

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA, CHANDIGARH

Crl.Appeal No.D-760-DB of 2002
Date of Decision : 04.05.2015

Satis BaniaAppellant

Vs.

State of PunjabRespondent

Crl.Appeal No.D-905-DB of 2002

Harjit Singh and OthersAppellants

Vs.

State of PunjabRespondent

Crl.Appeal No.D-732-DB of 2002

Manohar Lal and AnotherAppellants

Vs.

State of PunjabRespondent

Crl.Appeal No.D-223 DB of 2003

Sukhdev SinghAppellant

Vs.

State of PunjabRespondent

Crl.Appeal No.D-697-DB of 2002

Rinku @ Rinku KumarAppellant

Vs.

State of PunjabRespondent

CORAM : HON'BLE MR.JUSTICE S.S.SARON
HON'BLE MR.JUSTICE RAMENDRA JAIN

Present:- Mr.A.P.S.Deol, Sr.Advocate with
Mr.P.L.Singla, and
Mr.Vishal R.Lamba, Advocates for the appellant
CRA-D-760 DB of 2002.

Mr.A.P.S.Mann, Advocate for Rinku-appellant
in CRA-D-697-DB of 2002.

Mr.Ashok Giri, Advocate for
Harjit Singh-appellant
in CRA-D-905-DB of 2002.

Ms.Deipa Singh, Addl.A.G.Punjab.

RAMENDRA JAIN, J.

By this common judgment we shall dispose of five criminal appeals i.e one has been filed by Satish Bania-appellant (Crl.Appeal No.760-DB of 2002), another jointly filed by accused-appellants Harjit Singh and Bahadur Singh (Crl.Appeal No.905-DB of 2002) third jointly by accused appellant Manohar Lal and Dalbir Singh (Crl.Appeal No.732-DB of 2002), fourth by appellant-accused Sukhdev Singh (Crl.Appeal No.223 DB of 2003) and fifth by appellant-accused Rinku @ Rinku Kumar (Crl.Appeal No.697-DB of 2002) against the judgment of their conviction and order of sentence dated 12.09.2002 passed by the Ld.Additional Sessions Judge, Jalandhar in Sessions Case No. 57 of 1999, bearing FIR No. 30 dated 11.05.1998 under Sections 302, 201, 148/149 IPC of Police Station Kartarpur, whereby they

were convicted and sentenced as under:

For offence under Section 323 read with Section 34 IPC.	Imprisonment for life and to pay a fine of Rs.2000/-each. In default of payment of fine to undergo RI for three months.
For offence under Section 201 IPC.	RI for five years with fine of Rs.1,000/- each. In default of payment of fine to undergo RI for three months.

It was further ordered that all the substantive sentences awarded to the appellants-accused shall run concurrently.

Brief facts of the case, relevant for decision of these appeals are that on 08.05.1998, on receipt of information from his servant Tola son of Sehbu Sultan resident of Dalwaza, P.S.Kadhiyar, Distt. Kadhiyar (Bihar) about lying of a decomposed dead body in a sun flower field, PW2 Sewa Singh accompanying his co-villager Surinder Singh and aforesaid servant Tola went to his sun flower field and found lying a dead body having wounds of a sikh gentleman wearing white, red and black lining shirt, sky blue coloured pant and earthen colour bunian. Accordingly, after leaving his said servant Tola at the spot to guard the dead body, he alongwith his co-villager Surinder Singh went to the police station to report the matter, but ASI Satnam Singh alongwith other police officials met him near the Dera of Barbhag Singh present for routine patrolling and crime detection duty and made his statement Ex.PB in this respect before him.

Since, it was a case of dead body of a human being, so it was necessary to conduct inquest proceedings under Section 175

Cr.P.C. and accordingly he forwarded the statement of PW2 Sewa Singh Ex.PB to the police station through Constable Balwinder Singh to enter the same in the daily diary and proceeded to the spot. Consequently, DDR entry No.14 dated 08.05.1998 was made and copy of the same was sent to ASI Satnam Singh for further action. ASI Satnam Singh conducted inquest proceedings Ex.PF under Section 174 Cr.P.C. and recorded the statements of Sewa Singh, Surinder Singh and servant Tola. The dead body was handed over to Constable Balwinder Singh and PHC Bhupinder Singh for its postmortem examination. After doing the needful, the dead body was handed over to the bearer of the Committee. On return, Constable Balwinder Singh handed over the postmortem report and clothes of the dead body to ASI Satnam Singh.

Thereafter, on the next date i.e. 09.05.1998, complainant-Parmanand S/o Kirpa Ram aged 63 years r/o Mohalla Dhobian, Khaliffa Gate, Kartarpur and his wife came to know about tracing of an unidentified dead body by the police near Kartarpur. Accordingly, they came to the police station and identified the said dead body to be of their son Durgesh Nandan @ Raju, through his clothes. Hence, their statements Ex.DA and DB were recorded in this respect and separate memo of identification of clothes was prepared by the police.

Thereafter, on 11.05.1998, complainant-Parmanand made statement Ex.PE before Smt.Vibhu Raj, IPS,

Superintendent of Police, Pathankot, when she along with other police officials namely, ASI Satnam Singh, his reader Kuldeep Singh, H.C. Rajbir Singh, Constable Tejinder Kumar and Prem Kumar and PSO Amandeep Singh was present on bus stand, Kartarpur, for patrolling and crime detection duty in Government vehicle No.PB-08-2087 driven by Constable Gurdeep Singh that he had taken retirement as Foreman from Electricity Board. He was having two sons and six daughters. Out of them, his both the sons and three daughters were married, whereas three daughters were still unmarried. About 8 years ago, his son Durgesh Nandan @ Raju aged 30 years arranged love marriage with Smt.Jagdeep @ Pinki daughter of Randhir Singh resident of Jaila, Police Station Payal, District Ludhiana. At that time his daughter Vasishno Vasudeva had given birth to a daughter at Lila Kular Hospital, Jalandhar, where Jagdeep @ Pinki was working as nurse. One son Vishal aged about 6 years had born from the wedlock of his son Durgesh Nandan and Jageeep @ Pinki. On one side of his house, he had got constructed and provided a separate residence to his son Durgesh Nandan @ Raju and his daughter-in-law Jagdip @ Pinki, where they were residing alongwith their family. Her daughter-in-law Jagdip @ Pinki told him that around 1:00 p.m. on 05.05.1998 his son Durgesh Nandan had gone out of the house after taking Rs.400/- and saying that he was going to play a game. On the next day in the morning, she further disclosed to him and his wife that while

going, he had told her that he would not return back, whereupon, he and his other family members started searching his son Durgesh Nandan @ Raju all around in their relations, but did not found any clue of him.

In the morning, on 09.05.1998, he and his wife Santosh Kumari came to know that one unidentified body was found near Kartarpur, so to enquire about the same, they came to the Police Station, Kartarpur and identified the said unidentified dead body to be that of his son Durgesh Nandan @ Raju by recognizing his wearing cloths. Till that time, he had no suspicion on any body. However, after coming to know from her daughter-in-law Jagdip @ Pinki that around 10 p.m. on Tuesday night Satish Bania-accused-appellant son of Chaman Lal Palaiwala resident of Kartarpur had come to her house and had paid Rs.100/- to Durgesh Nanda @ Raju and had informed about going on a game of gambling of big stake at some place and he should come and play. They also came to know that Durgesh Nandan @ Raju had mortgaged his television in a sum of Rs.400/- to his maternal Aunt Kanta Rani resident of Kartarpur, by putting pressure on her daughter-in-law Jagdip @ Pinki. Thereafter Raju went to the place disclosed by Satish Bania, but did not return back. Now he had full belief that his son Durgesh Nandan @ Raju has been murdered by accused-appellants Satish Bania, Bahadur Singh @ Budu son of Gurmukh Singh, Neela resident of Mohalla Shiv Puri and Manohar son of Kundan Lal with whom his son Durgesh

Nandan @ Raju used to play gambling and they had concealed his dead body in the field of Sun Flower.

Since as per postmortem report, the sign of injury on the sensitive part of the left side of the head was found on the unidentified dead body, duly identified as that of Durgesh Nandan @ Raju by complainant-Parmanand, the case under Section 302, 201, 148 and 149 IPC was found to have been committed. Therefore, making his endorsement Ex.PB/1 ASP Vibhu Raj, sent the complaint Ex.PB to the concerned police station for registration of the case, through constable Prem Kumar. Consequently FIR Ex.PE/2 was recorded. Smt.Vibhu Raj ASP, Investigating Officer, inspected the place and prepared the rough site plan Ex.PR. She also recorded the statement of witnesses.

Accused Satish Bania and Dalbir Singh @ Neela were arrested on 11.06.1998. Accused-Manohar Lal, Harjit Singh, Sukhdev Singh were arrested on 16.07.1998. Accused Rinku and Sabi Singh were arrested on 14.07.1998.

In pursuance of the disclosure statement Ex.PK, accused Sukhdev Singh @ Billa got recovered a black colour purse, photograph of the deceased Durgesh Nandan @ Raju and Rs.500/- of the denomination of Rs.100 each vide recovery memo Ex.PL and further in pursuance of his confessional statement Ex.PO, got recovered a *Parna (a piece of cloth)* of two meter length having green coloured lining from the iron box of

his house vide recovery memo Ex.PO/1. During investigation, the accused-Satish Bania and Bahadur was found innocent. After completion of investigation, final report under Section 173 Cr.P.C. was filed against six accused i.e. Manohar Lal @ Murli Mahonar, Dalbir Singh @ Neela, Sukhdev Singh @ Billa, Harjit Singh, Rinku and Sabi Singh to face trial under Sections 302, 201, 148, 149 IPC, placing accused-Satish Bania and Bahadur in its column No.2, as innocent.

Copies of challan as envisaged under Section 207 Cr.P.C. were supplied to the accused under their signatures/thumb impression. Since the offences were exclusively triable by the Court of Sessions, therefore, the learned Judicial Magistrate, Ist Class, Jalandhar, committed the case to the Court of Sessions, vide order dated 05.12.1998.

Learned trial Court after hearing both the sides and perusing the final report under Section 173 Cr.P.C. framed charges against the accused under Sections 302 read with Section 149 IPC and 201 IPC.

Thereafter, prosecution in support of its case examined Sh.Parmanand as PW-1 and wife of deceased-Durgesh Nandan namely Jagdeep Kaur @ Pinky as PW2. Thereafter, the learned P.P. For the State moved an application under Section 319 Cr.P.C. for summoning of accused Satish Bania, Bahadur Singh and Neela as an additional accused. The same was allowed by learned trial Court vide order dated 10.08.1999. In pursuance

thereof, Satish Bania and Bahadur Singh appeared in the Court. However, on noticing that Neela was the alias name of Dalbir already facing trial, the summoning order qua him was withdrawn by recalling his warrant of arrest vide order dated 23.09.1999. Accused-Sabi died during the trial and thus on receipt of his death report, proceedings qua him were abated vide the vary aforesaid order dated 23.09.1999. Thereafter, the learned trial Court framed fresh charges against the accused under Section 302 read with Section 149 and 201 vide order dated 28.10.1999, to which they pleaded not guilty and claimed trial.

The prosecution in support of its case examined in all 19 witnesses i.e. PW1 Santosh Kumari, PW2 Sewa Singh, PW3 Jagdeep Kaur @ Pinky, PW4 Constable Balwinder Singh, PW5 Constable Sarfdin Singh, PW6 Parmanand, PW7 ASI Satnam Singh, PW8 Kanta Rani, PW9 Ram Nath, PW10 Naresh Kumar, PW11 Pardeep Kumar, PW12 SHO Harjinder Singh, PW13 HC Bachittar Singh, PW14 Patwari Gurdial Singh, PW15 HC Ranbir Singh, PW16 HC Jaswant Singh, PW17 Dr.Shiv Dayal Goyal, PW18 IPS Vibhu Raj, PW19 SI Jai Singh and relied upon Identification memo of dead body and cloths Ex.PQ, Ruqa and FIR, Ex.PB and Ex.PB/2 respectively, affidavits of Constable Balwinder Singh and Sarfdin Singh Ex.PC and Ex.PD respectively, Ruqa and FIR Ex.PE, Inquest Report Ex.PF, application to Medical Officer for conducting postmortem examination Ex.PG, Ruqa to Medical Officer Ex.PH, recovery memo of clothes of deceased

Ex.PJ, disclosure statement of accused Sukhdev Singh @ Billa
Ex.PK, recovery memo of Purse along with photo and Rs.500/-
Ex.PL,PM, PO/1 respectively, site plans Ex.PN and Ex.PO/2 and
postmortem report Ex.PQ.

Statements of accused under Section 313 Cr.P.C. was recorded putting entire incriminating evidence brought against them by the prosecution, to which they denied and pleaded their false implication. In their defence, they examined DW1 Darshan Singh and relied upon statements Ex.DA to DC of Santosh Kumari, complainant-Parmanand and Smt.Jagdeep @ Pinky respectively, regarding identification of the dead body and its clothes to be that of Sh.Durgesh Nandan @ Raju and statement Ex.DD of Ram Nath, Municipal Commissioner qua extra judicial confession of accused Dalbir Singh @ Neela, Manohar Lal @ Murli Manohar, Harjit Singh @ Sonu before him on 10.07.1998 regarding committing murder of Durgesh Nandan @ Raju alongwith the help of accused Sukhdev Singh @ Billa, Rinku and Sahib Singh @ Sabi.

Thereafter, after hearing learned counsel for both the parties, learned trial Court vide its impugned judgment of conviction and order of sentence dated 12.09.2002 held the accused guilty under Sections 302 IPC read with Section 149 IPC and 201 IPC and sentenced them in the manner indicated above in the opening part of this judgment.

Aggrieved with the same, all the accused have filed the

present appeals for their acquittal by setting aside the impugned judgment and order of sentence dated 12.09.2002.

We have heard learned counsel for the parties and gone through the case file carefully.

Learned counsel for the appellants jointly argued that findings of the learned trial Court are based of surmises and conjectures, because, as per prosecution story Durgesh Nandan-deceased has gone with the accused in the night of 05.05.1998 but the FIR was lodged on 11.05.1998 i.e. after 6 days delay. There is no explanation on the file that why it was not lodged within reasonable time, despite the fact that names of the accused were well within the knowledge of the complainant or at least his wife and Jagdip Kaur @ Pinky PW3 wife of Durgesh Nandan @ Raju deceased which cast serious doubt upon the prosecution story. Though the prosecution tried to develop a story of extra judicial confession of the accused, before PW9 Ram Nath, Municipal Commissioner, Municipal Committee, Kartarpur, PW10 Naresh Kumar and PW11 Pardeep Kumar, but could not succeed, because the aforesaid witnesses did not support it, and turned hostile.

Moreso, as per prosecution story, the murder of deceased- Durgesh Nandan @ Raju was committed by tightening a parna on his neck, whereas, medical evidence brought on record speaks otherwise, falsifying the prosecution story. The accused-Satish Bania was found innocent during investigation.

Prosecution has miserably failed to connect him with the commission of crime, because, none of the prosecution witnesses has attributed any role to him.

The statements of PW1 Santosh Kumari, PW3 Jagdip Kaur @ Pinky, PW6 Parmanand, PW8 Kanta Rani are contradictory to each other, thus, the learned trial Court has wrongly convicted the accused. Accused-Satish Bania and Dalbir Singh @ Neela were found innocent by the police, but they were summoned under Section 319 Cr.P.C. as an additional accused. However, nothing new could be brought against them during trial, so as to record their conviction. Hence, they have wrongly been convicted. No independent witness was joined at any stage i.e. at the time of alleged interrogation of the accused or at the time of effecting alleged recoveries from them etc., which requires to draw an adverse inference against the prosecution that the things did not happen in the manner as narrated by it. The alleged purse, parna and currency notes recovered from the accused was a clear cut padding. With this broad submissions, prayer for acquittal of all the accused was made.

On the other hand, learned State counsel pleaded the legality and validity of the impugned judgment of conviction and order of sentence.

We have given our thoughtful consideration to the submissions made by both the sides.

Admittedly Durgesh Nandan @ Raju had left the house in

the night of 05.05.1998 and thereafter, did not return. Finally his dead body was found on 08.05.1998 lying in the field of Sewa Singh PW2. The complainant-Parmanand PW6 and his wife Santosh Kumari PW1, on coming to know about tracing of an unidentified dead body by the police, identified the same to be of their son Durgesh Nandan @ Raju. However, by that time they did not raise suspicion upon anyone in their statements Ex.DA and Ex.DB. It is unexplained on the file from the prosecution side that what refrained complainant-Permanand to disclose the fact at the very initial stage to the police in his statement Ex.DB on 09.05.2009 that his deceased son had gone with accused Satish Bania in the intervening night of 05.05.2009, though as per his statement Ex.PE, he had come to know about this fact from his daughter-in-law Jagdeep Kaur. He had simply stated in the night of 05.05.1998, his daughter in law Jagdip Kaur @ Pinky had told him that his son Durgesh Nandan @ Raju had gone from the house, after taking Rs.400/- to play game.

The things did not rest here, because in the statement Ex.PE which set criminal law into motion, the complainant raised suspicion over five persons namely 1.Satish Bania 2. Bahadur Singh 3.Dalbair Singh alias Neela 4.Manohar Lal and 5. Malkiat @ Pappu. Jagdip Kaur @ Pinky PW2, who is none else, but widow of deceased Durgesh Nandan @ Raju also raised finger upon the aforesaid five persons in her statement Ex.DC. Perusal of their above statements shows that one of the person named by both of

them is Malkiat @ Pappu, but he was not challenged. The entire prosecution story is silent about him, that what happened to him. Whether he was found innocent or was not seen in the company of the Durgeh Nandan @ Raju etc, which cast serious doubt upon the truthfulness of its story because, had the investigation been fair, in that event, the Investigating Officer would have taken his investigation to a logical conclusion that what had happened to the aforesaid Malkiat Singh @ Pappu.

The deposition of PW1 Santosh Kumari is also not trustworthy, rather she is the most untruthful witness. She has altogether, introduced a new story by deposing that around 1½ years ago on 05.05.1998, she was called by his son Durgesh Nandan @ Raju for a glass of water. When she went to him, accused Satish Bania also reached there and told his son Raju that there was a big game and he should give him money. Accused-Satish Bania gave Rs.100/- to his son and then appellant-accused Bahadur, his son Sonu and Sukha called Raj Kumar from outside. Accused-appellant Manohar Lal already sitting with her son Raju was watching TV Serial "Jai Hanuman". She asked her son as to where he was going. He instead of disclosing that place, asked her to not to put any such question to him, before he proceeds to any place. Then accused appellant Sukha, Bahadur, Sonu and Manohar Lal took Raju with them and thereafter he did not return to house. From her above deposition, it is evident on the record that deceased-Durgesh

Nandan @ Raju had left his house in the intervening night of 05.05.1998, in her presence. However, as discussed above, she, her husband-Parmanand and daughter-in-law Jagdip Kaur @ Pinky did not disclose this fact till 09.05.1998 i.e. even after 4 days of disappearance of Durgesh Nandan-deceased at the time of conducting the proceedings under Section 175 Cr.P.C., which also casts serious dent in the prosecution version. Statement of PW-1 Santosh Kumari is also falsified by her husband PW6 complainant Parmanand by deposing that his wife had come to know about the occurrence in the evening of 06.05.1998 and he had not met Raju on 05.05.1998.

PW3 Jagdip Kaur @ Pinky PW3 wife of the deceased has also admitted in her cross-examination that she had told about the incident of 05.05.1998 to her mother in law PW1 Santosh Kumari in the morning on 06.05.1998 and further to her father-in-law in the evening. Hence, the collective reading of their statements clearly show that PW-1 Santosh Kumari mother of the deceased was deposing falsely about her presence at the time, when Raju left home.

Sukhdev Singh @ Billas was never named by the complainant PW6 or his wife PW1 and their daughter-in-law PW3 Jagdeep Kaur @ Pinky, in their statements under Section 161 Cr.P.C. before the Police. However, he was involved on the basis of his disclosure statements Ex.PK and Ex.PO, not recorded in the presence of any independent witness and thus the same being hit

by Section 25/26 of the Indian Evidence Act is not admissible in evidence. His name for the first time came in the statement of Santosh Kumari PW1 on 10.01.2002. Hence, it can safely be held that the things did not happen in the manner as narrated by the prosecution.

PW17 Dr.Shiv Dyal Goyal, found a fracture in the left temporal bone, besides massive laceration on the left side of brain, while conducting the postmortem examination of the dead body. In his cross-examination he has specifically opined that the possibility of aforesaid head injury by a fall on a hard surface could not be ruled out. Contrary to above, the prosecution has also relied upon the confessional statements of accused Sukhdev Singh @ Billa Ex.PO whereby, the appellant-accused Rinku had put a piece of cloth around the neck of the deceased-Durgesh Nandan @ Raju and accused Dalbir Singh @ Neela and Manohar Lal had given brick bat blow. Accused-Harjit Singh @ Sona had caught hold of his left arm and Sahib Singh @ Sabi had caught hold of his right arm. Meaning thereby, the murder of Durgesh Nandan @ Raju was committed by strangulation, but in the postmortem report Ex.PC, no ligature mark around the neck was found, which falsifies the ocular version too.

The most glaring feature which cast doubt upon the prosecution version is that accused-Rinku was never named at any stage i.e. at the time of lodging FIR by the complainant Parmanand in his statement Ex.DB, by his wife Santosh Kumari in

her statement Ex.DA or their daughter-in-law Jagdip Kaur @ Pinky in her statement Ex.DC. He has been found involved on the basis of disclosure statement of the remaining co-accused which is a very weak type of evidence against him. Even no recovery was effected from him and thus his false implication can not be ruled out, more particularly, when the prosecution has miserably failed to prove his complicity by leading any cogent and convincing evidence.

Accused-Satish Bania, Bahadur Singh and Dalbir Singh were declared innocent by the police. They were summoned under Section 319 Cr.P.C. as additional accused by the trial Court. However, prosecution has miserably failed to connect them with the commission of crime by leading any evidence, because, It has not even proved their disclosure statements. Even no recovery has been effected from them except from Sukhdev Singh @ Billa. The witnesses PW-9 Ram Nath, PW-10 Naresh Kumar and PW11 Pardeep Kumar, regarding extra judicial confession of the accused did not support the prosecution story, rather turned hostile. Deposition of official witnesses i.e. PW4 HC Ranbir Singh, PW7 ASI Satnam Singh, PW12 SI/SHO Harjinder Singh, PW13 Bachittar Singh, PW19 SHO Jai Singh Investigating Officer are highly contradictory with each other. PW19 SI Jai Singh has deposed that on 18.07.1998, he had interrogated accused Sukhdev Singh @ Billa in the presence of HC Dewa Singh and HC Rajdeep and effected recovery of parna, purse, currency

notes, photograph of the deceased from him vide recovery memo Ex.PL. Contrary to it PW 16 HC Jaswant Singh has deposed that accused Sukhdev Singh was interrogated on 19.07.1998 in his presence as well as on in the presence of Constable Surjit Singh. Parna was recovered from him vide recovery memo Ex.PO/1 attested by him. This witness does not speak about the interrogation of accused in the presence of Head Constable Dewa Singh and Rajdeep Singh.

As per PW6 complainant-Parmanand, he had disinherited his son Durgesh Nandan @ Raju from his property on account of his bad deeds, He and his wife were separated by giving an independent portion in his house. The above deposition shows that deceased was not a man of good character, rather was a gambler as is clear from the deposition of his wife, because he had left the house on the relevant date for gambling after taking Rs.400/-.

The definite case of the prosecution is that the deceased had left the house in the intervening night of 05.05.1998 and 06.05.1998 in the company of the accused and was murdered. Admittedly his dead body was recovered on 08.05.1998. On the same day, its postmortem examination was conducted. Meaning thereby, duration in between death and post mortem examination of dead body of Durgesh Nandan was not more than 3-4 days. However, medical evidence speaks otherwise, because PW17 Dr.Shiv Dayal has spelled out the said duration as 5 to 6

days. Hence from any angle the prosecution has failed to prove its case against the accused beyond shadow of doubt.

PW-9 Kanta Rani has deposed that on 05.05.1998 Raju accompanied by his wife and son had come to her about 11:45/12:00 midnight. His wife told her that they were in need of money. She gave them Rs.400/-. They kept a T.V. in her house which was with them. Contrary to it, as per deposition of PW-3 Pinky @ Jadeep Kaur wife of deceased she alone had gone to the house of PW9 Kanta Rani.

Link evidence to connect the accused with the commission of the present crime is also missing, because the prosecution has not proved even a single instance in this respect. PW 15 HC Ranbir Singh has deposed that on 21.07.1998, he has joined investigation with investigating officer PW9 Jai Singh. On that day after interrogation of accused Sukhdev Singh and Harjit Singh, a raid was conducted at the house of accused Rinku. A scooter was got recovered from that place. The registration number of that scooter was PCV 2204. It was taken into possession under Section 102 Cr.P.C. However PW19 Jai Singh- Investigating Officer is completely silent about the above fact.

In view of the above discussion, it is held that the prosecution has miserably failed to prove its case, against any of the accused-appellants. Resultantly, the appeal is accepted and the impugned judgment of conviction and order of sentence dated 12.09.2002 passed by the Ld.Additional Sessions Judge,

Jalandhar, is hereby set aside. The appellants-accused are acquitted of charges for which they have been held guilty.

(S.S.SARON)
JUDGE

(RAMENDRA JAIN)
JUDGE

04.05.2015
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