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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D-604-DB-2003
Date of Reserve:14.05.2024
Date of Decision: 31.05.2024

Mubarik and others ...Appellants

Vs.

State of Haryana ...Respondent

(ii) CRR-2139-2003

Parkash @ Om Parkash ...Appellant

Vs.

Mubarik and others ...Respondents

Coram : Hon’ble Mr. Justice Gurvinder Singh Gill
Hon’ble Mr. Justice N.S.Shekhawat

Present: Mr.Gautam Dutt, Advocate with
Mr.Saurabh Sharma, Advocate
for the appellants in CRA-D-604-DB-2003 and
for respondents No.1 to 4 in CRR-2139-2003.

Mr. Munish Sharma, DAG, Haryana.

Mr. K.P.S Virk, Advocate as amicus curiae
for the petitioner in CRR-2139-2003.

N.S.Shekhawat J.

1. This judgment shall dispose off two cases i.e CRA-D-604-DB-2003 titled as “Mubarik and Others Vs. State of Haryana” and CRR-2139-2003 titled as “ Parkash @ Om Parkash Vs. Mubarik and others, which have been filed against the impugned judgment of conviction dated 08.07.2003 and order of sentence dated 10.07.2003, passed by the Court of Additional Sessions Judge, Fast Track Court, Gurgaon, whereby the appellants in criminal appeal



No. CRA-D-604-DB-2003 have been convicted for the offence punishable under Sections 302,307,394,506 read with Section 34 of IPC and under Section 25 of Arms Act and were sentenced to undergo as under:-

Offence	Imprisonment	In default of payment of fine
U/s 302/34 IPC	RI for life and Rs.2000/- each as fine	RI 01 year each.
U/s 307/34 IPC	RI for 05 years and Rs.500/- each as fine	RI 03 months each.
U/s 394/34 IPC	RI for 07 years and Rs.1000/- each as fine	RI 06 months each.
U/s 506 IPC	RI for 06 months each.	
U/s 25 Arms Act	RI for 05 years and Rs.500/- each as fine	RI 03 months each.

By way of criminal appeal No. CRA-D-604-DB-2003, the appellants/accused have prayed for their acquittal from the charges, whereas, by filing criminal revision No. CRR-2139-2003, the petitioner/complainant has prayed for upholding the judgment of conviction dated 08.07.2003 and order of sentence dated 10.07.2003 and it has been prayed that heavy amount of fine may be imposed on respondents/accused No.1 to 4 in the said case and compensation may also be awarded in favour of the petitioner.

2. The FIR in the present case was registered on the basis of the statement made by Sunil son of Krishandev Parshad Caste Kanu Baniya resident of Chapra Saran Mohalla, Mona Chowk Bihar, Police Station Chapra, District Chapra Saran Bihar, at present Munshi M/s. Ranjit Sindhu and Company Dhulawat. Age 36 years. The FIR and the initial proceedings have been



reproduced below:-

“Stated that I am serving as Chungi Munshi in Ranjit Singh Sindhu & Company, who is labour contractor of HML Sahsola Patti Point Dhulawat mountain. Tonight at about 12/12-30 night I was on duty where four young boys came, who were armed with country made pistol and guns, who were speaking Mewati language. On coming they caught hold of me and out of them one asked me to handover, whatever I was having, on the gun point. Out of them one snatched Rs.Twelve/Thirteen thousands and placed country made pistol on my neck and said as to where were Parkash and Deepak and asked as to where was remaining cash and told me to take them with me, otherwise they would kill us. They asked me to go ahead and started moving. In between, when I reached near the machine of Sahid, then I said that cash was also with them; then they enquired regarding their residence. I replied that they belonged to Dhulawat. Then they asked to say nothing to them and asked to take them to Parkash and Deepak. Due to fear I took those persons to Parkash and Deepak, who were sleeping on the roof of the house and Parkash alongwith his brother Madan and Deepak were sleeping. Out of them one asked who was Parkash. Thereupon all woke up and Parkash was sitting there. Out of them, one who was having country-made pistol, gave fire shot to Parkash, which hit on the ribs below the left shoulder. When Deepak tried to apprehend them, another person, who was also armed with a riffle, gave shot on the chest of Deepak. As a result of which we all were frightened and they snatched the purse, driving licence and watch from the pocket of Parkash and they also snatched the ring and money from the pocket of Madan forcibly. They also asked me to open the Almirah as cash was there. I came down and opened the Almirah. They all removed Rs.20,000/- from the Almirah and ran away in the mountain after firing in the air. Thereafter, we were taking Deepak and Parkash to Kalyani Hospital after putting them



in dumper. Then Deepak succumbed to injuries on the way. Parkash was got admitted. There is a grudge between Sandhu Company and Khalil etc. over the Mines and they threatened us to face the consequence. We can identify all those four young persons, if brought before us and can identify that person who was having country made pistol and his hand had injured at the time of firing shot and blood was also oozing. Statement got recorded. Action be taken.

Police Proceeding: Today telephone message was received from Police Station, City to the effect that Deepak and Parkash received injuries at the time of firing shot from the Dhulawat mountain and Deepak had expired, while Parkash was admitted in Kalyani hospital and I.O. be sent for proceeding. On this, I SI/SHO alongwith HC Govind Ram 123, C. Surinder Singh 420, C. Mangtu Ram 1084, reached in Kalyani Hospital in government jeep driven by C.Abdul Majid 1120 for taking action, where opinion regarding Parkash injured was obtained from doctor who declare injured Parkash unfit for given statement. Then Eye witness Sunil aforesaid got his statement recorded, which was read over to him who after admitted the same to be correct, signed in Hindi below and made the statement to which I attest. From the statement an offence punishable U/s.394/302/307/506/34 IPC & 25/54/49 A. Act is made out so a writing is being sent to Police Station through C. Mangtu Ram 1084 for registration of the case. Case number be intimated. Special report be sent to the higher authorities. MSG regarding conducting nakabandi has been given to all the SHO's earlier. Direction for sending dogs squarl has already been sent. I am busy in investigation. Sd/ Anil Kumar SI/SHO, P.S.Tauru, 10.11.2001 at 7:05 AM at Kalyani Hospital, Gurgaon.

At the police station:On receipt of above writing case has been registered under the aforesaid sections and police file alongwith original writing has been prepared and is being sent through



constable to the SI/SHO at the spot. Copy of FIR is being sent as Special Report through C. Jagdish Chand 1328 to Illaqa Magistrate Higher authorities, Gurgaon and Nuh.

3. After the completion of the investigation, challan was filed against the appellants in criminal No. CRA-D-604-DB-2003. Since the offence was triable by the Court of Sessions Judge, the case was committed to the Court of Sessions Judge, Gurgaon.

4. After taking into consideration, the material appended with the challan, appellants/accused were charge-sheeted for commission of the offences under Sections 302,307,394,506 read with Section 34 of IPC and under Section 25 of Arms Act.

5. During the course of trial, the prosecution examined PW-1, Sh. Rajesh Garg, the then Judicial Magistrate Ist Class, Nuh. On 03.01.2002, the appellants/accused were produced before him and the police requested for permission to join the accused in the test identification parade. He recorded the statements of all the appellants, which were exhibited as Ex.PA/1, Ex.PA/2, Ex.PA/3 and Ex.PA/4 and they all denied to join the test identification parade, without telling any specific reason. On this, he passed the order Ex.PA/5 and disposed off the application. In his cross-examination, he stated that they were not represented by the counsel. The statements of PW-2, C. Jitender Kumar, PW-3, C.Jai Kishan and PW-4 HC Rajbir Singh were formal in nature. The prosecution further examined Sarwan Kumar, Draftsman as PW-5, who had prepared the scaled site plan Ex.PE. The prosecution examined PW-6, Dr. S.K Sharma, before whom blood sample of Mubba @ Mubarik was taken on



03.01.2002. He collected the blood sample and after sealing it, he handed over the same to the police. The prosecution further examined PW-7 Dr. Sanjay Narula, who had conducted the post mortem examination on the dead body of Deepak on 10.11.2001. In his statement, he deposed as under:-

“On examination the length of the body was 6 feet. It was body of a well built and nurished male wearing denim blue jacket, white baniyan with a pink towel lying over a body, grey pant, blue socks and black belt. The clothes were soaked in blood. The front of the jacket and baniyan showed fire arm entry mark corresponding with the wound. Rigour mortes was present, post mortem staining was present, eyes and mouth were closed, froth was present in nostril. There was black thread around the neck. Injuries:-

1. Contusion 2 c.m. x 1 c.m. just above right eye brow, cut section showed ecchymosis.

2. Fire arm entry wound. There was a wound with irregular margins of size 4.5 c.m. transfers and 4 c.m. vertical present in mid line just above xiphisternum. The margins are inverted. The wound was going downwards, posteriorily and towards right side. The underline tissues were seen contused and lacerated. There were multiple black entry wounds of pellets around the main wound in an area of 11 c.m. x 9 c.m., mostly towards left side. The wound was 8.5 c.m. from right nipple and 7.5 c.m. from left nipple. The pellet marks were obliquely placed with clotted blood present. Cotton wound pack present in the wound.

Pellets and wad recovered from right plural cavity and lung. It was sealed in a jar and handed over to police.

Internal examination



There was fracture of sternum in lower part in right lateral border with fracture of 5th and 6th ribs. There was massive hemothorax on right side with collapse of lung. The lung had multiple pellet injuries with haematoma. Left side was normal. There was haematoma with multiple pellets in interior mediastinum. The beard was normal and empty.

There was haemoperitoneum. Liver showed multiple injuries with haematoma on right lobe interior surface.

Rest of the organs were normal.

The cause of death in this case was because of haemorrhage and shock due to injury to lung and liver caused by fire arm. The injuries were antemortem in nature and sufficient to cause death in nature course.”

In his cross-examination, he stated that the deceased might have taken its last meals before four hours of his death. He could not tell the particular bore of the weapon used in the crime. The prosecution further examined Dr. Anita Sareen as PW-8, who was working as Radiologist in Kalyani Hospital, Gurgaon and she had radiologically examined Parkash, injured. She found multiple/scattered radio opacities in the part X-rayed and proved on record her reports Ex.PH and Ex.PH/1. She admitted that there was no fracture in the part X-rayed. The prosecution further examined HC, Mahavir Singh as PW-9, who was working as Armourer in Gurgaon police. He had opened all the parcels of the weapon used in the present case and stated that the said weapons were fire arms and were in working orders. The prosecution further examined Dr. Kanchan Gupta as PW-10, who had examined injured Parkash, on 10.11.2001 and found the following injuries and further stated as under:-



“There was on oblong fire arm entry wound, on the left upper enter back of the chest. It was oblong of 11 cm x 9 cms, almost touching the lower border of the left axillary region. The inner half of the wound was ragged & torn in appearance. The outer half of the wound was deep and contain a black ruboer wed. The same was removed and handed over to the police in a sealed plastic container. X Ray of the chest was advised on urgent basis. The same showed multiple small rounded pellets in it.

The patient was conscious co-operative. Pulse was 110 per minute. B.P. was 110/70 mm Hg. Chest- Air entry decrees on the left side. Cerebro Vascular system S1 S2 normal. Per abdomen was soft. No other injury mark seen. The patient was kept under observation. The probable duration of the injury was within 6 hours. Kind of weapon was used-fire arm injury. The Kurta and underline baniyan worn by the patient, showed holes corresponding to the above injuries and the same were stained with blood. The clothes were handed over to the police in a sealed parcel. Correct carbon copy of MLR is EX. PK, which bears my signatures. (At this stage a sealed parcel containing cloths opened) Kurta is Ex. PB and baniyan is Ex. P9. The container having black rubber wed was sealed by the staff of the hospital. I do not remember the seal affixed by them there upon.”

In her cross-examination she stated that in the present case, in her opinion, fire arm used could have been a shotgun. She could not give the distance of fire. The prosecution further examined C. Mangtu Ram as PW-11, who remained associated with the investigation in the present case. The prosecution further examined PW-12, Rajeev, who identified the dead body of Deepak in the present case. The statement of PW-13, C. Jagdish Singh was formal in nature. The prosecution further examined PW-14 Madan son of Sh. Sheo Ram, who



was an eye witness and reiterated the averments made in the FIR. His statement was also recorded by the police on 16.11.2001. He also remained associated and was a witness of recovery from all the accused in the present case. The prosecution further examined PW-15, Om Parkash, who was an injured witness in the present case and supported the case of the prosecution. In his cross-examination, he stated that there was no lighting arrangement on the roof, where occurrence had taken place. The prosecution further examined Sunil, complainant of the present case as PW-16. He also supported the statements of PW-14, Madan and PW-15, Om Parkash. In his cross-examination, he stated that the distance between Parkash and Deepak was about 02 paces. Parkash had fallen down after receiving the gun shot. He did not mention in his statement before the police that Madan had told the accused persons to take away the cash etc. He stated that before the police he could not identify anyone of them because all of the accused persons had come with their covered faces. The prosecution examined PW-17, SI Anil Kumar, who was posted as SHO, Police Station Tauru on the said date. He had completed the inquest proceedings Ex.PW17/1 and took into possession the parcel containing clothes given by the doctor vide the memo Ex.PW17/2. He had sent Constable Mangtu Ram for recording the formal FIR, which was recorded by ASI Om Parkash and the same was exhibited as EX.PW17/3. He prepared the rough site plan with correct marginal notes in the present case and made recoveries at the spot. The prosecution further examined PW-18, Jagdish, who was present in his office with Madan, PW-14 on 27.11.2001. At about 06/06:30 A.M, three young persons came to them. Madan after seeing them told him that those three young



persons were the same persons, who had murdered Deepak and looted cash on the night intervening 09/10.11.2001. He told Madan to be silent. He enquired about their names etc. and they disclosed their names as Safi, Sohrab and Jaid, residents of Village Chillah. All the three persons stated that they had committed the offence on the night intervening 09/10.11.2001. They also told that Mubba was also with them. In fact, all three of them had stated that they had committed a mistake and they should be forgiven. He told them that they should accompany him to police station, but the accused told him that firstly he should talk to the police and only thereafter, they would accompany him. After this all the three accused left the place. He and Madan went to the police station and told all the facts to the SHO, Police Station, Tauru. The prosecution further examined SI Om Parkash as PW-19, who had recorded formal FIR Ex.PW17/3. The prosecution further examined PW-20, SI Satender Kumar, who was posted as SI/SHO on 15.11.2001 and had conducted the investigation in the present case. In fact, on 31.12.2001, he had recorded the statements of Rajbir, MHC, Jagdish and Jitender Constables. On 02.01.2002, he arrested Mubarik @ Mubba, Safi, Jaid and Sohrab. He took blood sample of Mubarik @ Mubba with the permission of the Court. On 05.01.2002, all the accused suffered their confessional statements Ex. PR. Ex.PS,Ex.PT and Ex.PU. In pursuance of his disclosure statements, Mubarik @ Mubba got recovered one countrymade pistol and one empty cartridge. Mubarik @ Mubba also got recovered one purse, containing Rs.950/- , railway ticket, driving license of Deepak, deceased and photograph of brother of Deepak, deceased and all the articles were taken into possession vide a recovery memo Ex.PR/1. Even, Safi



got recovered a double barrel gun with one live cartridge and one titan watch and all the articles were taken into possession vide a recovery memo Ex.PS/1. Similarly, accused Jaid got recovered one countrymade pistol with one live cartridge and one citizen watch in pursuance of his disclosure statement vide the recovery memo Ex.PT/1. Sohrab, got recovered one single barrel gun, one live cartridge and one purse containing one ring of silver having inscription 'M' and the photograph of Parkash and all the said articles were taken into possession vide the recovery memo Ex.PU/1. The silver ring was identified by Madan, PW-14, who was with police party at that time. After completion of investigation, he had prepared the challan and presented before the Court.

6. After closure of the prosecution evidence, the statements of all the accused were recorded under Section 313 Cr.P.C and the entire prosecution evidence was put to them. However, they pleaded their false implication and in their defence, the accused produced Ex. DX/1-statement of Sunil; Ex.DX/2-Ration Card of Shaffi Mohd.; Ex.DX/3-Ration Card of Nasir; Ex.DX/4- Ration card of Deep Mohd.; Ex.DX/5- Ration Card of Mubarik; Ex.DX/6- Voter list of Haryana Panchayat Raj-1999; Ex.DX/7-Voter list of Vidhan Sabha Tauru of 1995; Ex.DX/13-Jamabandi of Village Chilla, Tehsil Tauru, District Gurgaon; Ex.DX/14-Jamabandi of Village, Chilla, Tehsil Tauru, District Gurgaon and closed the defence evidence.

7. Learned counsel for the appellants vehemently argued that in the present case, the identification of the accused was doubtful as they had been identified by the witnesses for the first time in police station and thereafter, before the Court. In fact, the appellants were poor labourers and daily wagers,



who had been made scapegoat and had been falsely involved in the backgrounds of the facts that the complainant party had a dispute with Om Parkash, Khalil and others, as mentioned in the FIR. Learned counsel further submitted that the recoveries of weapons and other incriminating evidence was planted on the present appellants and the FSL report does not advance the case of the prosecution in any manner. Learned counsel further submitted that in the present case, no test identification parade was held. In fact, at that time, when offer was given to them, they were not represented by any learned counsel and they had denied for the test identification parade as they had already been shown to the witnesses. They never remained in muffled faces. Apart from that, the prosecution had tried to set up a false case that the appellants had made extra-judicial confession before PW-18 Jagdish on 27.11.2001, which is established from the fact that the accused were not taken in custody at that time and were allowed to go home. Even the investigation was tainted and the appellants had been falsely involved.

8. On the other hand, learned State counsel assisted by learned counsel for the complainant vehemently argued that in the present case, it is clear from the deposition of PW-1, Sh. Rajesh Garg, the then Judicial Magistrate Ist Class that the statements were recorded by him to know the willingness of all the accused in the test identification parade. However, they refused to join the test identification parade without assigning any specific reason. Furthermore, the appellants, in their statements under Section 313 Cr. P.C did not attribute any motive on the part of the police to falsely involve them in a criminal case. Even, they had not taken a stand in their statements under



Section 313 Cr. P.C that they were never kept in muffled faces and were shown to the witnesses in the police station. Further, the recoveries of weapon from the appellants were proved by the prosecution witnesses. Further, 12 bore fired cartridge cases C1 and C2 were fired from the double barreled gun which was recovered from Safi. Further, fired cartridge case Mark C-2 was fired from the right barrel of DBBL gun, which was recovered from Safi. Even, the FSL report proved the involvement of the present appellants in the crime.

9. We have heard learned counsel for the parties at length and perused the record.

10. In the present case, learned counsel for the appellants have vehemently argued that the appellants, who are poor persons had been falsely involved by the police and had been made scapegoat. Further it has been stated that even the identification of the appellants was doubtful. However, this Court finds no substance in the argument raised by learned counsel for the appellants. During the course of trial, the prosecution had examined PW-1, Sh. Rajesh Garg, Judicial Magistrate Ist Class, Nuh, before whom all the appellants were produced and the police requested for grant of permission to join the accused in the test identification parade. The Judicial Magistrate Ist Class, Nuh recorded the statements of all the accused to know their willingness to join the test identification parade and recorded their statements as Ex.PA/1, Ex.PA/2, Ex.PA/3 and Ex.PA/4 respectively. However, all of them denied to join the test identification parade, without assigning any specific reason. This Court has no reasons to disbelieve the testimony of PW-1, Sh. Rajesh Garg, Judicial Magistrate Ist Class, Nuh. Further, the prosecution had examined PW-14,



Madan, who was present at the time of the occurrence and he had duly identified all the four appellants before the Court. Even, 27.11.2001, he had seen the appellants namely Safi, Jaib and Sohrab in the office of Jagdish, PW-18, where they had come for seeking help of the Jagdish. Still further, even PW-15, Om Parkash, injured witness had duly identified all the appellants and had assigned specific roles to all of them. Apart from that, the prosecution examined PW-16, Sunil, who was also an eye witness in the present case. Apart from that, the prosecution had examined PW-18, Jagdish, before whom Safi, Jaib and Sohrab had suffered an extra judicial confession also and requested him to produce all of them before the police. When Jagdish wanted to produce them before the police, they fled from their by saying that he should talk first and thereafter only, they would accompany them. Thus, in the present case, there was sufficient evidence to prove the identification of all the appellants, who were duly identified by eye witnesses of the present case. Even otherwise, PW-14 Madan, PW-15 Om Parkash and PW-16, Sunil had no reasons to spare the real culprits and to involve the appellants in a false criminal case. Rather, from a perusal of their testimonies, it is evident that specific roles have been assigned to all the four appellants and their participation in the commission of crime stood proved during the trial.

11. We find no force in the arguments raised by learned counsel for the appellants that the recoveries of weapon and other incriminating evidence was planted on the present appellants and the FSL report did not advance the case of the prosecution in any manner. In fact, the prosecution had examined PW-20, SI/SHO Satender Kumar, in the present case, who had interrogated all the



accused on 15.11.2001 and they had suffered their confessional statements Ex. PR. Ex.PS, Ex.PT and Ex.PU without any pressure. In pursuance of his statement, Mubarik, appellant No.1 got recovered one countrymade pistol, one empty cartridge, one purse, containing Rs.950/- , railway ticket, driving license of Deepak, deceased and photograph of brother of Deepak, deceased. Safi @ Saif Mohd., appellant No.2 got recovered a double barrel gun with one live cartridge and one titan watch. Jaid, appellant No.3 got recovered one countrymade pistol with one live cartridge and one citizen watch and Sohrab, appellant No.4 got recovered one single barrel gun, one live cartridge and one purse containing one ring of silver having inscription 'M' and the photograph of Parkash. The prosecution further examined PW-9, Mahavir Singh, Head Constable/Armour, Gurgaon, who had examined all the weapons, which were recovered from the present appellants and he stated as follows:-

“I unsealed those parcels, took out the fire arms. I compared the fire arms with respective rough sketches, which were also produced before me by Sh. Satender Kumar, alongwith application Ex. PJ and the parcels. I examined the fire arms one by one and then prepared my report which is Ex. PJ/1. After the examination of the fire arms I sealed them again with my seal G.S. and handed over the same to Satender Kumar alongwith my report. In one of the parcels put up before me, there was a country made pistol of 12 bore alongwith an empty of the same bore, in the another parcel there was a country made pistol of 315 bore and a live cartridge of the same bore and in the third parcel there was a gun of 12 bore single barrel. (At this stage three parcels sealed with seal G.S. have been produced in the court. In one of the parcel a 12 bore country made pistol with an empty of the same bore is lying and the same are taken out in the another parcel a country



made pistol of 315 bore alongwith a live cartridge of the same bore are there and the same are taken out from the third parcel a 12 bore single barreled gun is taken out). I have seen the arms and ammunition, 12 bore pistol is Ex. P3 and empty is Ex. P4. Country made pistol of 315 bore is Ex. P5 and cartridge of the 315 bore is Ex. P6. 12 bore single barreled gun is Ex. P7. These are the same arms and ammunicions which were produced before me and were examined by me. All the three weapons were in working order and Ex. P6 was a live cartridge. My statement was also recorded by I.O.

Apart from that, the prosecution had also placed on record the FSL report Ex.PQ/3, which conclusively proved that the weapons got recovered by the present appellants were used in the commission of crime and there is no reason for this Court to disbelieve the scientific evidence in this regard. Learned counsel appearing on behalf of the appellants had vehemently argued that in the present case, the appellants had no reason to appear before the PW-18, Jagdish and to make an extra-judicial confession before him. In fact, on 27.11.2001, Jagdish, PW-18 was present in his office and was accompanied by PW-14, Madan. All the three accused appeared before PW-18, Jagdish and confessed their guilt and requested him to accompany them to the police. PW-18, Jagdish agreed to go with them to the police station. However, they left by saying that he should first talk to the police and only thereafter, they would accompany him and all the three accused namely Safi, Jaid and Sohrab left the place. In fact, from a perusal of the testimony of PW-18, Jagdish, it is apparent that the statement had a natural flow and the said witness was cross-examined at length. However, testimony of said witness could not shaken in any manner.

12. In view of the above discussion, we hold that the chain of



circumstances had been completed, which points towards only one conclusion which is that the present appellants had committed the crime and nobody else. Each evidence, which completes the chain of events, stands on firm grounds. In our considered opinion, the evidence placed by the prosecution in this case inspires confidence and establishes the guilt of the appellants beyond shadow of reasonable doubt.

13. Consequently, findings recorded by the Trial Court are upheld and criminal appeal No. CRA-D-604-DB-2003 titled as **“Mubarik and Others Vs. State of Haryana”** is accordingly dismissed.

CRR-2139-2003

1. The petitioner/complainant has filed the present revision petition for modification of the impugned judgment of conviction dated 08.07.2003 and order of sentence dated 10.07.2003, passed by the Court of Additional Sessions Judge, Fast Track Court, Gurgaon to the extent that heavy amount of fine may be imposed on respondents/accused No.1 to 4 and the same may be awarded to the legal heirs of the deceased and the injured, by way of compensation.

2. We have considered the submissions made by learned counsel for the petitioner.

3. In fact, in the instant case this Court does not have sufficient material before it to correctly assess the capacity of the accused to pay the compensation.

4. Even otherwise, Section 372 Cr. P.C (as it stood prior to 31.12.2009) had laid down that no appeal would lie from any judgment and order of a Criminal Court as provided by this Court or any other law for the

time being in force.

5. Consequently, the petitioner/complainant had no right to seek modification of the impugned judgment of conviction dated 08.07.2003 and order of sentence dated 10.07.2003, as per the provisions of Chapter XXIX of the Code of Criminal Procedure, prior to 31.12.2009.

6. Thus, even no proceedings by way of revision petition under Section 401 Cr. P.C can be entertained by this Court and the present revision petition is accordingly, ordered to be dismissed.

7. Pending application(s), if any,are also disposed off.

(GURVINDER SINGH GILL)
JUDGE

(N.S.SHEKHAWAT)
JUDGE

31.05.2024
hitesh

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