

CRA-S-792-SB of 2009

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

CRA-S-792-SB of 2009 (O&M)

Date of decision: 20.05.2015

Ravi Kumar and others

....Appellants

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the 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 ?

Present: - Mr. Sukhdeep Parmar, Advocate, for the appellants.
Mr. Anil Mehta, DAG, Haryana.

PARAMJEET SINGH, J.

Challenge in the present criminal appeal is to the judgment of conviction dated 30.01.2009 and order of sentence dated 03.02.2009 passed by learned Additional Sessions Judge, Gurgaon, whereby appellants have been sentenced to undergo rigorous imprisonment for a period of ten years for an offence punishable under Section 395 of the Indian Penal Code and to pay fine of ₹ 5,000/- each, in default of payment of fine to further undergo rigorous imprisonment for two years.

In brief, facts relevant for the disposal of present criminal appeal are to the effect that in the first week of November, 2006, in the area of police station DLF, appellants and Lalit @ Bittu, who was

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declared juvenile vide order dated 01.04.2008, under common conspiracy, gave lift to a person in their jeep bearing registration number HR-61-1154 and committed robbery of cash worth ₹ 40,000/- from the said person. On 24.01.2007 an order, along with disclosure statement, was received from the office of Superintendent of Police, Gurgaon in the police station to the effect that a member of serial killer gang, namely, Parmod had suffered disclosure statement that in the beginning of November, 2006 he along with Ravi, Rohtash, Mukesh, Budhu and Lalit, all residents of Bhorakalan, had committed robbery worth ₹ 40,000/- from a person who was given lift in the afore-mentioned jeep. On that basis a formal FIR was lodged. During the course of investigation, all the accused were arrested and other evidence related to the commission of offence was collected. On completion of investigation, challan was presented. After completing all the necessary formalities, on finding a prima facie case, appellants were chargesheeted for the commission of offence punishable under Section 395 IPC, to which they pleaded not guilty and claimed trial.

In order to prove its case, prosecution examined ASI Tej Ram as PW1, ASI Ram Tirth as PW2, Constable Raj Kumar as PW3, Head Constable Mukesh Kumar as PW4, Inspector Sanjeev Kumar as PW5, Manoj Kumar Draftsman as PW6, Jai Pal Singh as PW7, Kishan Lal as PW8, Constable Ballu Ram as PW9 and Rajender Singh ASI as PW10. SI Kishan Lal PW8 was recalled for further examination-in-chief and thereafter on 22.01.2009 learned Public Prosecutor closed the

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prosecution evidence.

Statements of the appellants was recorded under Section 313 Cr.P.C. to which they pleaded false implication. However, no evidence was led in evidence and evidence was closed on 29.01.2009.

After considering entire evidence on record, learned Additional Sessions found appellants guilty under Section 395 IPC and sentenced them as aforesaid. Hence, this appeal.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the appellants vehemently contended that judgment of conviction and order of sentence passed by the trial Court are based on surmises and conjectures. Judgment of the trial Court is based on the statements of the official witnesses, no independent witness was associated during the course of investigation. Trial Court has failed to consider that there are material contradictions in the statements of the witnesses. Sometime, place of occurrence is stated to be the RICCO Chowk whereas sometime it is mentioned as IFFCO Chowk. The impugned judgment is not sustainable in the eyes of law, hence, liable to be set aside.

Per contra, learned counsel for the State submitted that appellants have rightly been convicted and sentenced by the trial Court. Prosecution has proved its case beyond any shadow of doubt. All the appellants have confessed that they have committed many heinous crimes.

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I have considered the contentions raised by learned counsel for the parties.

There is categorical evidence on record, which proves that appellants have been rightly convicted and sentenced by the trial Court. The FIR in question was registered on the basis of disclosure statement of appellant No.2 – Parmod qua aforesaid robbery of ₹ 40,000/-. ASI Tej Ram PW1 stated on oath that on 06.11.2006 he joined the investigation in case FIR No.1133 dated 04.11.2006 registered under Sections 302/201/34 IPC wherein Parmod suffered a disclosure statement that they had got sitted a person in vehicle No.HR-61-1154 from IFFCO chowk and had looted ₹ 40,000/- from him and that person was given beating and was thrown away in unconscious state in the area of Sector 55-56. Other witnesses also deposed in the same lines and also proved the fact regarding disclosure statement in toto. Thereafter all the convicts led the police party to IFFCO Chowk and identified the place of occurrence where they boarded person in their Max Jeep.

From the material available on record, it is fully proved on record that appellants committed the dacoity of ₹ 40,000/- from an unknown person and they themselves led the police party to the place of occurrence i.e. IFFCO Chowk. Moreover, the appellants have also confessed that they have committed many heinous crimes, including the robbery in question.

In view of above, appellants have rightly been convicted under Section 395 IPC and no ground for interference in the judgment of

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conviction dated 30.01.2009 and order of sentence dated 03.02.2009
passed by learned Additional Sessions Judge, Gurgaon is made out.

Dismissed.

(Paramjeet Singh)
Judge

May 20, 2015
R.S.