected sample of blood and urine of the petitioners but in view of report Ex.PW-7/A and Ex.PW-7/B he had proved that the petitioners were under the influence of liquor. With regard to testimony of PW-7 it is also relevant to mention that he had offered himself for cross-examination, and during the course of his cross-examination nothing significant, which could have impeached the credibility of testimony of PW-7, was extracted.

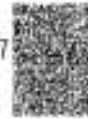
18. In the present petition one of the plea raised by learned counsel for the petitioners is that no independent witness was joined. As far as the above mentioned plea is concerned the relevant law has been laid down by Hon'ble Supreme Court of India in the case of 'Kashmiri Lal v. State of Haryana (2013) 6 SCC 595', the Hon'ble Supreme Court of India has laid down that "there is no absolute command of law that the police officers cannot be cited as witnesses and their testimony should always be treated with suspicion. It has been further observed that ordinarily, the public at large show their disinclination to come forward to become witnesses and that, if the testimony of the police officer is found reliable and trustworthy, the court can



definitely act upon the same. As per Hon'ble Supreme Court of India if in the course of scrutinizing the evidence the court finds the evidence of the police officer as unreliable and untrustworthy, the court may disbelieve him but it should not do so, solely on the presumption that a witness from the department of police should be viewed with distrust. The Hon'ble Supreme Court of India has propounded this view on the basis of the principle of quality of the evidence weighs over the quantity of evidence”.

19. Similar situation was dealt with by the Hon'ble Supreme Court of India in the case of State Govt. of 'NCT of Delhi v. Sunil (2001) 1 SCC 652', wherein the Hon'ble Supreme Court of India ruled that “if no witness was present or if no person had agreed to affix his signature on the document it is difficult to lay down, as a proposition of law, that the document so prepared by the police officer must be treated as tainted and the relevant evidence unreliable. The court has to consider the evidence of the investigating officer who has deposed to the fact of recovery based on the statement elicited from the accused on its own worth.”

20. According to Hon'ble Supreme Court of India when a police officer gives evidence in court that a certain article was recovered by him on the strength of the statement made by the accused, it is open to the court to believe the version to be correct if it is not otherwise shown to be unreliable, and that it is for the accused, through cross-examination of witnesses or through any other materials, to show that the evidence of the police officer



could certainly take into account the fact that no other independent person was present at the time of recovery. As observed by the Hon'ble Supreme Court of India it is not a legally approvable procedure to presume the police action as unreliable to start with, nor to jettison such action merely for the reason that police did not collect signatures of independent persons in the documents made contemporaneous with such actions".

21. The principles laid down in the above mentioned case have been followed by the Hon'ble Supreme Court of India in the case of 'Munish Mubar v. State of Haryana (2012) 10 SCC 464'.

22. In the case of 'Raveen Kumar v. State of Himachal Pradesh (2021) 12 SCC 557', the Hon'ble Supreme Court of India has held that "it would be gainsaid that lack of independent witness are not fatal to the prosecution case. As laid down by the Hon'ble Supreme Court of India such omissions cast an added duty on the Courts to adopt a greater degree of care while scrutinizing the testimonies of the police officers, which if found reliable can form the basis of a successful conviction.

23. In the light of above mentioned principles of law if the evidence adduced by the petitioners in the present case and the factual matrix of the cases are analysed it transpires that the evidence adduced by the prosecution being thoroughly consistent and cohesive, was sufficient to inspire confidence.

24. Otherwise also this fact cannot be ignored that the petitioners



have approached this Court by way of revision petition and it is settled proposition of law that a Court while dealing with revision petition, has very limited scope for interference and indulgence. Since no justified ground for interference and indulgence is made out, it is hereby held that the present revision petition is devoid of merit and deserves dismissal. Hence, the same is hereby dismissed accordingly.

25. Pending miscellaneous application(s), if any, stand(s) disposed of.

(SURYA PARTAP SINGH)
JUDGE

09.12.2025
Manoj Bhutani

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