

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl.Appeal No.S-1181-SB of 2004

Date of decision: July 08, 2015

Raka and others

.. Appellants

Vs.

State of Punjab

.. Respondent

Coram: Hon'ble Mr. Justice Surinder Gupta

Present: Mr. Deepak Sabharwal, Advocate (Legal Aid counsel)
for the petitioner.
Mr. Yogesh Gupta, AAG, Punjab.
Mr. Shubhashish Kukreti, Advocate
for respondent No.2.

Surinder Gupta, J

This appeal is directed against the judgment dated 30.4.2015 passed by learned Sessions Judge (Ad hoc), Patiala.

As per case of prosecution, a secret information was received by Inspector Didar Singh of CIA Staff, Patiala within the area of Police Station Sadar Patiala, on 10.8.2003 that a gang of dacoits armed with deadly weapons was sitting near the *samadh* of *Guga Mari* in village Rawas. After sending *ruqa* Ex.PD8/A, raid was conducted after joining an independent witness namely Kishan Chand. The appellants Raka, Bala and Lakhan along with Kishore and Banaras were apprehended. From the appellant Raka .12 bore gun, one khila and iron rod were recovered while from Bala .315 bore pistol and from appellant Lakhan .12 bore single barrel gun and five live cartridges and one torch (light) were recovered. The recovery of weapon was also effected from co-accused Banaras while from co-accused Kishore one torch was recovered. Two of their accomplice succeeded in running away from the spot.

All the above persons were taken into custody and after completion of investigation challan was presented against them for offence punishable under Sections 399/402 IPC and 25 Arms Act.

In order to prove its case, the prosecution examined ASI Ranbir Singh (PW-2), SI Swaran Singh (PW-3), ASI Surjit Rai (PW-6), ASI

Sukhwinder Singh (PW-7) and Inspector Didar Singh (PW-8) besides examining other formal witnesses. All the aforesaid witnesses deposed about the arrest of the accused and recovery of gun/pistol from the appellants at the spot. The arms recovered from the appellants were also got tested from PW4 HC Kamal Kumar Head Armour who found the same in working order and fit for firing.

The trial court held all the appellants guilty for offence punishable under Section 25 Arms Act while acquitting them of offence under Section 399/402 IPC. The co-accused Kishore and Banaras were acquitted of the charges.

Learned counsel appearing for appellant has argued that the appellants have taken a specific plea that they have been falsely implicated in this case. The version of the police regarding involvement of the appellants for offence punishable under Section 399/402 IPC has been discarded but statement of the prosecution witnesses has been wrongly relied upon by the trial court to convict the appellants for offence punishable under Section 25 Arms Act.

The prosecution version regarding recovery of weapons from the possession of appellants has been supported by all the prosecution witnesses referred above and their testimony in this regard is un- shattered. The trial court has given benefit of acquittal to the appellants for offence punishable under Section 399/402 IPC on the ground that merely because they were sitting together led to no inference that they had assembled for the purpose of committing dacoity.

In view of the above, I find no legal or factual infirmity in the conclusion by the trial court holding the appellants guilty for offence under Section 25 Arms Act calling for interference by this court.

The conviction of the appellants under Section 25 Arms Act is maintained and their appeal to this extent is dismissed.

Perusal of the custody certificates of the appellants show that out of sentence awarded to them, i.e. 3-½ years, they have undergone imprisonment of 3 years, 14 days as on 28.8.2006. They have also earned remissions of 5 months and 16 days thereby making total custody including remissions as 3 years, 5 months and 29 days i.e. only one day less than the awarded sentence of 3 years and 6 months.

As the appellants have undergone 3 years, 5 months and 29 days of imprisonment which is only one day less than the imprisonment awarded to them, their sentence is modified and reduced to the period already undergone. However, the sentence of fine is kept intact

With above modification in sentence, the appeal stands disposed of.

July 08, 2015
deepak

(Surinder Gupta)
Judge