

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No. D-184-DB of 2015

Date of Decision : July 20, 2015

Inderpal Singh

.....Appellant

VERSUS

State of U.T., Chandigarh and others

.....Respondents

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

HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Palvinder Singh, Advocate.

T.P.S. MANN, J.

The appellant has filed the present appeal for challenging the judgment dated 20.5.2014 passed by the Additional Sessions Judge, Chandigarh whereby respondent No.10-Harcharan Singh has been acquitted of the charge under Section 120-B IPC while respondents No.2 to 9 of the charge under Section 395 IPC.

The case of the prosecution, in nutshell, is that on 28.7.2012 at about 10.15 a.m., complainant Inderpal Singh, who was President of Gurudwara Kalgidhar, Sector 20-C, Chandigarh went home after completing rituals in the Gurudwara, whereas Pawanjit Singh, Sewadar and Satwant Singh, Granthi stayed back in the Gurudwara. At about 2.50 a.m., he was informed by Mohinder Singh, Manager on telephone that 10/12 persons after entering the Gurudwara had looted the cash. Accordingly, the complainant, alongwith Hukam Singh, reached the Gurudwara. Both Pawanjit Singh and Satwant Singh apprised the complainant that at about 12.00 midnight someone had knocked at the gate of the Gurudwara. When they went near the gate, two persons jumped over the

small gate and entered the Gurudwara, who asked them to open the gate. When the gate was opened, 10/12 persons entered the Gurudwara. One of them was armed with a rifle while others with dandas and kirpans. The assailants snatched their phones and took them into a room and bolted it from outside. After about one hour, the assailants opened the door and took Pawanjit Singh and Satwant Singh towards the gate. On reaching the gate, the assailants returned their phones and threatened to kill them in case they informed the police. Later on, it was revealed that the appellants had broken open the locks of the office and removed cash and important documents from the almirah. Cash amounting to Rs.1,07,000/- and some important documents were found missing from the almirah. When the recording of CCTV cameras was checked, Natha Singh and his grandson were identified as they were roaming in the Gurudwara.

At the trial of the case, complainant Inderpal Singh stepped into the witness box as PW1 and reiterated the prosecution case. However, on the question of recovery of various weapons, he did not support the prosecution case and was declared hostile. PW2 Satwant Singh, Granthi of the Gurudwara deposed that he could not identify the assailants as their faces were muffled and, therefore, could not say as to whether they were present in the Court or not. He was also got declared hostile on request of learned Public Prosecutor and cross-examined. Even PW3 Pawanjit Singh, the Sewadar of the Gurudwara testified that he could not recognise the persons who had come to the Gurudwara with their faces muffled. PW4 Jasmer Singh, who, alongwith Mohinder Singh, had reached the Gurudwara soon after the occurrence, testified that he was Secretary of the Gurudwara and on 28.7.2012, he, alongwith the

President, Cashier and the Store-keeper of the Gurudwara had counted the cash lying in the safe of the Gurudwara which came to be Rs.1,07,000/-. He further deposed that after learning about the theft, he had reached the Gurudwara and went to Natha Singh to know as to how the occurrence had taken place. He further testified that he, alongwith others, had woken up all the Sewadars who disclosed that the room was bolted from outside but they did not disclose anyone's name. This witness was also got declared hostile and cross-examined by the learned Public Prosecutor. PW5 Mohinder Singh, Cashier of the Gurudwara, deposed regarding keeping a sum of Rs.1,07,000/- in the almirah. After learning about the incident he, alongwith others, reached the Gurudwara where Pawanjit Singh and Satwant Singh disclosed that Natha Singh and his grandson had snatched keys of the Gurudwara from them while the others assisted them in the process. He further deposed that when the CCTV camera footing was checked, Natha Singh and his grandson as well as Raggi Sukhjit Singh were seen running in the area of bathroom and kitchen. Lakhwinder Singh was also seen accompanying them. All of them were hiding something while running. When he testified that he had not disclosed the names of the accused to the police officer he was declared hostile.

As regards the involvement of Natha Singh and his grandson Gurdeep Singh, who were seen roaming in the Gurudwara, that by itself is not sufficient to prove their guilt as they were residing in the Gurudwara itself.

In order to prove the charge of criminal conspiracy, the prosecution produced PW13 Avtar Singh before the trial Court, who testified that on 28.7.2012 at about 10.00 a.m. when he was coming out of the Gurudwara after paying obeisance,

Natha Singh, Harcharan Singh and Gursewak Singh accused and others sought his help as they wanted to take revenge and also the possession of the Gurudwara. However, the statement of said Avtar Singh under Section 161 Cr.P.C. was recorded after three months of the incident. Moreover, Avtar Singh admitted during his cross-examination that he was friend of PW1 Inderpal Singh and also knew SI Sucha Singh, the Investigating Officer, who had been visiting him for repair of his scooter.

From the above discussion, it can safely be concluded that the trial Court was justified in acquitting the accused respondents of the charges against them. By no stretch of imagination it can be said that the finding of acquittal arrived at by the trial Court is perverse. Therefore, even if any other conclusion can be drawn on the basis of the evidence brought on the record, that by itself will not be sufficient to upset the impugned judgment.

The appeal is without any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

(MAHAVIR S. CHAUHAN)
JUDGE

July 20, 2015
satish