
(1986) 02 P&H CK 0046
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 1238 of 1984

Bahadur Singh & Anr.

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 05-02-1986

Acts Referred:

Citation : (1986) 02 P&H CK 0046

Hon'ble Judges : Surinder Singh, J

Advocate : Nirmal Singh, S.S. Tej, Ajmer Singh, Advocates for appearing Parties

Judgement

Surinder Singh, J.

1. This Revision Petition has been filed by Bahadur Singh son of Tara Singh and Ram Singh son, of Dyal Singh. The two petitioners along with their coaccused Gurminder Singh son of Sher Singh were tried by the SubDivisional Judicial Magistrate, Samrala. The two petitioners were convicted under section 61(1)(c) of the Punjab Excise Act, for which offence they were sentenced to one year's Rigorous Imprisonment and a fine of Rs. 5,000/ each. In default of payment of fine, the petitioners have been ordered to undergo further Rigorous Imprisonment for three months each. Their coaccused Gurminder Singh was, however, acquitted with the finding that he had been falsely implicated. The appeal filed by the petitioners was dismissed by the Additional Sessions Judge, Ludhiana, and hence the present Revision Petition.

2. Mr. Ajmer Singh, learned counsel for the petitioners has made certain submissions which may be noticed in turn. It is contended in the first instance that the finding of the Courts below in regard to the false implication of Gurminder Singh coaccused goes a long way to show that the case against the two petitioners was also not free from reasonable doubt. There is indeed substance in this argument. If the Investigating Agency chooses to implicate an innocent person by alleging a specific part to that person in the occurrence, the prosecution version does indeed become doubtful. This apart, it is submitted that there are material discrepancies in the evidence of the two witnesses, both of

whom are Police Officer. For example, according to Head Constable Harbans Singh (PW2), the working still was captured from inside the Kitchen, whereas Inspector Satbir Singh (PW1) stated that the working still was detected from near the handpump. It is also significant to note in the site plan Exhibit PC, no kitchen has been shown and all that is mentioned, is that some fuel wood was lying near handpump. The other discrepancy pertains to the alleged search conducted by the raiding party on the person of Gurminder Singh, coaccused of the petitioners. Inspector Satbir Singh stated that 48 gms of opium was recovered from the said accused on his personal search, which was conducted inside the house. As against this, Head Constable Harbans Singh had deposed that the said accused was in the verandah of the house. In a case like the present where the prosecution has sought to rely upon the testimony of only official witnesses, these discrepancies assume significance. The learned counsel has also highlighted that one independent witness Pooran Singh was associated just outside the house but he was produced as a prosecution witness, having been given up at the trial. The lower appellate Court had not adopted the correct perspective by observing that it was for petitioners to examine this witness in defence.

3. In view of the above observations, this Revision Petition is allowed the conviction and sentence imposed upon the two petitioners by the trial Court and affirmed by the lower appellate Court, are set aside. They are given the benefit of doubt and are acquitted of the charge framed against them. The petitioners are stated to be on bail. Their bail bonds stand discharged. The fine, if paid by them shall be refunded.