

2025:PHHC:008294



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

CRR-1687-2008(O&M)

Date of Decision:-21.01.2025

Gagandeep Sharma @ Sonu & Anr.

.....Petitioners.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Anil Kumar Garg, Advocate for the Petitioners.

Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed impugning the judgment dated 26.08.2008 passed by Additional Sessions Judge, Patiala whereby the appeal filed against the judgment of conviction and order of sentence dated 10.07.2006 passed by Judicial Magistrate Ist Class, Patiala has been dismissed.

2. The FIR in the present case came to be registered on 13.04.2002. The judgment of conviction was passed on 10.07.2006 by the Judicial Magistrate Ist Class, Patiala. The Appeal filed against the order of conviction was dismissed on 26.08.2008 by the Additional Sessions Judge, Patiala. The instant revision petition was filed on 29.08.2008 and has come up for final hearing now i.e. after a period of 22 years from the date of registration of the FIR.

3. The brief facts of the case are that on 13.4.2002, complainant Jagdish Singh got recorded his statement Ex. PA in which he stated that he was a resident of H.No. 142, Harinder Nagar backside Anant Public School, Patiala. He was working as Sub Station Operator 66 KV S/S(Grid) at the Punjab Electricity Board, Patiala. His wife was a teacher in a school at village Rorewal Sahib. On 12.4.2002, his wife Pushpinder Kaur and daughter Jassanjot Kaur went to school in the bus at Rorewal at 7.15 A.M. and he returned from his duty at 1.15 P.M. His wife had gone to the school after locking the room and the main gate of the house. At about 1.15 P.M., when he opened the lock of the main gate, it did not open because it was locked from inside. Due to this reason, he scaled the roof of the neighbour and opened the main gate. He saw that the room was unlocked and its door was opened and the things were lying scattered in the room. In the meanwhile his wife came back from the school. He asked her about the locks and she said that she had gone after locking the house. Thereafter, they went to see the room at the roof. The room was opened and was bearing no lock and things were scattered there also. The jewellery and the cash was not in the safe. He also attached the list of the articles stolen.

4. On statement Ex. PA, police proceedings Ex. PA-1 were endorsed. FIR Ex. PA/2 was registered. Investigation was conducted. Accused were arrested and personally searched memo. Ex. PE. On the disclosure statement of both the accused Ex. PC and Ex. PF. stolen articles were recovered. Jewellery, cash and fans were taken into police possession vide memo Ex. PG. The articles were got identified from complainant Jagdish Singh vide memo. Ex. PH and Ex. PJ. It was also got identified by Jagdish Chander vide Memo. Ex. PK. Rough site plan Ex. PW 8/A was prepared. Rough site plan Ex. PW 8/B was prepared of the house of Jagdish

Chander. Statements of the witnesses under section 161 Cr. P.C. were recorded. On the completion of investigation report under section 173 Cr.P.C. was presented in the Court.

5. Finding a prima-facie case, a charge was framed under Section 411 IPC against both the accused.

6. In support of its case, the prosecution examined PW 1 Jagdish Singh, PW2 HC Gurbinder Singh, PW3 ASI Vidya Sagar, PW 4 ASI Gurdev Singh and PW 5 HC Jaspal Singh.

7. Statements of both the accused were recorded under Section 313 Cr.P.C. in which they stated that they were innocent and had been falsely implicated in the present case.

8. Based on the evidence, the accused/petitioners came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, Patiala vide judgment and order of sentence dated 10.07.2006 as under:-

| Offence Section | under | Sentence RI/SI | Fine | RI/SI in default of payment of fine |
|------------------------|--------------|-----------------------|---------------|--|
| 411 IPC | | RI for 01 Year each | Rs.500/- each | RI for 15 Days each |

9. The accused/petitioners preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Patiala vide judgment dated 26.08.2008.

10. The aforementioned judgments are under challenge in the present petition.

11. During the pendency of the instant revision petition, the sentence of the accused/petitioners was suspended vide order dated 16.09.2008.

12. The counsel for the accused/petitioners contends that there is a significant delay in the registration of the FIR. The identification of the

stolen articles recovered from the accused was not proved in accordance with law. In fact the father of Gagandeep accused/petitioner no.1 had filed a complaint to the Human Rights Commission because of which his son i.e. accused/petitioner no.1 and his wife accused/petitioner no.2 had been implicated in the present case. He in addition contends that in case this Court was to come to a finding that the prosecution had established its case beyond reasonable doubt, then keeping in view the fact that the occurrence was of the year 2002 and the case had come up for final hearing now after a gap of 22 years, the accused/petitioners may be released on probation subject to payment of compensation.

13. The Counsel for the State on the other hand has filed custody certificates of the accused/petitioners dated 21.01.2025 and the same are taken on record. He contends that the offence stands established beyond reasonable doubt. The recovered articles were found to have been stolen from the respondent's house. The said articles were identified. The accused/petitioners did not furnish any explanation regarding them being in possession of the stolen articles and neither did they claim any such articles. Therefore, the present petition was liable to be dismissed.

14. I have heard learned Counsel for the parties and examined the record.

15. The argument raised by the counsel for the accused/petitioners that there is delay in lodging of FIR is of no value in the present set of circumstances as the complainant came to know about the theft in his house on 12.04.2002 at 1.15 PM and he made a list of articles stolen and lodged an FIR on 13.04.2002. The delay in lodging of FIR is to be seen from a case to case basis. In the present case such delay is not fatal to the prosecution story.

16. The Identification of the articles recovered from accused Savita

@ Pooja has been proved. The identification memos have been proved by IO ASI Gurdev Singh PW 4 and Jagdish Singh PW 1. Further more, the accused have not been able to account for the possession of the stolen articles in their house. The stolen articles recovered from the accused have not been claimed to be owned by the accused.

17. The last argument of the counsel for the accused/petitioners that they had been implicated falsely as father of accused/petitioner no.1 Gagandeep had filed an application in the Human Rights Commission, Chandigarh against ASI Vidya Sagar is also not acceptable. The investigation was conducted not solely by ASI Vidya Sagar but initially, it was conducted by ASI Gurdev Singh and further more accused have not been able to explain why PW1 complainant Jagdish Singh has deposed against them. Moreover, they have not been able to explain regarding the conscious possession of the stolen articles from their house over which both the accused have possession.

18. In view of the above discussion, I find no infirmity in the impugned judgments of conviction and therefore, the present petition stands dismissed.

19. As regards the imposition of sentence, it would be pertinent to mention here that the occurrence took place in the year 2002 and as many as 22 years have passed ever since then. Therefore, while maintaining their conviction, I deem it appropriate to modify their sentences as under:-

| Name of Petitioners | Offence Under Section | Imprisonment (Reduced to) | Fine |
|----------------------------|------------------------------|---|-------------|
| Gagandeep Sharma @ Sonu | 411 IPC | RI for 01 Month & 12 Days (already undergone) | Rs.30,000/- |
| Savita @ Puja | 411 IPC | RI for 27 days (already undergone) | Rs.30,000/- |

Out of the aforesaid amount of fine Rs.30,000/- each (imposed

on both the petitioners) Rs.25,000/- each (total Rs.50,000/-) be paid as compensation to the victims.

20. The present revision petition stands disposed of in the above terms.

**(JASJIT SINGH BEDI)
JUDGE**

January 21, 2025

Vinay

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