

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

Date of Decision: 23.09.2015

1. **CRA-S No.1875-SB of 2007**

Gurdev Singh and others	Appellants
Vs	
State of Haryana	...Respondent

2. **CRA-S No.2229-SB of 2007**

Sukhwinder Singh @ Sukhi	Appellant
Vs	
State of Haryana	...Respondent

3. **CRA-S No.2360-SB of 2007**

Gurprit Singh	...Appellant
Vs	
State of Haryana	...Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Jatinder Nara, Advocate
as Amicus Curiae for the appellants in
CRA-S No.1875-SB of 2007.

Mr. P.P.S. Tung, Advocate
for the appellant(s) in
CRA-S No.2229-SB and 2360-SB of 2007.

Mr. Arun Luthra, A.A.G., Haryana.

1. ***Whether Reporters of local papers may be allowed to see the judgment ?***
2. ***To be referred to the Reporters or not ?***
3. ***Whether the judgment should be reported in the Digest?***

RAJ MOHAN SINGH, J.

[1]. By this common judgment three appeals i.e. CRA-S Nos.1875-SB, 2229-SB and 2360-SB of 2007 are being disposed of. Since all these appeals have arisen from a common judgment of

conviction, therefore, facts are being taken from CRA-S No.1875-SB of 2007.

[2]. FIR No.122 dated 04.08.2003 was registered under Sections 392, 395 IPC, Police Station Siwan, Distt. Kaithal. Six persons were tried. Gurbaksh Singh S/o Bir Singh was declared as proclaimed offender. As per prosecution case, complainant Ram Mehar reported the matter to Surinder Pal, Sub-Inspector/SHO, Police Station Siwan on 04.08.2003 that he was posted as Field Officer in Ambala-Kurukshetra Gramin Bank, Kangthali. He along with Balbir Singh Lathar, Bank Manager and Joginder Singh, Messenger were on duty in the Bank. At that time Guljar Singh and Vikram Singh (customers) were also present in the Bank. At about 12:45 p.m., two young boys entered the Bank and both were armed with pistols. One of them put his pistol on the temple of Ram Mehar and another put his pistol on the ear of Balbir Singh Lathar, Bank Manager. In the meantime two Sikh persons entered the Bank and thereafter all the said four persons locked Ram Mehar, Balbir Singh Lathar, Joginder Singh and two customers in the Strong room after getting it opened from Joginder Singh.

[3]. One of the accused took out purse of Balbir Singh Lathar containing Rs.1800/1900/- currency notes along with driving licence etc. A sum of Rs.700/- was taken out from the pocket of Vikram Singh and they demanded key of the cash shelf, in the Strong room. Joginder Singh told that key was lying on the table. One of the accused took Joginder Singh to the said table and took the key of

cash shelf alongwith cash lying on the table. Joginder Singh was brought to Strong room and shelf was got opened from Joginder Singh and he was asked to hand over the cash. Joginder Singh handed over the bag containing cash. All the four accused locked them in the Strong room and fled away. Om Parkash employee of Telephone Exchange came to the Bank and he was asked to report the matter to the Police and took them out from the Strong room. Shivdev Singh opened the lock and took them out of the Strong room. They came to know that accused had run away in Maruti car bearing registration number CH1W-7605 towards Bhuna road. The accused did the robbery of Rs.4,35,087/-.

[4]. On 03.11.2003 a wireless message was received from Superintendent of Police, Ferozepur by Superintendent of Police, Kaithal that during investigation of case No.303/34/411 IPC, accused Gurprit Singh S/o Sadhu Singh suffered disclosure statement regarding occurrence pertaining to FIR No.122 under Sections 392, 395 IPC. According to disclosure statement, Gurprit Singh along with Gurdev Singh S/o Nachhatar Singh, Harnek Singh S/o Chet Singh, Gurbaksh Singh S/o Balbir Singh (P.O.) and two other persons had committed robbery in the Gramin Bank, Kangthali.

[5]. On 10.11.2003, Investigating Officer got issued production warrants. Gurdev Singh was arrested on 13.11.2003 and he suffered disclosure statement to the effect that he along with Gurprit Singh, Gurbaksh Singh, Joginder Singh @ Fauji S/o Anoop Singh, Sukhwinder Singh S/o Darshan Singh and Harnek Singh committed

dacoity in the Gramin Bank, Kangthali. His share was to the tune of Rs.50,000/-. Gurprit Singh led the police party and got recovered the amount of Rs.15,000/-.

[6]. On 19.11.2003, production warrants of Joginder Singh and Sukhwinder Singh were obtained and they were arrested. Disclosure statement of Sukhwinder Singh was recorded and recoveries were effected. Gurprit Singh was arrested on production warrants, he also suffered disclosure statement that his share was to the tune of Rs.70,000/-, out of which he purchased computer of Rs.65,500/-. Computer and pistol were recovered from Esteem car in which he along with his father kept some opium and cash. On 20.01.2004, Harnek Singh was arrested on production warrant. He made disclosure statement to the effect that Rs.85,000/- was the booty shared by him. An amount of Rs.35,000/- was recovered from him by the Police. Gurbaksh Singh could not be arrested and he was declared proclaimed offender.

[7]. After completion of necessary investigation challan U/s 173 of Cr.P.C., was presented against the accused in the Court for trial. Documents were supplied to the accused persons under Section 207 Cr.P.C. They were chargesheeted for the offence punishable under Sections 392/395 IPC.

[8]. In order to prove its case prosecution examined Constable Suresh Kumar as PW-1, Om Parkash, Mechanic as PW-2, Head Constable Ishwar Singh as PW-3, Ram Mehar complainant as PW-4, Balbir Singh Lathar, Bank Manager as PW-5, Joginder Singh as

PW-6, EHC Ram Mehar as PW-7, Constable Pal Singh as PW-8, ASI Abhay Ram as PW-9, EHC Rajinder Singh as PW-10, Constable Lachman Singh Draftsman as PW-11, Inspector Surinder Pal as PW-12, Constable Kitab Singh as PW-13, Shivdev Singh Ex. Sarpanch as PW-14, Inspector Harvinder Singh as PW-15, Sub Inspector Jagroop Singh as PW-16, Inspector Rajinder Singh as PW-17, Sub Inspector Sahi Ram as PW-18, retired Inspector Sher Singh as PW-19, ASI Jagdish Lal as PW-20, MHC Nishan Singh as PW-21 and Inspector Banwari Lal as PW-22 besides tendering documentary evidence.

[9]. Statements of accused were recorded under Section 313 Cr.P.C., all the incriminating circumstances appearing against them were put to them to which they denied all the allegations appearing against them and pleaded innocence. They opted to lead defence evidence, but did not lead any evidence in their defence.

[10]. Prosecution in order to substantiate its case relied upon the testimonies of prosecution witnesses and evidence led on record. PW-4 Complainant Ram Mehar reiterated the prosecution version that on 04.08.2003 he was posted as Field Officer and Balbir Singh was the Bank Manager and Joginder Singh was the messenger. On that day he along with aforesaid officials were on duty. Two customers and other villages were also present in the Bank. At about 12:45 p.m., two youth in the age group of 22-25 years entered the Bank through main gate, who were duly armed with pistols. One of the assailants pointed out his pistol on the head of Balbir Singh,

Manager and directed him to raise his hands. Two more Sardars entered the Bank.

[11]. All the four assailants took him as well as Joginder Singh and Balbir Singh in the Strong room and took their personal search. They took away the purse of Balbir Singh, Manager containing an amount of Rs.1800/1900/- along with driving licence etc., and they also took amount from the pocket of Vikram Singh. One of the assailants demanded the key of the cash shelf. Devender Singh who was dealing with the cash told that the key of the cash shelf was lying on the seat. Thereafter, one of the assailants took Joginder Singh to his seat and took the key which was lying there. Cash lying at the seat of Joginder Singh was also taken by the assailants and thereafter Joginder Singh was brought back to the Strong room and then cash shelf was opened and was directed to hand over the said cash which were lying in the shelf. All the accused locked them in the Strong room and fled away along with the robbed amount. They raised alarm. On hearing noise, Om Parkash PW-1, employee of Telephone Exchange reached there. Shivdev Singh PW-14 also reached there and he opened the Strong room and accordingly they came out of the strong room. Om Parkash was requested to inform the Police party and they also telephonically informed the Police. They ultimately came to know that the robbers had fled away to Bhuna road in the Maruti car.

[12]. On verification, looted amount was found to be Rs.4,35,087/-. Statement Ex.PB was made to the Police by the

complainant Mehar Singh under his signatures. He stated that occurrence took place for 5-6 minutes and they were terrified and thereafter he was unable to see whether the accused persons present in Court were the assailants who committed robbery or not? He stated that the accused persons present in Court may or may not be the assailants.

[13]. Om Parkash PW-2 also stated that he was present in office, which was situated at a distance of 50 feet from the Gramin Bank, Kangthali. At the relevant time when he was present in the office then a lady Gurdial Kaur W/o Waryam Singh came to his office and told him that there was hue and cry in the Bank. Thereafter he went to the Bank and found Balbir Singh Manager, Ram Mehar Field Officer, Joginder Singh and two three more persons locked in the Strong room. Manager of the Bank requested him to inform the Police on telephone.

[14]. Head Constable Ishwar Singh was examined as PW-3 by the prosecution. He stated that on 04.08.2003, he received ruqa Ex.PA in the Police Station and on the basis of that FIR Ex.PA/1 was registered and special reports to Illaqa Magistrate and Police Officers were sent through Constable Suresh.

[15]. Balbir Singh Lathar, Manager of the Bank appeared as PW-5 and narrated the prosecution story in the manner as narrated by the complainant Ram Mehar Singh. He also stated that the accused person present in Court may or may not be same persons, who robbed the cash from the Bank and he could not identify them

because he was terrified. In his cross-examination he has admitted that only four assailants entered the room and all the four were armed with the pistols.

[16]. EHC Ram Mehar Singh appeared as PW-7, who was posted as Constable in CIA staff, Kaithal at the relevant time and he remained associated with the investigation along with Constable Balwan Singh and Sub Inspector Banwari Lal. According to him on 19.11.2003, Gurdev Singh present in Court got recovered Rs.15000/- in pursuance to the disclosure statement from his house and the said amount was taken in police possession vide recovery memo Ex.PC. The currency notes were Ex.P-1 to Ex.P-30.

[17]. Head Constable Pal Singh was examined as PW-8, who was posted on 02.09.2003 as MHC in Police Station, Faridkot. On that day Inspector Harvinder Singh, CIA Faridkot PW-15 deposited Rs.65,500/- along with other case property in FIR No.143 dated 02.09.2003 under Section 18 of NDPS Act, Police Station City Faridkot.

[18]. ASI Abhey Ram was examined by the Prosecution as PW-9 who has deposed that on 13.11.2003, he was posted as ASI in Police Station Siwan and in his presence, accused Gurdev Singh was interrogated by Sahi Ram Sub Inspector and he made disclosure statement that on 04.08.2003, he along with co-accused Gurbaksh Singh (PO), Gurdeep Singh, Joginder Singh, Sukhwinder Singh and Harnek Singh committed robbery in the Gramin Bank, Kangthali and his share was to the tune of Rs.50,000/-. In pursuance

to disclosure statement Ex.PW-9/A, he led the Police party and demarcated the place of occurrence. He further stated that on 19.11.2003, Sukhwinder Singh and Joginder Singh suffered disclosure statements which led to recoveries. This witness had also witnessed the demarcation of the place got done by the accused Sukhwinder Singh @ Sukha vide demarcation memo Ex.PW-9/E and he proved demarcation memo Ex.PW-9/F vide which the accused Joginder Singh demarcated the place of occurrence. Recovery effected from Sukhwinder Singh was to the tune of Rs.5,000/- from the disclosed place which was taken in police possession vide Ex.PW-9/G and on 22.11.2003, Joginder Singh got recovered Rs.5,000/- which was also taken in police possession vide recovery memo Ex.PW-9/H. Gurprit Singh also made disclosure statement to the effect that he along with Gurbaksh Singh (PO), Gurdev Singh, Harnek Singh, Sukhwinder Singh and Joginder Singh committed robbery in the Gramin Bank, Kangthali and robbed the amount to the tune of Rs.4,45,000/- at gun point and his share was to the tune of Rs.70,000/- out of which a sum of Rs.65,500/- was retained by him in Esteem car which was used by him. His father was transporting opium in the said vehicle. Police apprehended the vehicle along with his father and he escaped from there. Police recovered Rs.65,500/- from the said vehicle. This witness corroborated the disclosure of Gurprit Singh as PW-9/J and recovery of notes Ex.PW-9/1 to Ex.PW-9/50 which were got recovered from Joginder Singh and currency notes Ex.P-9/51 to Ex.PW-9/60 which were recovered from

Sukhwinder Singh. However this witness in his cross examination has admitted that accused Gurdev Singh initially suffered disclosure statement on 13.11.2003, but later on he suffered another disclosure statement on 18.11.2003. Apparently this witness has witnessed recoveries made from the disclosure statement of accused from time to time.

[19]. PW-10 EHC Rajinder Singh was the witness of arrest of Harnek Singh and his disclosure in which he made disclosure statement in respect of occurrence and that his share was to the extent of Rs.85,000/- which he kept concealed with his brother-in-law Bhola Singh and got recovered Rs.35,000/- and he further disclosed that his co-accused had taken room on rent in Nainital and Amritsar and he could not get arrested said Gurbaksh Singh. The disclosure statement of Harnek Singh Ex.PW-10/A was proved by this witness along with demarcation memo Ex.PW-10/B which was prepared at the instance of Harnek Singh.

[20]. PW-11 is the draftsman who prepared the scaled site plan at the instance of complainant Ram Mehar. Surinder Pal PW-12 was posted as SHO, Police Station Siwan and when information in respect of occurrence was received by him he reached the site where ASI Prem Singh, ASI Devinder Singh and Head Constable Bhaiya Ram were already present. Statement of complainant Ram Mehar was recorded and was sent to the Police Station for registration of the case. He also prepared rough site plan Ex.PW-12/A besides recording statements of witnesses. PW-13

Constable Kitab Singh deposed that accused Gurprit Singh suffered disclosure statement in his presence and thereafter demarcation memo was also prepared. Disclosure statement Ex.PW-9/J was recorded in his presence and demarcation memo Ex.PW-13/A was prepared accordingly. In pursuance to the statement of Gurprit Singh recoveries of CPU, mouse, monitor, scanner, printer so recovered by the Punjab Police were brought to Kaithal and taken into police possession vide recovery memo Ex.PW-13/B. On 24.01.2004, accused Harnek Singh again suffered disclosure statement and got recovered Rs.35,000/- in his presence which were taken into police possession vide recovery memo Ex.PW-13/C. He identified CPU Ex.P-61, keyboard as Ex.P-62, mouse Ex.P-63, monitor Ex.P-64, scanner Ex.P-65 and printer Ex.P-66 which were recovered from the accused. Currency notes were also identified by the witness as Ex. P-61 to Ex.P-137 which were recovered from Harnek Singh.

[21]. Ex. Sarpanch Shivdev Singh was examined as PW-14 who on hearing noise got attracted to the Gramin Bank and then he entered the Bank, but when he entered nobody was there. He again heard the call of the Manager that they are locked in the Strong room and requested him to lift the key from the table and open the lock, then he took the key and opened the lock of the strong room and the Manager and the staff came out and thereafter cashier of the Bank went to Telephone Exchange and made a telephone call.

[22]. PW-15 Inspector Hardevinder Singh has proved the factum of occurrence dated 02.09.2003 and he has further deposed that

when he was posted as Inspector in CIA Faridkot during nakabandi Esteem car was stopped. Driver of the car fled away and thereafter on search of the vehicle, father of Gurpit Singh was apprehended from the car and plastic bag containing narcotic was recovered. In the another bag currency notes of Rs.65,500/- were recovered along with mobile, RC of the car. The same were taken into police possession vide memo Ex.PW-15/A. This witness proved FIR No.143 dated 02.09.2003 besides proving recovery memo Ex.P-15/A and rough site plan Ex. PW-15/B. This witness stated that he got no information regarding Bank robbery at village Kangthali at that time.

[23]. PW-16 SI Jagroop Singh stated that Gurprit Singh suffered disclosure statement that he alongwith Gurdev Singh, Harnek Singh, Gurbachan Singh and two more persons committed robbery of Rs.3,18,000/- which was subject matter of FIR No.303 of 2003 under Section 411 IPC. This witness testified the disclosure statement Ex.PW-16/A and on the basis of said disclosure a message was flashed to SP Kaithal.

[24]. PW-17 Inspector Rajinder Singh proved report under Section 173 Cr.P.C., and further deposed that he prepared the demarcation memo Ex.PW-17/A and rough site plan Ex.PW-17/B, when Gurbaksh Singh (PO) demarcated the place of occurrence. Gurbaksh Singh (PO) suffered statement regarding commission of dacoity and his share came out to be Rs.5,000/-. He got it recovered from the disclosed place which was taken into police possession vide Recovery memo Ex.PW-17/C. He filed supplementary challan

and also identified currency notes Ex.P-138 to Ex.P-147. He admitted that Gurbaksh Singh was declared as proclaimed offender.

[25]. PW-18 Inspector Sahi Ram deposed that Gurdev Singh was brought by the Punjab Police for production in Court at Guhla and he gave an application to Court for joining Gurbaksh Singh in the investigation. Gurdev Singh suffered disclosure statement that he along with Gurbaksh Singh, Gurprit Singh and Harnek Singh robbed the car bearing No.HR20/8400 and thereafter committed robbery in the Bank. Share of Rs.50,000/- came to him which was consumed by him in purchasing the car. Disclosure statement of Gurdev Singh has been proved as Ex.PW-18/A. He also proved application Ex.PW-18/B moved for identification of Gurdev Singh, but Gurdev Singh refused to join test identification parade. Similarly application Ex.PW-18/C was also moved for identification of Joginder Singh and Sukhwinder Singh in test identification parade, but they refused to join.

[26]. PW-19 retired Inspector Sher Singh was a formal witness who recorded statement under Section 161 Cr.P.C. of SI Jagroop Singh of Police Station Abohar. Similarly, PW-20 ASI Jagdish Lal deposed that he was witness to the Naka where Esteem car was apprehended with the arrest of the father of Gurprit Singh in a case of NDPS Act was registered and recovery of Rs.65,500/- along with RC of car and mobile was recovered by the Police vide recovery memo PW-15/A. He also identified Gurprit Singh in the Court.

[27]. PW-21 MHC Nishan Singh is the witness of case property

i.e. computer etc., which were sent to Kaithal and PW-22 Banwari Lal deposed on the line of investigation conducted in its case. He received the record of this case for further investigation. He narrated the incident of making disclosure statement by the Gurdev Singh on 13.11.2003 onwards, then on 18.11.2003. Statement of this witness according to different stages where different accused made a different disclosure statement and recoveries effected thereof.

[28]. Trial Court after appreciating the prosecution case convicted the accused for the offence under Section 395 IPC and sentenced them to undergo rigorous imprisonment for a period of five years and to pay fine of Rs.2,000/- each under Section 395 IPC and in default of payment of fine to further undergo simple imprisonment for a period of six months.

[29]. All the five accused except Gurbaksh Singh who was declared proclaimed offender have preferred appeals in this Court. CRA-S No.1875-SB of 2007 has been filed by accused Gurdev Singh, Joginder Singh and Harnek Singh. CRA-S No.2229-SB of 2007 has been filed Sukhwinder Singh @ Sukhi and CRA-S No.2360-SB of 2007 has been filed by Gurprit Singh.

[30]. I have heard the argument advanced by both the sides.

[31]. Learned counsel for the appellants has argued that references have been planted upon the accused after alleged disclosure statements which are not proved. Learned counsel stated that material witnesses PW-4 complainant Ram Mehar and PW-5 Balbir Singh Lathar, Bank manager and PW-6 Joginder Singh have

not identified either of the accused and in the absence of proper identification, the guilt of the accused cannot be presumed. Learned counsel for the accused also pointed out that in the absence of any identification parade, particularly in view of statements of PW-4, PW-5 and PW-6, it was indispensable in order to prove prosecution case beyond all reasonable doubts. No independent witness was joined at the time of recording disclosure statements and effecting recoveries in pursuant thereof.

[32]. Learned counsel further states that in view of FIR Ex.PA/1 names of the accused were not mentioned. Bank officials came to know that the accused had run away in car with currency of Rs.4,35,000/-. During investigation it was found that two more persons were standing outside the Bank.

[33]. On the other hand, learned counsel for the State has argued that statements of PW-4, PW-5 and PW-6 are not in the context of identifying the accused persons in Court, but their statements cannot be interpreted to mean that accused have been falsely involved. They have simply stated that the accused may or may not be the same persons who have committed the robbery, but, over all prosecution material available on record have corroborated the involvement of the accused to the hilt. According to State counsel, circumstances are such where the series of events are well connected by way of link evidence to arrive at such a conclusion. Gurprit Singh was interrogated by the Punjab Police in FIR No.303 dated 03.11.2003 and suffered disclosure statement Ex.PW-16/A

which was duly proved by Sub-Inspector Jagroop Singh. Gurprit Singh had disclosed that he along with Gurdev Singh, Harnek Singh, Gurbaksh Singh (PO) and two more persons had committed the dacoity in question in Ambala-Kurukshetra Gramin Bank, Kangthali and robbed amount of Rs.3,18,000/-. In pursuance to this disclosure, Ex.PW-16/A, accused Gurdev Singh was arrested and interrogated and he also suffered disclosure statement to the effect that he along with Gurbaksh Singh, Gurprit Singh, Harnek Singh, Fauji and Giani had robbed a car and forged the number plate and committed dacoity in the Bank at Kangthali at pistol point and robbed the amount of Rs. 3,50,000/-. The disclosure statement Ex.PW-18/A has been proved on record.

[34]. An application for identification parade of the Gurdev Singh was moved by PW-18 Sub Inspector Sahi Ram i.e. Ex.PW-18/B. Accused Gurdev Singh refused to join investigation and order dated 13.11.2003 was passed on the application Ex.PW-18/B to this effect. Even the disclosure made by Gurdev Singh led to recovery after proper demarcation of the place vide Ex.PW-9/B. This fact has been proved by the prosecution witness PW-9 ASI Abhey Ram in whose presence Gurdev Singh got the place demarcated after disclosure made by him on 18.11.2003. In pursuance to this disclosure Ex.PW-9/A Gurdev Singh got recovered currency notes of Rs.15,000/- vide recovery memo Ex.PC. This fact has been proved by Investigating Officer Banwari Lal while appearing as PW-22. Even the currency notes Ex.P-1 to Ex.P-30 are proved on record.

[35]. The disclosure statement of PW-9/C made by Sukhwinder Singh and disclosure statement Ex.PW-9/D made by Joginder Singh are also proved which on proper demarcation of places vide demarcation memos Ex.PW-9/E to Ex.PW-9/C got effected the recoveries of currency notes vide recovery memo Ex.PW-9/G to Ex.PW-9/H. An application for identification parade of accused Joginder Singh and Sukhwinder Singh was moved i.e. Ex.PW-18/C, but the accused refused to join investigation which is evident from order Ex.PW-19/C. The Investigating Officer has proved the recoveries from the accused.

[36]. The disclosure of accused Gurprit Singh in FIR No.303 of 2003 under Section 411 IPC Ex.PW-16/A has been proved with reference to material on record. The link evidence has been corroborated. Gurprit Singh in his disclosure statement Ex.PW-9/J has implicated himself along with Gurbaksh Singh (PO), Gurdev Singh, Joginder Singh and Sukhwinder Singh in respect of dacoity in Bank at Kangthali to the tune of Rs.4,35,000/- at gun point. His booty came to be Rs.70,000/- and he placed Rs.65,500/- in the Esteem car which was ultimately recovered by the Police vide recovery memo Ex.PW-15/A. Further incriminating material in the form of computer, printer etc. have been lawfully recovered and proved on record.

[37]. PW-15 Inspector Hardevinder Singh has proved the recovery memo Ex.PW-15/A and site plan Ex.PW-15/B. Gurprit Singh also got the place of occurrence demarcated in the presence of witness PW-13 Constable Kitab Singh. The recovery memo

Ex.PW-13/B vide which CPU, keyboard, mouse, monitor, scanner and printer which were brought from Abohar to Kaithal have been proved by the witnesses with reference to link evidence. For test identification of Gurprit Singh an application was moved by PW-22 Inspector Banwari Lal on 07.01.2004, the said application Ex.PW-22/D has been proved on record where accused Gurprit Singh had refused to join in test identification parade and the same is evident from his statement Ex.PW-22/D/1.

[38]. The prosecution has led circumstantial evidence showing connectivity of the accused with reference to the disclosure statements leading to recovery which have been proved by the witnesses whose testimonies could not be impeached by the defence in any manner.

[39]. The circumstantial evidence is well connected with prosecution story in establishing the guilt of the accused, even though the complainant, the Bank Manager and the witnesses have deposed with regard to identification of the accused in the Court that they may or may not be involved, but the conduct of the accused by refusing test identification parade brought them in the fray that they were the accused qua which contingency was pleaded by the witnesses except PW-4, PW-5 and PW-6 and the other material on record in the form of disclosures which led to recoveries from different accused. The disclosures of the accused *inter se* implicating other accused and thereafter on their arrest and disclosures, recoveries were effected. The prosecution case is well-knitted case

of circumstantial evidence which on proper appreciation gives rise in irresistible conclusion of proving guilt of the accused to the hilt.

[40]. After going through the material on record, it has been found that Gurprit Singh was found in possession of Rs.65,500/- which was lawfully recovered from the car. On his disclosure other accused were also interrogated and their interrogation led to disclosure statements and recoveries effected in pursuance thereto. Harnek Singh also refused to get identification parade conducted vide Ex.PW-22/F. Recovery from Harnek Singh to the tune of Rs.35,000/- from the disclosed place has been lawfully proved on record.

[41]. The evidence on record and the circumstances of the prosecution case proves that the accused Gurdev Singh, Gurprit Singh, Joginder Singh, Harnek Singh, Sukhwinder Singh @ Sukhi along with accused Gurbaksh Singh (PO) have committed the offence under Section 395 IPC and they have been rightly convicted and sentenced by the trial Court. Consequently, finding no substance in the appeals, the same are dismissed. Normal consequences to follow.

September 23, 2015
Atik

(RAJ MOHAN SINGH)
JUDGE