

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Appeal No. D-1616-DB of 2014
Date of Decision : February 19, 2015

Rajinder Kumar

....Appellant

Versus

Balbir Singh alias Happy and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE DR SHEKHER DHAWAN

Present : Mr. Vivek K.Thakur, Advocate
for the appellant.

T.P.S. MANN, J.

Complainant Rajinder Kumar, who is brother of deceased Ramesh Lal, has filed the present appeal for challenging the impugned judgment passed by the Additional Sessions Judge, Kapurthala, whereby respondent Nos. 1 and 2, hereinafter referred to as 'the accused', were acquitted of the charge under Section 460 IPC read with Section 34 IPC.

The prosecution case, in nutshell, is that Ramesh Lal was aged about 70 years. He used to reside alone in his house and treating the persons suffering from snake bites. He was also fond of keeping cocks and hens. On 17.2.2013 at about 7.00 am, the complainant received a telephonic message that some unknown persons had killed his brother Ramesh Lal. The complainant reached the house of his brother and saw his dead body lying on a cot with injuries on his head,

ear and hand. The complainant noticed that the cocks and hens kept by his brother and also his cycle were missing.

Having heard learned counsel for the appellant, this Court finds that in order to connect the accused with the commission of crime, the prosecution relied upon evidence of extra-judicial confession by way of testimony of PW-1 Sheetal Singh. However, said Sheetal Singh did not support the case of the prosecution and was got declared hostile. Apart from the same, the prosecution claimed the recovery of jacket Ex.P-3 from the spot which jacket belonged to accused Balbir Singh and PW-3 Rajinder Kumar had seen him wearing that jacket when both the accused were sitting in the house of his brother two days prior to the incident. However, one jacket used to be worn by the deceased was also taken into possession vide recovery memo Ex.PW2/G. Both the jackets were of same colour and, therefore, it cannot be said that the jacket which was recovered from the spot belonged to accused Balbir Singh.

PW-5 Sodhi Singh had deposed before the trial Court that he had seen the accused on 17.2.2013 in the area of Nawa Pind Bhathe while carrying cycle of red colour and the cocks. However, merely from the recovery of the stolen articles, the accused cannot be connected with the crime.

The impugned judgment passed by the trial Court has been thoroughly scanned. The evidence brought on record has been correctly appreciated by the trial Court to hold that the prosecution had miserably

failed to prove its case beyond reasonable doubt. No case is made out for any interference in the impugned judgment of acquittal.

Resultantly, the appeal is without any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

(SHEKHER DHAWAN)
JUDGE

February 19, 2015
pds.